

State of Arizona
House of Representatives
Forty-fourth Legislature
Second Regular Session
2000

HOUSE BILL 2004

AN ACT

AMENDING SECTIONS 43-1021 AND 43-1121, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1088.01; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1179; RELATING TO INDIVIDUAL AND CORPORATE INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-1021, Arizona Revised Statutes, is amended to
3 read:

4 43-1021. Additions to Arizona gross income

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

7 1. A beneficiary's share of trust or estate income includible under
8 section 43-1344.

9 2. A beneficiary's share of trust or estate deductions allowable under
10 the internal revenue code.

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

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

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

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

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

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

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

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

4 11. The amount of depreciation or amortization of costs of child care
5 facilities deducted pursuant to section 167 or 188 of the internal revenue
6 code for which a credit is taken under section 43-1075, subsection A,
7 paragraph 1.

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

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

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

22 15. The amount of depreciation or amortization of costs of recycling
23 equipment deducted pursuant to the internal revenue code for which an
24 election is made pursuant to section 43-1076.

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

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

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

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

38 20. The amount by which the adjusted basis computed under the internal
39 revenue code with respect to property for which a credit was claimed under
40 section 43-1080 and which is sold or otherwise disposed of during the taxable
41 year exceeds the adjusted basis of the property computed under section
42 43-1080.

43 21. The amount by which the depreciation or amortization computed under
44 the internal revenue code with respect to property for which a credit was
45 taken under either section 43-1081 or 43-1081.01 exceeds the amount of

1 depreciation or amortization computed pursuant to the internal revenue code
2 on the Arizona adjusted basis of the property.

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

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

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

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

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

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

25 28. Any amount deducted pursuant to section 170 of the internal revenue
26 code representing the contribution of a motor vehicle for which a credit is
27 claimed pursuant to section 43-1090.01.

28 29. ANY PATENT COSTS FOR WHICH A CREDIT IS CLAIMED UNDER SECTION
29 43-1088.01.

30 Sec. 2. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
31 amended by adding section 43-1088.01, to read:

32 43-1088.01. Credit for businesses manufacturing product
33 patented at state university

34 A. A CREDIT IS ALLOWED IN LIEU OF ANY OTHER DEDUCTION OR CREDIT
35 AGAINST THE TAXES IMPOSED BY THIS TITLE FOR A TAXPAYER WHO MEETS THE
36 FOLLOWING REQUIREMENTS:

37 1. THE TAXPAYER MUST EITHER:

38 (a) BEGIN CONDUCTING BUSINESS AFTER JUNE 30, 2000 IN A COUNTY IN THIS
39 STATE WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS ACCORDING
40 TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS.

41 (b) RELOCATE AN ONGOING BUSINESS AFTER JUNE 30, 2000 FROM A COUNTY IN
42 THIS STATE WITH A POPULATION OF FIVE HUNDRED THOUSAND PERSONS OR MORE TO A
43 COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS ACCORDING
44 TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS.

1 2. THE BUSINESS MUST BE PRIMARILY ENGAGED IN MANUFACTURING ONE OR MORE
2 PRODUCTS THAT WERE PATENTED AFTER JUNE 30, 2000 AT A UNIVERSITY UNDER THE
3 JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

4 3. THE BUSINESS MUST CONTINUE TO BE OPERATING IN THE QUALIFIED COUNTY
5 DURING THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED.

6 B. THE AMOUNT OF THE CREDIT IS EQUAL TO THE LESSER OF ONE HUNDRED
7 THOUSAND DOLLARS OR THE COST OF THE PATENT TO THE TAXPAYER DURING THE TAXABLE
8 YEAR, WHETHER IN PURCHASING THE PATENT OR AS PERIODIC PAYMENTS FOR THE RIGHT
9 TO MANUFACTURE PRODUCTS PURSUANT TO THE PATENT. A TAXPAYER IS ELIGIBLE TO
10 CLAIM A CREDIT UNDER THIS SECTION IN NOT MORE THAN FIVE CONSECUTIVE TAXABLE
11 YEARS.

12 C. CO-OWNERS OF THE BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND
13 SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF THE INTERNAL
14 REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
15 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
16 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
17 ALLOWED A SOLE OWNER.

18 D. IF THE ALLOWABLE CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS
19 SECTION, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE AMOUNT OF THE
20 CREDIT NOT USED TO OFFSET TAXES UNDER THIS TITLE MAY BE CARRIED FORWARD TO
21 THE NEXT FIVE CONSECUTIVE TAXABLE YEARS AS A CREDIT AGAINST SUBSEQUENT YEARS'
22 INCOME TAX LIABILITY. A CREDIT MAY BE CARRIED FORWARD UNDER THIS SUBSECTION
23 NOTWITHSTANDING THE FIVE YEAR LIMITATION UNDER SUBSECTION B.

24 E. IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

25 1. "CONDUCTING BUSINESS" MEANS HAVING OVER FIFTY PER CENT OF A
26 BUSINESS' PAYROLL AND PROPERTY IN A QUALIFIED COUNTY UNDER SUBSECTION A,
27 PARAGRAPH 1, SUBDIVISION (a).

28 2. "RELOCATE AN ONGOING BUSINESS" MEANS MOVING OVER FIFTY PER CENT OF
29 A BUSINESS' PAYROLL AND PROPERTY TO A QUALIFIED COUNTY FROM A NONQUALIFIED
30 COUNTY AS PROVIDED IN SUBSECTION A, PARAGRAPH 1, SUBDIVISION (b).

31 Sec. 3. Section 43-1121, Arizona Revised Statutes, is amended to read:

32 43-1121. Additions to Arizona gross income; corporations

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

35 1. The amounts computed pursuant to section 43-1021, paragraphs 4
36 through 10 and 14.

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

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

43 4. Expenses and interest relating to tax-exempt income on indebtedness
44 incurred or continued to purchase or carry obligations the interest on which
45 is wholly exempt from the tax imposed by this title. Financial institutions,

1 as defined in section 6-101, shall be governed by section 43-961, paragraph
2 2.

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

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

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

21 8. The amount of exploration expenses determined pursuant to section
22 617 of the internal revenue code to the extent that they exceed seventy-five
23 thousand dollars and to the extent that the election is made to defer those
24 expenses not in excess of seventy-five thousand dollars.

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

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

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

35 12. The amount paid as taxes on property in this state by a qualified
36 defense contractor with respect to which a credit is claimed under section
37 43-1166.

38 13. The loss of an insurance company that is exempt under section
39 43-1201 to the extent that it is included in computing Arizona gross income
40 on a consolidated return pursuant to section 43-947.

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

1 (a) BEGIN CONDUCTING BUSINESS AFTER JUNE 30, 2000 IN A COUNTY IN THIS
2 STATE WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS ACCORDING
3 TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS.

4 (b) RELOCATE AN ONGOING BUSINESS AFTER JUNE 30, 2000 FROM A COUNTY IN
5 THIS STATE WITH A POPULATION OF FIVE HUNDRED THOUSAND PERSONS OR MORE TO A
6 COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS ACCORDING
7 TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS.

8 2. THE BUSINESS MUST BE PRIMARILY ENGAGED IN MANUFACTURING ONE OR MORE
9 PRODUCTS THAT WERE PATENTED AFTER JUNE 30, 2000 AT A UNIVERSITY UNDER THE
10 JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

11 3. THE BUSINESS MUST CONTINUE TO BE OPERATING IN THE QUALIFIED COUNTY
12 DURING THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED.

13 B. THE AMOUNT OF THE CREDIT IS EQUAL TO THE LESSER OF ONE HUNDRED
14 THOUSAND DOLLARS OR THE COST OF THE PATENT TO THE TAXPAYER DURING THE TAXABLE
15 YEAR, WHETHER IN PURCHASING THE PATENT OR AS PERIODIC PAYMENTS FOR THE RIGHT
16 TO MANUFACTURE PRODUCTS PURSUANT TO THE PATENT. A TAXPAYER IS ELIGIBLE TO
17 CLAIM A CREDIT UNDER THIS SECTION IN NOT MORE THAN FIVE TAXABLE YEARS.

18 C. CO-OWNERS OF THE BUSINESS, INCLUDING CORPORATE PARTNERS IN A
19 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
20 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS
21 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
22 ALLOWED A SOLE OWNER.

23 D. IF THE ALLOWABLE CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS
24 SECTION, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE AMOUNT OF THE
25 CREDIT NOT USED TO OFFSET TAXES UNDER THIS TITLE MAY BE CARRIED FORWARD TO
26 THE NEXT FIVE CONSECUTIVE TAXABLE YEARS AS A CREDIT AGAINST SUBSEQUENT YEARS'
27 INCOME TAX LIABILITY. A CREDIT MAY BE CARRIED FORWARD UNDER THIS SUBSECTION
28 NOTWITHSTANDING THE FIVE YEAR LIMITATION UNDER SUBSECTION B.

29 E. IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

30 1. "CONDUCTING BUSINESS" MEANS HAVING OVER FIFTY PER CENT OF A
31 BUSINESS' PAYROLL AND PROPERTY IN A QUALIFIED COUNTY UNDER SUBSECTION A,
32 PARAGRAPH 1, SUBDIVISION (a).

33 2. "RELOCATE AN ONGOING BUSINESS" MEANS MOVING OVER FIFTY PER CENT OF
34 A BUSINESS' PAYROLL AND PROPERTY TO A QUALIFIED COUNTY FROM A NONQUALIFIED
35 COUNTY AS PROVIDED IN SUBSECTION A, PARAGRAPH 1, SUBDIVISION (b).

36 Sec. 5. Retroactivity

37 This act applies retroactively to taxable years beginning from and
38 after December 31, 1999.