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KEN BENNETT
SECRETARY OF STATE

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CHAPTER 176

HOUSE BILL 2156

AN ACT

AMENDING SECTIONS 42-1001, 43-105, 43-1021, 43-1022, 43-1042, 43-1121 AND 43-1122, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 42-1001, Arizona Revised Statutes, is amended to read:

42-1001. Definitions

In this title, unless the context otherwise requires:

1. "Board" or "state board" means either the state board of tax appeals or the state board of equalization, as applicable.

2. "Court" means the tax court or superior court, whichever is applicable.

3. "Department" means the department of revenue.

4. "Director" means the director of the department.

5. "Internal revenue code" means the United States internal revenue code of 1986, as amended and in effect as of January 1, ~~2009~~ 2010, including those provisions that became effective during ~~2008~~ 2009 with the specific adoption of their retroactive effective dates but excluding all changes to the code enacted after January 1, ~~2009~~ 2010.

Sec. 2. Section 43-105, Arizona Revised Statutes, is amended to read:

43-105. Internal revenue code; definition; application

A. FOR THE PURPOSES OF COMPUTING INCOME TAX PURSUANT TO THIS TITLE, FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2009, "INTERNAL REVENUE CODE" MEANS THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED, IN EFFECT ON JANUARY 1, 2010, INCLUDING THOSE PROVISIONS THAT BECAME EFFECTIVE DURING 2009 WITH THE SPECIFIC ADOPTION OF ALL FEDERAL RETROACTIVE EFFECTIVE DATES, BUT EXCLUDING ANY CHANGE TO THE CODE ENACTED AFTER JANUARY 1, 2010.

~~A.~~ B. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2008 THROUGH DECEMBER 31, 2009, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2009, including those provisions that became effective during 2008 with the specific adoption of all federal retroactive effective dates, ~~but excluding any change to the code enacted after January 1, 2009~~ AND INCLUDING THOSE PROVISIONS OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5) EXCEPT SECTION 1211, THE CONSUMER ASSISTANCE TO RECYCLE AND SAVE ACT OF 2009 (P.L. 111-32) AND THE WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT OF 2009 (P.L. 111-92) EXCEPT SECTION 13 THAT ARE RETROACTIVELY EFFECTIVE DURING TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2008 THROUGH DECEMBER 31, 2009.

~~B.~~ C. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2007 through December 31, 2008, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2008, including those provisions that became effective during 2007 with the specific adoption of all federal retroactive effective dates and including those provisions of the economic stimulus act of 2008 (P.L. 110-185), the heroes earnings assistance and relief tax act of 2008 (P.L. 110-245), the heartland, habitat, harvest

and horticulture act of 2008 (P.L. 110-246), the housing assistance tax act of 2008 (P.L. 110-289), the emergency economic stabilization act of 2008 (P.L. 110-343) ~~and~~, the worker, retiree, and employer recovery act of 2008 (P.L. 110-458), THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5) EXCEPT SECTION 1211 AND THE WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT OF 2009 (P.L. 111-92) EXCEPT SECTION 13 that are retroactively effective during taxable years beginning from and after December 31, 2007 through December 31, 2008.

~~C.~~ D. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2006 through December 31, 2007, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2007, including those provisions that became effective during 2006 with the specific adoption of all federal retroactive effective dates and including those provisions of the small business and work opportunity tax act of 2007 (P.L. 110-28), the energy independence and security act of 2007 (P.L. 110-140), Public Law 110-141, the mortgage forgiveness debt relief act of 2007 (P.L. 110-142), the tax technical corrections act of 2007 (P.L. 110-172), the economic stimulus act of 2008 (P.L. 110-185), the heroes earnings assistance and relief tax act of 2008 (P.L. 110-245), the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246), the housing assistance tax act of 2008 (P.L. 110-289), the emergency economic stabilization act of 2008 (P.L. 110-343) and the worker, retiree, and employer recovery act of 2008 (P.L. 110-458) that are retroactively effective during taxable years beginning from and after December 31, 2006 through December 31, 2007.

~~D.~~ E. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2005 through December 31, 2006, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2006, including those provisions that became effective during 2005 with the specific adoption of all federal retroactive effective dates and including those provisions of the tax increase prevention and reconciliation act of 2005 (P.L. 109-222), the pension protection act of 2006 (P.L. 109-280), the tax relief and health care act of 2006 (P.L. 109-432), the small business and work opportunity tax act of 2007 (P.L. 110-28), the mortgage forgiveness debt relief act of 2007 (P.L. 110-142), the tax technical corrections act of 2007 (P.L. 110-172), the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246) and the housing assistance tax act of 2008 (P.L. 110-289) that are retroactively effective during taxable years beginning from and after December 31, 2005 through December 31, 2006.

~~E.~~ F. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2004 through December 31, 2005, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2005, including those provisions that became effective during 2004 with the specific adoption of

all federal retroactive effective dates and including those provisions of the Katrina emergency tax relief act of 2005 (P.L. 109-73), the energy tax incentives act of 2005 (title XIII of the energy policy act of 2005 (P.L. 109-58)), the gulf opportunity zone act of 2005 (P.L. 109-135), the tax technical corrections act of 2007 (P.L. 110-172), the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246) and the housing assistance tax act of 2008 (P.L. 110-289) that are retroactively effective during taxable years beginning from and after December 31, 2004 through December 31, 2005.

~~F.~~ G. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2003 through December 31, 2004, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2004, including those provisions that became effective during 2003 with the specific adoption of all federal retroactive effective dates and including those provisions of the working families tax relief act of 2004 (P.L. 108-311), the American jobs creation act of 2004 (P.L. 108-357), the Katrina emergency tax relief act of 2005 (P.L. 109-73), the energy tax incentives act of 2005 (title XIII of the energy policy act of 2005 (P.L. 109-58)), the gulf opportunity zone act of 2005 (P.L. 109-135), the tax technical corrections act of 2007 (P.L. 110-172) and the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246) that are retroactively effective during taxable years beginning from and after December 31, 2003 through December 31, 2004.

~~G.~~ H. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2002 through December 31, 2003, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2003, including those provisions that became effective during 2002 with the specific adoption of all federal retroactive effective dates and including those provisions of the working families tax relief act of 2004 (P.L. 108-311), the American jobs creation act of 2004 (P.L. 108-357), the jobs and growth tax relief reconciliation act of 2003 (P.L. 108-27), the military family tax relief act of 2003 (P.L. 108-121), the medicare prescription drug, improvement, and modernization act of 2003 (P.L. 108-173), the tax technical corrections act of 2007 (P.L. 110-172) and the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246) that are retroactively effective during taxable years beginning from and after December 31, 2002 through December 31, 2003.

~~H.~~ I. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2001 through December 31, 2002, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on March 9, 2002, including those provisions that became effective during 2001 with the specific adoption of all federal retroactive effective dates and including those provisions of the working families tax relief act of 2004 (P.L. 108-311), the American jobs creation act of 2004 (P.L. 108-357), the jobs and growth tax relief

reconciliation act of 2003 (P.L. 108-27), the military family tax relief act of 2003 (P.L. 108-121), the tax technical corrections act of 2007 (P.L. 110-172) and the heartland, habitat, harvest and horticulture act of 2008 (P.L. 110-246) that are retroactively effective during taxable years beginning from and after December 31, 2001 through December 31, 2002.

~~I.~~ J. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 2000 through December 31, 2001, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2001, including those provisions that became effective during 2000 with the specific adoption of all federal retroactive effective dates and including those provisions of the working families tax relief act of 2004 (P.L. 108-311), the American jobs creation act of 2004 (P.L. 108-357), the economic growth and tax relief reconciliation act of 2001 (P.L. 107-16), the job creation and worker assistance act of 2002 (P.L. 107-147), the military family tax relief act of 2003 (P.L. 108-121) and the tax technical corrections act of 2007 (P.L. 110-172) that are retroactively effective during taxable years beginning from and after December 31, 2000 through December 31, 2001.

~~J.~~ K. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 1999 through December 31, 2000, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 2000, including those provisions that became effective during 1999 with the specific adoption of all federal retroactive effective dates and including those provisions of the community renewal tax relief act of 2000 (P.L. 106-554), the installment tax correction act of 2000 (P.L. 106-573), FSC repeal and extraterritorial income exclusion act of 2000 (P.L. 106-519), the trade and development act of 2000 (P.L. 106-200), the economic growth and tax relief reconciliation act of 2001 (P.L. 107-16), the job creation and worker assistance act of 2002 (P.L. 107-147) and the military family tax relief act of 2003 (P.L. 108-121) that are retroactively effective during taxable years beginning from and after December 31, 1999 through December 31, 2000.

~~K. For purposes of computing income tax pursuant to this title, for taxable years beginning from and after December 31, 1998 through December 31, 1999, "internal revenue code" means the United States internal revenue code of 1986, as amended, in effect on January 1, 1999, including those provisions that became effective during 1998 with the specific adoption of all federal retroactive effective dates and including those provisions of the miscellaneous trade and technical corrections act of 1999 (P.L. 106-36), the ticket to work and work incentives improvement act of 1999 (P.L. 106-170), the community renewal tax relief act of 2000 (P.L. 106-554), the installment tax correction act of 2000 (P.L. 106-573) and the military family tax relief act of 2003 (P.L. 108-121) that are retroactively effective during taxable years beginning from and after December 31, 1998 through December 31, 1999.~~

Sec. 3. Section 43-1021, Arizona Revised Statutes, is amended to read:

43-1021. Additions to Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

1. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 increases the beneficiary's Arizona gross income.

2. An amount equal to the "ordinary income portion" of a lump sum distribution that was excluded from federal adjusted gross income pursuant to section 402(d) of the internal revenue code.

3. The amount of interest income received on obligations of any state, territory or possession of the United States, or any political subdivision thereof, located outside the state of Arizona, reduced, for tax years beginning from and after December 31, 1996, by the amount of any interest on indebtedness and other related expenses that were incurred or continued to purchase or carry those obligations and that are not otherwise deducted or subtracted in arriving at Arizona gross income.

4. Annuity income received during the taxable year to the extent that the sum of the proceeds received from such annuity in all taxable years prior to and including the current taxable year exceeds the total consideration and premiums paid by the taxpayer. This paragraph applies only to those annuities with respect to which the first payment was received prior to December 31, 1978.

5. The excess of a partner's share of partnership taxable income required to be included under chapter 14, article 2 of this title over the income required to be reported under section 702(a)(8) of the internal revenue code.

6. The excess of a partner's share of partnership losses determined pursuant to section 702(a)(8) of the internal revenue code over the losses allowable under chapter 14, article 2 of this title.

7. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to the internal revenue code exceeds the adjusted basis of such property computed pursuant to this title and the income tax act of 1954, as amended. This paragraph shall apply to all property which is held for the production of income and which is sold or otherwise disposed of during the taxable year, except depreciable property used in a trade or business.

8. The amount of depreciation or amortization of costs of any capital investment that is deducted pursuant to section 167 or 179 of the internal revenue code by a qualified defense contractor with respect to which an election is made to amortize pursuant to section 43-1024.

9. The amount of gain from the sale or other disposition of a capital investment which a qualified defense contractor has elected to amortize pursuant to section 43-1024.

10. Amounts withdrawn from the Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan or a county or city retirement plan by an employee upon termination of employment before retirement to the extent they were deducted in arriving at Arizona taxable income in any year.

11. That portion of the net operating loss included in federal adjusted gross income which has already been taken as a net operating loss for Arizona purposes or which is separately taken as a subtraction under the special net operating loss transition rule.

12. Any nonitemized amount deducted pursuant to section 170 of the internal revenue code representing contributions to an educational institution which denies admission, enrollment or board and room accommodations on the basis of race, color or ethnic background except those institutions primarily established for the education of American Indians.

13. The amount paid as taxes on property in this state with respect to which a credit is claimed under section 43-1078.

14. Amounts withdrawn from a medical savings account by the individual during the taxable year computed pursuant to section 220(f) of the internal revenue code and not included in federal adjusted gross income.

15. Any amount of agricultural water conservation expenses that were deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1084.

16. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1080 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

17. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1080 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1080.

18. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under either section 43-1081 or 43-1081.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

19. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1074.02, 43-1081 or 43-1081.01, as applicable.

20. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

21. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F.

22. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization or a public school for which a credit is claimed under section 43-1089 or 43-1089.01.

23. Any amount deducted in computing Arizona gross income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1090.

24. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1087 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

25. Any amount deducted for conveying ownership or development rights of property to an agricultural preservation district under section 48-5702 for which a credit is claimed under section 43-1081.02.

26. The amount of any depreciation allowance allowed pursuant to section 167(a) of the internal revenue code to the extent not previously added.

27. With respect to property for which an expense deduction was taken pursuant to section 179 of the internal revenue code, the amount in excess of twenty-five thousand dollars.

28. The amount of any deductions that are claimed in computing federal adjusted gross income representing expenses for which a credit is claimed under either section 43-1075 or 43-1075.01 or both.

29. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1090.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

30. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1090.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1090.01.

31. The amount of a nonqualified withdrawal, as defined in section 15-1871, from a college savings plan established pursuant to section 529 of the internal revenue code that is made to a distributee to the extent the amount is not included in computing federal adjusted gross income, except that the amount added under this paragraph shall not exceed the difference

between the amount subtracted under section 43-1022 in prior taxable years and the amount added under THIS section ~~43-1021~~ in any prior taxable years.

32. THE AMOUNT OF UNEMPLOYMENT COMPENSATION THAT IS EXCLUDED FROM FEDERAL ADJUSTED GROSS INCOME PURSUANT TO SECTION 85(c) OF THE INTERNAL REVENUE CODE AS ADDED BY SECTION 1007 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5).

33. THE AMOUNT OF DISCHARGE OF INDEBTEDNESS INCOME THAT IS DEFERRED AND EXCLUDED FROM THE COMPUTATION OF FEDERAL ADJUSTED GROSS INCOME OR FEDERAL TAXABLE INCOME IN THE CURRENT TAXABLE YEAR PURSUANT TO SECTION 108(i) OF THE INTERNAL REVENUE CODE AS ADDED BY SECTION 1231 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5).

34. THE AMOUNT OF ANY PREVIOUSLY DEFERRED ORIGINAL ISSUE DISCOUNT THAT WAS DEDUCTED IN COMPUTING FEDERAL ADJUSTED GROSS INCOME OR FEDERAL TAXABLE INCOME IN THE CURRENT YEAR PURSUANT TO SECTION 108(i) OF THE INTERNAL REVENUE CODE AS ADDED BY SECTION 1231 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5), TO THE EXTENT THAT THE AMOUNT WAS PREVIOUSLY SUBTRACTED FROM ARIZONA GROSS INCOME PURSUANT TO SECTION 43-1022, PARAGRAPH 33.

Sec. 4. Section 43-1022, Arizona Revised Statutes, is amended to read:

43-1022. Subtractions from Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.

2. Benefits, annuities and pensions in an amount totaling not more than two thousand five hundred dollars received from one or more of the following:

(a) The United States government service retirement and disability fund, retired or retainer pay of the uniformed services of the United States, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law.

(b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.

3. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 decreases the beneficiary's Arizona gross income.

4. The amount of any distributions from an individual retirement account as provided for in section 408 of the internal revenue code or from a qualified retirement plan of a self-employed individual as provided for in section 401 of the internal revenue code to the extent that total adjustments made pursuant to this paragraph in all tax years do not exceed the total of

all contributions made by the taxpayer to such plans prior to December 31, 1975, which were included in computing Arizona taxable income.

5. The amount of income on an installment receivable which is recognized pursuant to the internal revenue code and which has already been recognized on the death of the taxpayer for purposes of this title for tax years ending before January 1, 1990.

6. Interest income received on obligations of the United States, less any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, which were incurred or continued to purchase or carry such obligations.

7. The amount of any income tax refunds which were received from states other than Arizona and which were included as income in computing federal adjusted gross income.

8. Annuity income included in federal adjusted gross income pursuant to section 72 of the internal revenue code if the first payment with respect to such annuity was received prior to December 31, 1978.

9. The excess of a partner's share of income required to be included under section 702(a)(8) of the internal revenue code over the income required to be included under chapter 14, article 2 of this title.

10. The excess of a partner's share of partnership losses determined pursuant to chapter 14, article 2 of this title over the losses allowable under section 702(a)(8) of the internal revenue code.

11. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to this title and the income tax act of 1954, as amended, exceeds the adjusted basis of such property computed pursuant to the internal revenue code. This paragraph shall apply to all property which is held for the production of income and which is sold or otherwise disposed of during the taxable year other than depreciable property used in a trade or business.

12. The amount allowed by section 43-1024 for amortization, by a qualified defense contractor certified by the department of commerce under section 41-1508, of a capital investment for private commercial activities.

13. The amount of gain included in federal adjusted gross income on the sale or other disposition of a capital investment that a qualified defense contractor has elected to amortize pursuant to section 43-1024.

14. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.

15. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

16. The amount of prizes or winnings less than five thousand dollars in a single taxable year from any of the state lotteries established and

1 operated pursuant to title 5, chapter 5, article 1, except that all such
2 winnings before March 22, 1983, including periodic distributions from such
3 winnings made after March 22, 1983, may be subtracted.
4 17. The amount of exploration expenses that is determined pursuant to
5 section 617 of the internal revenue code, that has been deferred in a taxable
6 year ending before January 1, 1990 and for which a subtraction has not
7 previously been made. The subtraction shall be made on a ratable basis as
8 the units of produced ores or minerals discovered or explored as a result of
9 this exploration are sold.
10 18. The amount included in federal adjusted gross income pursuant to
11 section 86 of the internal revenue code, relating to taxation of social
12 security and railroad retirement benefits.
13 19. To the extent not already excluded from Arizona gross income under
14 the internal revenue code, compensation received for active service as a
15 member of the reserves, the national guard or the armed forces of the United
16 States, including compensation for service in a combat zone as determined
17 under section 112 of the internal revenue code.
18 20. The amount of unreimbursed medical and hospital costs, adoption
19 counseling, legal and agency fees and other nonrecurring costs of adoption
20 not to exceed three thousand dollars. In the case of a husband and wife who
21 file separate returns, the subtraction may be taken by either taxpayer or may
22 be divided between them, but the total subtractions allowed both husband and
23 wife shall not exceed three thousand dollars. The subtraction under this
24 paragraph may be taken for the costs that are described in this paragraph and
25 that are incurred in prior years, but the subtraction may be taken only in
26 the year during which the final adoption order is granted.
27 21. The amount authorized by section 43-1027 for the taxable year
28 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.
29 22. With respect to a medical savings account established pursuant to
30 section 43-1028:
31 (a) An eligible individual may subtract:
32 (i) The amount of contributions made by the individual's employer
33 during the taxable year to the individual's medical savings account pursuant
34 to section 43-1028 to the extent that the employer contributions are included
35 in the individual's federal adjusted gross income.
36 (ii) The amount deposited by the individual in the account during the
37 taxable year to the extent that the individual's contributions are included
38 in the individual's federal adjusted gross income.
39 (b) The individual's employer may subtract the amount of contributions
40 made by the employer to a medical savings account established on the
41 individual's behalf to the extent that the contributions are not deductible
42 under the internal revenue code.
43 23. The amount by which a net operating loss carryover or capital loss
44 carryover allowable pursuant to section 43-1029, subsection F exceeds the net

operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

24. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income.

25. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.

26. The amount authorized by section 43-1030 relating to holocaust survivors.

27. The amount authorized by section 43-1031 for constructing an energy efficient residence.

28. An amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(2)(D)(iii) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

29. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 26 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

30. With respect to property for which an adjustment was made under section 43-1021, paragraph 27, an amount equal to one-fifth of the amount of the adjustment pursuant to section 43-1021, paragraph 27 in the year in which the amount was adjusted under section 43-1021, paragraph 27 and in each of the following four years.

31. For taxable years beginning from and after December 31, 2007 through December 31, 2012, the amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted shall not exceed:

(a) Seven hundred fifty dollars for a single individual or a head of household.

(b) One thousand five hundred dollars for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed one thousand five hundred dollars.

32. To the extent not already excluded from Arizona gross income under the internal revenue code, the amount authorized by section 43-1032 for displaced pupils choice grants.

33. THE AMOUNT OF ANY ORIGINAL ISSUE DISCOUNT THAT WAS DEFERRED AND NOT ALLOWED TO BE DEDUCTED IN COMPUTING FEDERAL ADJUSTED GROSS INCOME OR FEDERAL TAXABLE INCOME IN THE CURRENT TAXABLE YEAR PURSUANT TO SECTION 108(i) OF THE INTERNAL REVENUE CODE AS ADDED BY SECTION 1231 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5).

34. THE AMOUNT OF PREVIOUSLY DEFERRED DISCHARGE OF INDEBTEDNESS INCOME THAT IS INCLUDED IN THE COMPUTATION OF FEDERAL ADJUSTED GROSS INCOME OR FEDERAL TAXABLE INCOME IN THE CURRENT TAXABLE YEAR PURSUANT TO SECTION 108(i) OF THE INTERNAL REVENUE CODE AS ADDED BY SECTION 1231 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5), TO THE EXTENT THAT THE AMOUNT WAS PREVIOUSLY ADDED TO ARIZONA GROSS INCOME PURSUANT TO SECTION 43-1021, PARAGRAPH 33.

35. THE PORTION OF THE NET OPERATING LOSS CARRYFORWARD THAT WOULD HAVE BEEN ALLOWED AS A DEDUCTION IN THE CURRENT YEAR PURSUANT TO SECTION 172 OF THE INTERNAL REVENUE CODE IF THE ELECTION DESCRIBED IN SECTION 172(b)(1)(h) OF THE INTERNAL REVENUE CODE HAD NOT BEEN MADE IN THE YEAR OF THE LOSS THAT EXCEEDS THE ACTUAL NET OPERATING LOSS CARRYFORWARD THAT WAS DEDUCTED IN ARRIVING AT FEDERAL ADJUSTED GROSS INCOME. THIS SUBTRACTION ONLY APPLIES TO TAXPAYERS WHO MADE AN ELECTION UNDER SECTION 172(b)(1)(h) OF THE INTERNAL REVENUE CODE AS AMENDED BY SECTION 1211 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5) OR AS AMENDED BY SECTION 13 OF THE WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT OF 2009 (P.L. 111-92).

Sec. 5. Section 43-1042, Arizona Revised Statutes, is amended to read:

43-1042. Itemized deductions

A. Except as provided by subsections B, D, ~~and~~ E AND G of this section, at the election of the taxpayer, and in lieu of the standard deduction allowed by section 43-1041, in computing taxable income the taxpayer may take the amount of itemized deductions allowable for the taxable year pursuant to subtitle A, chapter 1, subchapter B, parts VI and VII, but subject to the limitations prescribed by sections 67, 68 and 274, of the internal revenue code.

B. In lieu of the amount of the federal itemized deduction for expenses paid for medical care allowed under section 213 of the internal revenue code, the taxpayer may deduct the full amount of such expenses.

C. Notwithstanding subsection B of this section, expenses for medical care that are paid or reimbursed from the taxpayer's medical savings account pursuant to section 43-1028 shall not be deducted pursuant to this section.

D. A qualified defense contractor that is identified and certified by the department of commerce pursuant to section 41-1508 shall not claim both a deduction as provided by this section and a credit under section 43-1078 with respect to the same property taxes paid.

E. A taxpayer shall not claim both a deduction provided by this section and a credit allowed by this title with respect to the same charitable contributions.

F. The taxpayer may add any interest expense paid by the taxpayer for the taxable year that is equal to the amount of federal credit for interest on certain home mortgages allowed by section 25 of the internal revenue code.

G. A TAXPAYER SHALL NOT CLAIM ANY AMOUNT THAT WAS DEDUCTED PURSUANT TO SECTION 164(b)(6) OF THE INTERNAL REVENUE CODE, AS ADDED BY SECTION 1008 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5), FOR QUALIFIED MOTOR VEHICLE TAXES.

Sec. 6. Section 43-1121, Arizona Revised Statutes, is amended to read:

43-1121. Additions to Arizona gross income; corporations

In computing Arizona taxable income for a corporation, the following amounts shall be added to Arizona gross income:

1. The amounts computed pursuant to section 43-1021, paragraphs 3 through 9, 12, 26, ~~and~~ 27, 33 AND 34.

2. The amount of dividend income received from corporations and allowed as a deduction pursuant to sections 243, 244 and 245 of the internal revenue code.

3. Taxes which are based on income paid to states, local governments or foreign governments and which were deducted in computing federal taxable income.

4. Expenses and interest relating to tax-exempt income on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the tax imposed by this title. Financial institutions, as defined in section 6-101, shall be governed by section 43-961, paragraph 2.

5. Commissions, rentals and other amounts paid or accrued to a domestic international sales corporation controlled by the payor corporation if the domestic international sales corporation is not required to report its taxable income to this state because its income is not derived from or attributable to sources within this state. If the domestic international sales corporation is subject to article 4 of this chapter, the department shall prescribe by rule the method of determining the portion of the commissions, rentals and other amounts which are paid or accrued to the controlled domestic international sales corporation and which shall be deducted by the payor. ~~"Control"~~ For THE purposes of this paragraph, "CONTROL" means direct or indirect ownership or control of fifty per cent or more of the voting stock of the domestic international sales corporation by the payor corporation.

6. Federal income tax refunds received during the taxable year to the extent they were deducted in arriving at Arizona taxable income in a previous year.

7. The amount of net operating loss taken pursuant to section 172 of the internal revenue code.

8. The amount of exploration expenses determined pursuant to section 617 of the internal revenue code to the extent that they exceed seventy-five

thousand dollars and to the extent that the election is made to defer those expenses not in excess of seventy-five thousand dollars.

9. Amortization of costs incurred to install pollution control devices and deducted pursuant to the internal revenue code or the amount of deduction for depreciation taken pursuant to the internal revenue code on pollution control devices for which an election is made pursuant to section 43-1129.

10. The amount of depreciation or amortization of costs of child care facilities deducted pursuant to section 167 or 188 of the internal revenue code for which an election is made to amortize pursuant to section 43-1130.

11. Arizona state income tax refunds received, to the extent the amount of the refunds is not already included in Arizona gross income, if a tax benefit was derived by deduction of this amount in a prior year.

12. The amount paid as taxes on property in this state by a qualified defense contractor with respect to which a credit is claimed under section 43-1166.

13. The loss of an insurance company that is exempt under section 43-1201 to the extent that it is included in computing Arizona gross income on a consolidated return pursuant to section 43-947.

14. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1169 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

15. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1169 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1169.

16. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under either section 43-1170 or 43-1170.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

17. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1170 or 43-1170.01, as applicable.

18. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

19. The amount by which a capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the capital loss carryover allowable pursuant to section 43-1130.01, subsection F.

20. Any amount deducted in computing Arizona taxable income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1176.

21. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1175 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

22. Any amount of expenses that were deducted pursuant to the internal revenue code and for which a credit is claimed under section 43-1178.

23. Any amount deducted for conveying ownership or development rights of property to an agricultural preservation district under section 48-5702 for which a credit is claimed under section 43-1180.

24. The amount of any deduction that is claimed in computing Arizona gross income and that represents a donation of a school site for which a credit is claimed under section 43-1181.

25. The amount of any deductions that are claimed in computing federal taxable income representing expenses for which a credit is claimed under either section 43-1163 or 43-1163.01 or both.

26. Any amount deducted in computing Arizona taxable income as expenses for installing water conservation system plumbing stub outs in this state with respect to which a credit is claimed pursuant to section 43-1182.

27. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization for which a credit is claimed under section 43-1183 or 43-1184.

Sec. 7. Section 43-1122, Arizona Revised Statutes, is amended to read:

43-1122. Subtractions from Arizona gross income; corporations

In computing Arizona taxable income for a corporation, the following amounts shall be subtracted from Arizona gross income:

1. The amounts computed pursuant to section 43-1022, paragraphs 8 through 15, 28, 29, ~~and~~ 30, 33 AND 34. For THE purposes of this paragraph, "federal adjusted gross income" as used in section 43-1022 means "federal taxable income".

2. The amount of Arizona capital loss carryover as defined in section 43-1124 in an amount not to exceed one thousand dollars.

3. With respect to a financial institution as defined in section 6-101, expenses and interest relating to tax-exempt income disallowed pursuant to section 265 of the internal revenue code.

4. Dividends received from another corporation owned or controlled directly or indirectly by a recipient corporation. ~~"Control"~~ For THE purposes of this paragraph, "CONTROL" means direct or indirect ownership or control of fifty per cent or more of the voting stock of the payor corporation by the recipient corporation. Dividends shall have the meaning provided in section 316 of the internal revenue code. This subtraction shall apply without regard to the provisions of section 43-961, paragraph 2 and article 4 of this chapter. A corporation that has its commercial domicile,

as defined in section 43-1131, in this state may subtract the full amount of the dividends. A corporation that does not have its commercial domicile in this state may subtract:

(a) For its taxable year beginning in 1990, an amount equal to one-half of the dividends.

(b) For taxable years beginning in 1991 and thereafter, the full amount of the dividends.

5. Interest income received on obligations of the United States.

6. The amount of dividend income from foreign corporations.

7. The amount of net operating loss allowed by section 43-1123.

8. The amount of any state income tax refunds received which were included as income in computing federal taxable income.

9. The amount of expense recapture included in income pursuant to section 617 of the internal revenue code for mine exploration expenses.

10. The amount of deferred exploration expenses allowed by section 43-1127.

11. The amount of exploration expenses related to the exploration of oil, gas or geothermal resources, computed in the same manner and on the same basis as a deduction for mine exploration pursuant to section 617 of the internal revenue code. This computation is subject to the adjustments contained in section 43-1121, paragraph 8 and paragraphs 9 and 10 of this section relating to exploration expenses.

12. The amortization of pollution control devices allowed by section 43-1129.

13. The amount of amortization of the cost of child care facilities pursuant to section 43-1130.

14. The amount of income from a domestic international sales corporation required to be included in the income of its shareholders pursuant to section 995 of the internal revenue code.

15. The income of an insurance company that is exempt under section 43-1201 to the extent that it is included in computing Arizona gross income on a consolidated return pursuant to section 43-947.

16. The amount of contributions by the taxpayer during the taxable year to medical savings accounts established on behalf of the taxpayer's employees as provided by section 43-1028, to the extent that the contributions are not deductible under the internal revenue code.

17. The amount by which a capital loss carryover allowable pursuant to section 43-1130.01, subsection F exceeds the capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

Sec. 8. <u>Intent</u>

A. Pursuant to section 1531(d) of the American recovery and reinvestment act of 2009 (P.L. 111-5), this state is providing that the interest on any build America bond and the amount of the federal credit with respect to any build America bond that are treated as federally taxable interest income for federal income tax purposes shall be treated the same for

the purposes of computing the federal taxable income or the federal adjusted gross income that is used in computing Arizona taxable income.

B. It is the intent of the legislature that by not adopting the extended net operating loss carryback provisions of section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111-5) and section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111-92), taxpayers in this state may still carry back net operating losses to the extent the losses would have been carried back if the elections under section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111-5) and section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111-92) had not been made when computing federal adjusted gross income.

C. Arizona does not conform to the provisions of the acceleration of income tax benefits for Haiti relief act (P.L. 111-126) which allows taxpayers who make cash contributions for relief of victims of the earthquake in Haiti on January 12, 2010 for which a charitable contribution deduction is allowed under section 170 of the internal revenue code of 1986 to treat the contributions made after January 11, 2010 and before March 1, 2010, as if the contributions were made on December 31, 2009 and not in 2010. By not conforming to that act it is the intent of the legislature that any 2010 contributions deducted on a taxpayer's 2009 federal income tax return pursuant to that act is not allowed on the 2009 Arizona state income tax return and will instead be treated as contributions made in 2010.

Sec. 9. Retroactivity

A. Sections 43-1021, 43-1022, 43-1121 and 43-1122, Arizona Revised Statutes, as amended by this act, apply retroactively to taxable years ending from and after December 31, 2008.

B. Section 43-1042, Arizona Revised Statutes, as amended by this act, applies retroactively to taxable years beginning from and after December 31, 2008.

APPROVED BY THE GOVERNOR APRIL 27, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2010.