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KEN BENNETT
SECRETARY OF STATE

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CHAPTER 168

HOUSE BILL 2288

AN ACT

AMENDING SECTION 20-224, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-224.06; AMENDING SECTION 43-1183, ARIZONA REVISED STATUTES; RELATING TO TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-224, Arizona Revised Statutes, is amended to read:

20-224. Premium tax

A. On or before March 1 of each year each authorized domestic insurer, each other insurer and each formerly authorized insurer referred to in section 20-206, subsection B~~,~~ shall file with the director a report in a form prescribed by the director showing total direct premium income including policy membership and other fees and all other considerations for insurance from all classes of business whether designated as a premium or otherwise received by it during the preceding calendar year on account of policies and contracts covering property, subjects or risks located, resident or to be performed in this state, after deducting from such total direct premium income applicable cancellations, returned premiums, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer and all policy dividends, refunds, savings coupons and other similar returns paid or credited to policyholders within this state and not reapplied as premiums for new, additional or extended insurance. No deduction shall be made of the cash surrender values of policies or contracts. Considerations received on annuity contracts, as well as the unabsorbed portion of any premium deposit, shall not be included in total direct premium income, and neither shall be subject to tax. The report shall separately indicate the total direct premium income received from fire insurance premiums on property located in an incorporated city or town that procures the services of a private fire company.

B. Coincident with the filing of such tax report each insurer shall pay to the director for deposit, pursuant to sections 35-146 and 35-147, a tax of 2.0 per cent of such net premiums, except that the tax on fire insurance premiums on property located in an incorporated city or town which procures the services of a private fire company is .66 per cent, the tax on all other fire insurance premiums is 2.2 per cent and the tax on health care service and disability insurance premiums is as prescribed under sections 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to subsection E of this section shall be deducted from the tax payable pursuant to this subsection. Each insurer shall reflect the cost savings attributable to the lower tax in fire insurance premiums charged on property located in an incorporated city or town that procures the services of a private fire company.

C. Eighty-five per cent of the tax paid ~~hereunder~~ UNDER THIS SECTION by an insurer on account of premiums received for fire insurance shall be separately specified in the report and shall be apportioned in the manner provided by sections 9-951, 9-952 and 9-972, except that all of the tax so allocated to a fund of a municipality which has no volunteer fire fighters or pension obligations to volunteer fire fighters shall be appropriated to the

account of the municipality in the public safety personnel retirement system and all of the tax so allocated to a fund of a municipality which has both full-time paid fire fighters and volunteer fire fighters or pension obligations to full-time paid fire fighters or volunteer fire fighters shall be appropriated to the account of the municipality in the public safety personnel retirement system where it shall be reallocated by actuarial procedures proportionately to the municipality for the account of the full-time paid fire fighters and to the municipality for the account of the volunteer fire fighters. A full accounting of such reallocation shall be forwarded to the municipality and both local boards.

D. This section shall not apply to title insurance, and such insurers shall be taxed as provided in section 20-1566.

E. Any insurer which paid or is required to pay a tax of two thousand dollars or more on net premiums received during the preceding calendar year, pursuant to subsection B of this section and sections 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07, shall file on or before the fifteenth day of each month from March through August a report for that month, on a form prescribed by the director, accompanied by a payment in an amount equal to fifteen per cent of the amount paid or required to be paid during the preceding calendar year pursuant to subsection B of this section and sections 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The payments are due and payable on or before the fifteenth day of each month and shall be made to the director for deposit, pursuant to sections 35-146 and 35-147.

F. Except for the tax paid on fire insurance premiums pursuant to subsections B and C of this section, an insurer may claim a premium tax credit if the insurer qualifies for a credit pursuant to section 20-224.03, ~~or~~ 20-224.04 OR 20-224.06.

Sec. 2. Title 20, chapter 2, article 1, Arizona Revised Statutes, is amended by adding section 20-224.06, to read:

20-224.06. <u>Premium tax credit for contributions to school tuition organization</u>

A. A CREDIT IS ALLOWED AGAINST THE PREMIUM TAX LIABILITY INCURRED BY AN INSURER PURSUANT TO SECTION 20-224, 20-837, 20-1010, 20-1060 OR 20-1097.07 FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE INSURER DURING THE TAX YEAR TO A SCHOOL TUITION ORGANIZATION.

B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE INSURER'S CONTRIBUTIONS FOR THE TAX YEAR UNDER SUBSECTION A OF THIS SECTION THAT IS PREAPPROVED BY THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 43-1183, SUBSECTION D.

C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER REQUIREMENTS PRESCRIBED BY SECTION 43-1183 APPLY TO:

1. INSURERS THAT CLAIM A CREDIT UNDER THIS SECTION.

2. CLAIMS FOR CREDIT UNDER THIS SECTION.

3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM INSURERS FOR THE PURPOSES OF THIS SECTION.

4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY INSURERS FOR THE PURPOSES OF THIS SECTION.

5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY INSURERS FOR THE PURPOSES OF THIS SECTION.

D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE INSURER'S STATE PREMIUM TAX LIABILITY, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE PREMIUM TAX LIABILITY MAY BE CARRIED FORWARD AS A CREDIT AGAINST THE INSURER'S SUBSEQUENT YEARS' PREMIUM TAX LIABILITY FOR A PERIOD NOT TO EXCEED FIVE TAXABLE YEARS.

E. A CREDIT IS NOT ALLOWED IF THE INSURER DESIGNATES THE CONTRIBUTION FOR THE DIRECT BENEFIT OF ANY SPECIFIC STUDENT.

F. AN INSURER THAT CLAIMS A TAX CREDIT AGAINST STATE PREMIUM TAX LIABILITY IS NOT REQUIRED TO PAY ANY ADDITIONAL RETALIATORY TAX IMPOSED PURSUANT TO SECTION 20-230 AS A RESULT OF CLAIMING THAT TAX CREDIT.

G. THE DEPARTMENT OF INSURANCE, WITH THE COOPERATION OF THE DEPARTMENT OF REVENUE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES NECESSARY FOR THE ADMINISTRATION OF THIS SECTION.

Sec. 3. Section 43-1183, Arizona Revised Statutes, is amended to read:

43-1183. Credit for contributions to school tuition organization; definitions

A. Beginning from and after June 30, 2006 ~~through June 30, 2011~~, a credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization.

B. The amount of the credit is the total amount of the taxpayer's contributions for the taxable year under subsection A of this section and is preapproved by the department OF REVENUE pursuant to subsection D of this section.

C. The department OF REVENUE:

1. Shall not allow tax credits under this section AND SECTION 20-224.06 that exceed in the aggregate~~,~~ a combined total of ten million dollars in any fiscal year. Beginning in fiscal year 2007-2008, the aggregate DOLLAR amount of the tax credit cap from the previous fiscal year shall be annually increased by twenty per cent.

2. Shall preapprove tax credits UNDER THIS SECTION AND SECTION 20-224.06 subject to subsection D of this section.

3. Shall allow the tax credits UNDER THIS SECTION AND SECTION 20-224.06 on a first come, first served basis.

D. For the purposes of subsection C, paragraph 2 of this section, before making a contribution to a school tuition organization, the taxpayer ~~shall~~ UNDER THIS TITLE OR TITLE 20 MUST notify the school tuition organization of the total amount of contributions that the taxpayer intends to make to the school tuition organization. Before accepting the contribution, the school tuition organization shall request preapproval from the department OF REVENUE for the taxpayer's intended contribution amount.

1 The department OF REVENUE shall preapprove or deny the requested amount
2 within twenty days after receiving the request from the school tuition
3 organization. If the department OF REVENUE preapproves the request, the
4 school tuition organization shall immediately notify the taxpayer, AND THE
5 DEPARTMENT OF INSURANCE IN THE CASE OF A CREDIT UNDER SECTION 20-224.06, that
6 the requested amount was preapproved by the department OF REVENUE. In order
7 to receive a tax credit under this subsection, the taxpayer shall make the
8 contribution to the school tuition organization within ten days after
9 receiving notice from the school tuition organization that the requested
10 amount was preapproved. If the school tuition organization does not receive
11 the preapproved contribution from the taxpayer within the required ten days,
12 the school tuition organization shall immediately notify the department OF
13 REVENUE, AND THE DEPARTMENT OF INSURANCE IN THE CASE OF A CREDIT UNDER
14 SECTION 20-224.06, and the department OF REVENUE shall no longer include this
15 preapproved contribution amount when calculating the limit prescribed in
16 subsection C, paragraph 1 of this section.
17 E. A school tuition organization that receives contributions under
18 this section OR SECTION 20-224.06 shall allow the department OF REVENUE to
19 verify that the educational scholarships and tuition grants that are issued
20 pursuant to this section are awarded to students who attend a qualified
21 school.
22 F. If the allowable tax credit exceeds the taxes otherwise due under
23 this title on the claimant's income, or if there are no taxes due under this
24 title, the taxpayer may carry the amount of the claim not used to offset the
25 taxes under this title forward for not more than five consecutive taxable
26 years' income tax liability.
27 G. Co-owners of a business, including corporate partners in a
28 partnership, may each claim only the pro rata share of the credit allowed
29 under this section based on the ownership interest. The total of the credits
30 allowed all such owners may not exceed the amount that would have been
31 allowed a sole owner.
32 H. The credit allowed by this section is in lieu of any deduction
33 pursuant to section 170 of the internal revenue code and taken for state tax
34 purposes.
35 I. The tax credit is not allowed if the taxpayer designates the
36 taxpayer's contribution to the school tuition organization for the direct
37 benefit of any specific student.
38 J. A school tuition organization that receives contributions under
39 this section OR SECTION 20-224.06 shall use at least ninety per cent of those
40 contributions to provide educational scholarships or tuition grants only to
41 children whose family income does not exceed one hundred eighty-five per cent
42 of the income limit required to qualify a child for reduced price lunches
43 under the national school lunch and child nutrition acts (42 United States
44 Code sections 1751 through 1785) and who either:

1. Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least the first one hundred days of the prior fiscal year and transferred from a governmental primary or secondary school to a qualified school.

2. Enroll in a qualified school in a kindergarten program.

3. Received an educational scholarship or tuition grant under paragraph 1 or 2 of this subsection if the children continue to attend a qualified school in a subsequent year.

K. In 2006, a school tuition organization shall not issue an educational scholarship or a tuition grant in an amount that exceeds four thousand two hundred dollars for students in a kindergarten program or grades one through eight or five thousand five hundred dollars for students in grades nine through twelve. In each year after 2006, the limitation amount for a scholarship or a grant under this subsection shall be increased by one hundred dollars.

L. A child is still eligible to receive an educational scholarship or tuition grant under subsection J of this section if the child meets the criteria to receive a reduced price lunch but does not actually claim that benefit.

M. The school tuition organization shall require that the children use the educational scholarships or tuition grants on a full-time basis. If a child leaves the qualified school before completing an entire school year, the qualified school shall refund a prorated amount of the educational scholarship or tuition grant to the school tuition organization that issued the educational scholarship or tuition grant to the child. Any refunds received by the school tuition organization under this subsection shall be allocated for educational scholarships or tuition grants to qualified children in the following year.

N. Children who receive educational scholarships or tuition grants under this section shall be allowed to attend any qualified school of their parents' choice.

O. A school tuition organization that receives a voluntary cash contribution pursuant to ~~subsection A of~~ this section OR SECTION 20-224.06 shall report to the department OF REVENUE AND THE DEPARTMENT OF INSURANCE, in a form prescribed by the department OF REVENUE, by June 30 of each year the following information:

1. The name, address and contact name of the school tuition organization.

2. The total number of contributions received during the previous calendar year, IDENTIFIED FOR THE PURPOSES OF THIS SECTION OR SECTION 20-224.06.

3. The total dollar amount of contributions received during the previous calendar year, IDENTIFIED FOR THE PURPOSES OF THIS SECTION OR SECTION 20-224.06.

4. The total number of children awarded educational scholarships or tuition grants during the previous calendar year.

5. The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

6. For each school to which educational scholarships or tuition grants were awarded:

(a) The name and address of the school.

(b) The number of educational scholarships and tuition grants awarded during the previous calendar year.

(c) The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

7. Verification that an independent review of financial statements according to generally accepted accounting principles was completed by a certified public accountant for the previous calendar year.

P. The department OF REVENUE, WITH THE COOPERATION OF THE DEPARTMENT OF INSURANCE, shall adopt rules AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES necessary for the administration of this section.

Q. For the purposes of this section:

1. "Qualified school" means a nongovernmental primary school or secondary school:

(a) That is located in this state, that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 2005.

(b) That annually administers and makes available to the public the aggregate test scores of its students on a nationally standardized norm-referenced achievement test, preferably the Arizona instrument to measure standards test administered pursuant to section 15-741.

(c) That requires all teaching staff and any personnel that have unsupervised contact with students to be fingerprinted.

2. "School tuition organization" means a charitable organization in this state that both:

(a) Is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that allocates ninety per cent of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice.

(b) Provides educational scholarships or tuition grants to students without limiting availability to only students of one school.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.