TITLE 15. REVENUE

CHAPTER 2. DEPARTMENT OF REVENUE INCOME AND WITHHOLDING TAX SECTION

(Authority: A.R.S. § 43-101 et seq.)

Editor's Note: The Department of Revenue recodified this Chapter at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000. The rescinded Chapter, which contains the former codification and Historical Notes, is on file in the Office of the Secretary of State (Supp. 00-2).

Chapter 2 consisting of Articles 1 through 14 adopted effective December 22, 1981.

Former Chapter 2 consisting of Article 1 repealed effective December 22, 1981.

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SUBCHAPTER A. GENERAL AND ADMINISTRATIVE

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R15-2A-101. Repealed

Historical Note
Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 653, effective January 11, 2001 (Supp. 01-1).

R15-2A-102. Repealed

Historical Note
Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 2885, effective June 13, 2001 (Supp. 01-2).

R15-2A-103. Time for Filing Returns

A. Generally, a taxpayer shall file an income tax return on or before the 15th day of the fourth full calendar month following the close of the taxable year. This requirement is subject to the following exceptions:
1. The final income tax return of a decedent shall be filed on or before the 15th day of the fourth month following the close of the 12-month period that began with the first day of the taxable year in which the decedent died.
2. The Department may prescribe a later time for filing a return for a fractional part of a year upon a showing by the taxpayer of unusual circumstances.
3. A corporation liquidating all its assets and ceasing operations during any taxable year may file a return with the Department for that year immediately after liquidation and shall report the income of the corporation for the part of the year during which the corporation was engaged in business.
4. Under A.R.S. § 43-1126, a corporation taxable as an S corporation under the Internal Revenue Code shall file its income tax return with the Department on or before the 15th day of the third month following the close of the taxable year.
5. Under A.R.S. § 43-1241, an organization, otherwise exempt under A.R.S. § 43-1201, having unrelated business income shall file its income tax return with the Department on or before the 15th day of the fifth month following the close of the taxable year.

B. The due date for filing an income tax return with the Department is the date on or before which a return is required to be filed under A.R.S. Title 43 or the last day of the period covered by a filing extension granted by the Department. When the due date falls on Saturday, Sunday, or a legal holiday, the due date for filing the income tax return with the Department is the business day following the Saturday, Sunday, or legal holiday.

C. An income tax return that is placed in the United States mail, properly addressed with postage paid, is deemed filed on the date of the postmark stamped on the envelope. For purposes of this subsection, the terms “United States mail” and “postmark” have the meaning in A.R.S. § 1-218(E).

Historical Note
Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2885, effective June 13, 2001 (Supp. 01-2).

R15-2A-104. Returns Filed by Persons Outside the United States

A. If a taxpayer is outside the United States and is unable to file an Arizona individual income tax return or perform any act required by A.R.S. Title 43, the taxpayer may request that the Department disregard the period in which the taxpayer was unable to comply by filing a written request with the Department within 30 days after returning to the United States that:
1. Explains the reasons why the taxpayer was unable to file the income tax return or perform the required act,
2. Indicates the time period in which the taxpayer was unable to file the income tax return or perform the required act, and
3. Includes the income tax return and any applicable tax payment.

B. The taxpayer shall mail the request required under subsection (A) to the Arizona Department of Revenue, Out-of-Country Waiver, 1600 West Monroe, Phoenix, Arizona 85007.

C. The Department may extend the request period under subsection (A) if circumstances exist that prevent the taxpayer from filing the request within the 30-day period.

D. A taxpayer may request an extension to file the income tax return required in subsection (A)(3) if:
1. The other requirements in subsection (A), including payment of the estimated tax due, are met, and
2. The taxpayer provides documentation of the taxpayer’s inability to file the income tax return by the 30-day requirement.

E. If the Department determines that it was impossible or impracticable for the taxpayer to timely file an income tax return or perform the required act, the Department shall relieve the taxpayer from the interest and penalties accruing from the failure to file a timely return or perform the required act.

Historical Note
Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2885, effective June 13, 2001 (Supp. 01-2).

ARTICLE 2. GENERAL ACCOUNTING PROVISIONS

R15-2A-201. Repealed

Historical Note
Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Repealed by final rulemaking at 7 A.A.R. 2885, effective June 13, 2001 (Due to clerical error Section not shown as repealed until Supp. 08-4).

R15-2A-202. Items not Deductible in Computing Taxable Income

A. Personal and family expenses. Insurance paid on a dwelling owned and occupied by a taxpayer is a personal expense and not deductible. Premiums paid for life insurance by the insured are not deductible. In the case of a professional man who rents a property for residential purposes but incidentally receives clients, patients, or caller there in connection with his professional work (his place of business being elsewhere), no part of the rent is deductible as a business expense. However, if he uses part of the house for his office, such portion of the rent as is properly attributable to such office is deductible. If the father is entitled to the services of his minor children, any allowances that he gives them whether said to be in consideration of services or otherwise are not allowable deductions in his return of income. Generally, attorneys' fees paid in a suit for divorce or separate maintenance are not deductible. However, the part of an attorney's fee paid in a divorce or separate maintenance proceeding that is properly attributable to the production or collection of amounts of includible in gross income is deductible. Amounts paid as alimony or allowance for support on divorce or separation are not deductible except as otherwise provided. The cost of equipment of an Army officer to the extent only that it is especially required by his profession and does not merely take the place of articles required in civilian life is deductible. Accordingly, the cost of a sword is an allowable deduction, but the cost of a uniform is not. See Section 43-1049 for deduction of extraordinary medical expenses including amounts paid for accident or health insurance.

B. Amounts allocable to non-includible income
1. Class of non-includible income
   a. This Section applies to income that is not required to be included in Arizona adjusted gross income or Arizona taxable income. Examples of such non-includible income would be interest exempt from the Arizona income tax by the Constitution or federal or state law, or the income of a corporation which was derived from sources outside this state. The fact that a person's otherwise taxable income may be reduced by allowable deductions and personal exemptions will not render such income subject to this provision.
   b. The object is to segregate non-includible income from the taxable income in order that a double exemption may not be obtained through the reduction of taxable income by expenses and other items incurred in the production of items of non-includible income. Accordingly, just as certain items of income are excluded from the computation of Arizona gross income and Arizona taxable income by Sections 43-1022 and 43-1122, Section 43-961 excludes from the computation of deductions all items referable to the production of non-includible income as above defined.
2. Determination of amounts allocable to a class of exempt income
   a. No deduction may be allowed for the amount of any item or part thereof allocable to a class or classes of exempt income, or other income not includible in Arizona adjusted gross income or Arizona taxable income.

      Example: Expenses paid or incurred for the production or collection of income that is wholly exempt from income taxes such as interest or dividends of a type not includible in gross income are not deductible expenses. Items or parts of such items directly attributable to any class or classes of exempt income shall be allocated to that, and items or parts of such items directly attributable to any class or classes of taxable income shall not be allocated to that.
   b. If an item is indirectly attributable both to taxable income and to non-includible income, a reasonable proportion of it determined in the light of the facts and circumstances in each case shall be allocated to each. Apportionments must in all cases be reasonable.
3. Statement of items of non-includible incomes-records
   a. A taxpayer receiving any class of non-includible income or holding any property or engaging in any activity the income from which is non-includible shall submit with his return as a part of it an itemized statement in detail showing:
      i. the amount of each class of such non-includible income and
      ii. the amount of items or parts of items allocated to each such class (the amount allocated by apportionment being shown separately) as required by subsection (B)(2) of this subsection.
   b. If an item is apportioned between a class of non-includible income and a class of taxable income, the statement shall show the basis of the apportionment. Such statement shall also recite that each deduction claimed in the return is not in any way referable to non-includible income.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2).

SUBCHAPTER B. WITHHOLDING

ARTICLE 1. WITHHOLDING BY EMPLOYER

R15-2B-101. Payment Schedule; Rates; Election by Employee

A. An employer shall determine its Arizona withholding payment schedule for each calendar quarter by calculating the average amount of Arizona income taxes withheld in the 4 preceding calendar quarters. The employer shall calculate this average at the beginning of each calendar quarter by adding the actual amount withheld in each of the 4 preceding calendar quarters and then dividing that sum by 4.
1. If the average amount of Arizona income taxes withheld in the 4 preceding calendar quarters does not exceed $1,500, the employer shall make its Arizona withholding payments on a quarterly basis.

   Example:

   An employer determines its Arizona withholding payment schedule for the 4th calendar quarter of 1999 as follows:

3rd quarter of 1999 withholding	$1,100
2nd quarter of 1999 withholding	$1,600
1st quarter of 1999 withholding	$1,000
4th quarter of 1998 withholding	$1,200
Total withholding	$4,900
Divide by	4
Average withholding	$1,225

   The 4 quarter average of Arizona income taxes withheld does not exceed $1,500. Therefore, the employer shall make its Arizona withholding payments on a quarterly basis.
2. If the average amount of Arizona income taxes withheld in the 4 preceding calendar quarters exceeds $1,500, the employer shall make its Arizona withholding payments at the same time as the employer is required to make its federal withholding deposits.

   Example:

An employer determines its Arizona withholding payment schedule for the 3rd calendar quarter of 1999 as follows:

2nd quarter of 1999 withholding	$1,800
1st quarter of 1999 withholding	$1,400
4th quarter of 1998 withholding	$1,900
3rd quarter of 1998 withholding	$1,300
Total withholding	$6,400
Divide by	4
Average withholding	$1,600

The 4 quarter average of Arizona income taxes withheld exceeds $1,500. Therefore, the employer shall make its Arizona withholding payments at the same time as its federal withholding deposits.

B. An employer that purchases an existing business shall determine its Arizona withholding payment schedule for each calendar quarter by calculating the average amount withheld in the 4 preceding calendar quarters as follows:

1. For the 1st quarter of withholding, the employer shall calculate the previous owner's average amount of Arizona income taxes withheld in the 4 preceding calendar quarters.
2. For the 2nd through 4th quarters of withholding, the employer shall calculate the average amount withheld in the 4 preceding calendar quarters by combining its prior quarters of withholding with the previous owner's quarters of withholding.
3. For subsequent quarters of withholding, the employer shall add the amounts it withheld in the 4 preceding calendar quarters and then divide that sum by 4.

C. A newly formed business shall determine its Arizona withholding payment schedule as follows:

1. For the 1st quarter of withholding, the employer shall make its Arizona withholding payments on a quarterly basis.
2. For the 2nd quarter of withholding, the employer shall determine its Arizona withholding payment schedule based on the amount withheld in the 1st quarter of withholding.
3. For the 3rd quarter of withholding, the employer shall determine its Arizona withholding payment schedule by adding the amounts withheld in the 1st and 2nd quarters and dividing by 2.
4. For the 4th quarter of withholding, the employer shall determine its Arizona withholding payment schedule by adding the amounts withheld in the 1st, 2nd, and 3rd quarters and dividing by 3.
5. For subsequent quarters of withholding, the employer shall determine its Arizona withholding payment schedule by adding the amounts withheld in the 4 preceding calendar quarters and dividing by 4.

D. If 2 or more employers consolidate their business activities to form 1 entity, the new employer shall determine its Arizona withholding payment schedule based on the combined withholding of the prior employers for the preceding 4 calendar quarters. Any prior employer with fewer than 4 full quarters of withholding activity shall annualize the amounts withheld and divide by 4. The new employer shall determine its Arizona withholding payment schedule by combining this amount with the quarterly averages of the other prior employers with 4 full quarters of withholding activity.

E. The employer shall complete the quarterly reconciliation required by A.R.S. § 43-401 by filing the quarterly tax return prescribed by the Department.

F. For calendar years beginning after December 31, 1997, an employer may make its Arizona withholding payments on an annual basis if all of the following conditions are met:

1. The employer has established a history of withholding activity by filing the quarterly tax return required by subsection (E) for at least the 4 preceding calendar quarters.
2. The employer's withholding liability was an amount greater than zero for at least 1 of the 4 preceding calendar quarters.
3. The average amount of Arizona income taxes withheld by the employer in the 4 preceding calendar quarters does not exceed $200. The employer will meet this average withholding requirement if the total amount withheld in the 4 preceding calendar quarters is $800 or less.
4. The employer has timely filed the quarterly tax return and has timely made its Arizona withholding payments for at least 3 of the 4 preceding calendar quarters.
5. The employer has filed the quarterly tax return for all preceding calendar quarters and does not have a balance due (tax, penalty, or interest) for any preceding calendar quarter.
6. The employer has filed the annual reconciliation tax return required by A.R.S. § 43-412 for all preceding calendar years and has timely filed the annual reconciliation tax return for the preceding calendar year.

G. An employer that makes its Arizona withholding payments on a annual basis under subsection (F), shall file the annual tax return required by A.R.S. § 43-401 on the form prescribed by the Department. The form shall contain all the information required by A.R.S. § 43-412. The employer shall make its annual Arizona withholding payment by February 28 of the year following the year for which the report was made.

H. An employer that makes its Arizona withholding payments on an annual basis under subsection (F), may continue to make its Arizona withholding payments on an annual basis for the succeeding calendar year if both of the following conditions are met:

1. The average amount of Arizona income taxes withheld by the employer in the 4 preceding calendar quarters does not exceed $200.

   Example 1:

   An employer determines whether the average amount of Arizona income taxes withheld in the 4 preceding calendar quarters does not exceed $200 as follows:

4th quarter of 1999 withholding	$200
3rd quarter of 1999 withholding	$200
2nd quarter of 1999 withholding	$250
1st quarter of 1999 withholding	$150
Total withholding	$800
Divide by	4
Average withholding	$200

   The average amount of Arizona income taxes withheld in the 4 preceding calendar quarters does not exceed $200. Therefore, the employer may make its Arizona withholding payments on an annual basis for the succeeding calendar year, if the employer also meets the condition stated in subsection (H)(2).

   Example 2:

   An employer determines whether the average amount of Arizona income taxes withheld in the 4 preceding calendar quarters does not exceed $200 as follows:

4th quarter of 1999 withholding	$200
3rd quarter of 1999 withholding	$400
2nd quarter of 1999 withholding	$250
1st quarter of 1999 withholding	$150

Total withholding	$1,000
Divide by	4
Average withholding	$250

The average amount of Arizona income taxes withheld in the 4 preceding calendar quarters exceeds $200. Therefore, the employer may not make its Arizona withholding payments on an annual basis for the succeeding calendar year.

2. The employer has timely filed the annual tax return and has timely made its annual Arizona withholding payment as prescribed by subsection (G) for the preceding calendar year.

I. If the employer does not meet the conditions prescribed by subsection (H):
1. The employer shall determine its Arizona withholding payment schedule for succeeding calendar quarters as prescribed by subsection (A); and
2. The employer shall file the quarterly tax return for succeeding calendar quarters as prescribed by subsection (E).

J. An employer shall determine the applicable rate of withholding for each employee as follows:
1. If an employee whose annual compensation is less than $15,000 elects the minimum withholding rate, that rate shall apply until 1 of the following situations occurs:
   a. Until the employee has 12 full months of work history with the employer, the employer shall determine the employee's annualized compensation at the end of each month. The employer may use any method of annualization that accurately reflects the employee's annual compensation. If the employer determines that the employee's annualized compensation is $15,000 or more, the employer shall adjust the employee's rate of withholding beginning the next full pay period following the determination. The employer shall adjust the rate to the minimum rate prescribed by A.R.S. § 43-401, unless the employee elects a higher prescribed rate of withholding for the employee's annual compensation. The employer shall apply the minimum rate of withholding until the employee has been employed for 12 full months, unless the employee elects a higher prescribed rate of withholding for the employee's annual compensation. After 12 full months of employment, the employer shall determine the rate under subsection (J)(1)(b);
   b. If the employee has 12 full months of work history with the employer, the employer shall determine the employee's total compensation for the 12-month period. If the records for that period show that the employee earned $15,000 or more, the employer shall adjust the rate of withholding beginning the next full pay period following the determination. The employer shall adjust the rate to the minimum rate prescribed by A.R.S. § 43-401, unless the employee elects a higher prescribed rate of withholding for the employee's annual compensation. The employer shall apply this rate of withholding through the end of the calendar year, unless the employee elects a higher prescribed rate of withholding for the employee's annual compensation. At the end of that calendar year and at the end of each succeeding calendar year, the employer shall redetermine the employee's total annual compensation. If the employee's annual compensation for the preceding year changes the employee's rate of withholding, the rate change shall begin the next full pay period following the determination; or
   c. If the employee receives a salary increase that makes the employee's annualized compensation $15,000 or more, the employer shall adjust the employe's rate of withholding to the minimum rate prescribed by A.R.S. § 43-401, beginning the next full pay period following the receipt of the increase by the employee.
2. An employee who has elected a withholding rate higher than the minimum prescribed withholding rate may later elect to reduce the rate to a lower prescribed rate for the employee's annual compensation.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2).

R15-2B-102. Employment Excluded from Withholding

A. An employer shall not withhold Arizona income taxes from:
1. Wages paid to an employee of a common carrier when that employee is a nonresident of Arizona and regularly performs services inside and outside the state.
2. Wages paid for domestic service in a private home. Generally, service of a household nature in or about a private home includes services rendered by cooks, maids, butlers, valets, housekeepers, gardeners, caretakers, companions, child-care providers (baby-sitter, governess, nanny), grooms, and chauffeurs of automobiles for family use. If the home is used primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home. The compensation paid for the services listed above is not exempt from withholding if performed in or about rooming or lodging houses, boarding houses, clubs, hotels, motels, bed-and-breakfasts, hospitals, charitable institutions, or commercial offices or establishments. Services that are not ordinarily part of household duties and that involve the use of skilled or specialized training are not domestic services. Compensation paid for services performed as a private secretary even though performed in the employer's home is not exempt from withholding.
3. Wages paid by employers for casual labor not in the course of the employer's trade or business. "Casual labor not in the course of the employer's trade or business" means services that do not promote or advance the trade or business of the employer. The term does not include services performed for a corporation. For example, casual labor includes the labor performed by a carpenter employed by an individual to do incidental work on the individual's house. If that individual employed a carpenter to do incidental work in a factory operated by the individual, the work would be in the course of the individual's trade or business. The compensation paid for that labor is not exempt from withholding. Seasonal employment of sales clerks during any peak sales periods of a business is subject to withholding.
4. Wages paid for part-time or seasonal agricultural labor. Wages paid to part-time or seasonal employees whose services to the employer consist solely of labor in connection with the planting, cultivating, harvesting, or field packing of seasonal agricultural crops are not subject to withholding. Wages paid to employees whose principal duties are to operate any mechanically driven

device in these agricultural operations are subject to withholding. An employee is part-time or seasonal agricultural employee if:
a. The employer hires the employee to help in 1 of the steps in the development of a seasonal agricultural crop;
b. The employee does not perform any other services for the same employer; and
c. The employee understands, at the date of employment, that the employee's job will end on or before the completion of that step.

B. Wages paid to a nonresident of Arizona engaged in any phase of motion picture production are not subject to withholding if the employee qualifies for a credit for taxes paid to the employee's state of residency or domicile. Before payment of the wages is due, the employer shall apply for an exemption by having the employee complete the withholding exemption certificate prescribed by the Department. The employer shall submit the completed certificate for each employee with the next quarterly return required by R15-2B-101(E).

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Correction to manifest typographical error, under subsection R15-2B-102(A)(2), "used" corrected to "use' as adopted at 5 A.A.R. 3766 (Supp. 08-4).

ARTICLE 2. WITHHOLDING AS PAYMENT OF TAX FOR EMPLOYEE

R15-2B-201. Refund of Excess Withholding

If a refund for an overpayment of income tax withheld is payable to a deceased taxpayer, the surviving spouse or other claimant shall attach the form prescribed by the Department to the deceased taxpayer's income tax return to establish the claimant's right to the refund.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2).

SUBCHAPTER C. INDIVIDUALS

ARTICLE 1. PAYMENT AND COLLECTION OF TAX

R15-2C-101. Payment of Estimated Income Tax by Individuals

A. Individual taxpayers subject to Arizona income tax who reasonably expect to have Arizona gross income of more than $75,000.00 in the current tax year or had Arizona gross income of more than $75,000.00 in the preceding tax year are subject to the provisions in this rule. For tax years ending on or before 12/31/92, the requirement to make estimated payments is based on Arizona gross income of more than $100,000.00.
1. The requirement to make estimated tax payments is based on the Arizona gross income of each individual taxpayer.
2. All taxpayers, whether classified as a nonresident or a resident, shall be subject to the estimated payment requirements.
3. Nonresidents shall use the definition of Arizona gross income pursuant to A.R.S. § 43-1091 for purposes of determining if estimated tax payments are required.
4. Individual taxpayers, moving into or out of Arizona during a tax year resulting in a change of residency status, shall use the definition of Arizona gross income in A.R.S. § 43-1001, allocated pursuant to A.R.S. § 43-1097, for purposes of determining if estimated tax payments are required for the portion of the year in which they are Arizona residents.

B. In projecting current Arizona gross income, the taxpayer shall use ordinary business care and prudence in determining if Arizona estimated tax payments are required.
1. The reasonableness of the projection of Arizona gross income shall depend on the facts of each case and the burden of proof rests on the taxpayer to substantiate that penalty and interest shall not be imposed for non-payment, late payment, or underpayment of estimated tax.
2. The taxpayer may request a waiver from the requirement to make estimated payments for 1 or more payment periods in the current year by attaching a written statement to the individual's income tax return for that year.
   a. The waiver is available only if the individual taxpayer did not have Arizona gross income over $75,000.00 in the preceding tax year and cannot reasonably project that Arizona gross income for the current year exceeds $75,000.00. ($100,000.00 for tax years ending on or before 12/31/92).
   b. The statement shall include the reason why Arizona gross income could not have reasonably been projected for 1 or more payment periods during the current tax year.

C. Other than as provided in subsection (D), Arizona estimated tax payments shall be paid in 4 equal installments on or before due dates established by the Internal Revenue Code.
1. For purposes of this rule, Arizona withholding shall be considered an estimated payment which is paid equally on each due date, unless the taxpayer establishes otherwise.
2. The sum of Arizona estimated tax payments, when combined with the taxpayer's Arizona withholding for the current year, shall equal the lesser of:
   a. At least 90% of the Arizona tax liability for the current year; or
   b. 100% of the Arizona tax liability, as shown on the personal income tax return for the preceding taxable year. This clause shall apply only if the individual is required to file and does file an Arizona personal income tax return for the preceding taxable year pursuant to the provisions under A.R.S. § 43-301.

D. Those taxpayers qualifying under the following circumstances may make Arizona estimated tax payments in other than 4 equal installments.
1. There shall be no requirement to make the 4th estimated tax payment if the taxpayer files an Arizona tax return, covering a calendar year, on or before January 31 of the year following the tax year or, for a fiscal year taxpayer, on or before the last day of the month following the close of the fiscal year, and the taxpayer pays in full the amount stated on the return as payable.
2. An individual who reports as a farmer or fisherman on the federal income tax return is only required to make 1 installment for a taxable year. The due date for such installment shall be January 15th of the year following a calendar tax year or the 15th day of the 1st month after the end of a fiscal year. There shall be no requirement to make this payment if, on or before March 1 of the year following a calendar tax year or on or before the 1st day of the 3rd month after the end of a fiscal year, the taxpayer files an Arizona income tax return for the tax year and pays in full the amount stated on the return as payable.

3. An individual who elects to be treated as a nonresident alien on the federal income tax return may make 3 estimated payments.
   a. Payment shall be made on or before due dates established by the Internal Revenue Code.
   b. The amount of the 1st required payment shall be 50% of the total estimated tax liability for the tax year. The 2nd and 3rd payments shall each be 25% of the total estimated tax liability.
4. A taxpayer may be able to reduce the amount of 1 or more required installments if income is not received evenly throughout the tax year. A taxpayer who uses the annualization method for determining the amount of the required installments on the federal individual income tax return may also use the annualization method on the Arizona personal income tax return. A taxpayer electing to use the annualization method for Arizona purposes shall use the method as delineated on the Arizona return and in the accompanying instructions. If the taxpayer elects to use the annualization method for 1 due date in a tax year, the taxpayer shall use that method for all due dates for that tax year.
5. A taxpayer, due to the provisions in subsection (B) of this rule, may not be required to make 4 equal payments of estimated tax. Such a taxpayer shall be liable for the payment of estimated tax beginning no later than the 1st due date after the taxpayer establishes that the Arizona gross income requirement is applicable.
   a. If the taxpayer is 1st liable for the payment of estimated tax beginning in the 2nd payment period, such payment shall equal 50% of the total liability for the current tax year. If the liability occurs in the 3rd payment period, such payment shall equal 75% of the total liability for the current tax year. Subsequent payments shall equal 25% each.
   b. The total of these payments shall equal the amount pursuant to subsection (C) of this rule.

E. Effective 7/17/93, a penalty shall be assessed on the underpayment amount for each payment period pursuant to A.R.S. § 42-136(O). The underpayment amount is the difference between the estimated payment required to be made and the estimated payment actually paid. Penalty and interest shall be assessed for each underpayment amount for the number of days that amount remains unpaid.
1. For the purpose of computing penalty and interest, a payment shall be applied to the quarter designated by the taxpayer regardless of any outstanding underpayment balance on an earlier installment. Any overpayment of the quarterly amount shall be applied to outstanding estimated payment balances, beginning with the oldest outstanding balance, unless otherwise designated by the taxpayer.
2. Penalty and interest, on late payment, non-payment or underpayment amounts of estimated tax, shall stop accruing at the earlier of the date of payment of the underpaid amount or of the original due date of the income tax return for the tax year in which the estimated payment is required.

F. Payments of estimated tax shall be made by check, cashier's check, certified check, money order, U.S. currency, or by the application of an overpayment from a prior tax return.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2).

ARTICLE 2. ADDITIONS TO ARIZONA GROSS INCOME

R15-2C-201. Additions to and Subtractions from Arizona Gross Income

The starting point in calculating Arizona adjusted gross income is federal adjusted gross income calculated under the Internal Revenue Code. The taxpayer shall make additions to or subtractions from Arizona gross income under A.R.S. §§ 43-1021 and 43-1022 to calculate Arizona adjusted gross income.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2). Section heading corrected at request of the Department, Office File No. M12-227, filed June 6, 2012 (Supp. 12-1).

R15-2C-202. Beneficiary's Share of Trust or Estate Income

The beneficiary of an estate or trust shall make the following adjustments to federal adjusted gross income in calculating Arizona adjusted gross income:
1. Add the beneficiary's share of trust or estate income as calculated under A.R.S. Title 43, Chapter 13;
2. Subtract the beneficiary's share of federal trust or estate income calculated under the Internal Revenue Code;
3. Add the beneficiary's share of deductions allowed under the Internal Revenue Code to the extent the beneficiary included the deductions in calculating Arizona taxable income; and
4. Add the beneficiary's share of excess deductions on termination and loss carryovers as determined under Internal Revenue Code § 642 to the extent the beneficiary included the deductions in calculating Arizona taxable income. Excess deductions and loss carryovers, allowed under the Internal Revenue Code as deductions to the beneficiary on termination of an estate or trust, are not allowable deductions for Arizona purposes.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-203. Expired

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 5220, effective October 31, 2004 (Supp. 04-4).

R15-2C-204. Annuities Where First Payment Was Received Prior to December 31, 1978

A. A taxpayer shall make an adjustment to Arizona gross income, as computed under subsection (B), for an annuity payment the taxpayer received during the taxable year if all of the following apply:
1. A portion of the annuity payment is excluded from federal taxable income for the taxable year using the exclusion ratio method in Internal Revenue Code § 72;
2. The taxpayer received the first payment of the annuity before December 31, 1978; and
3. The taxpayer was a resident of Arizona at the time the taxpayer received the first payment of the annuity.

B. A taxpayer shall determine the adjustment required under this Section by comparing the amount of the annuity payment required by the Internal Revenue Code to be included in federal taxable income to the amount of the annuity payment required to be included in Arizona taxable income, as computed under subsection (C). If the amount of the annuity payment included in federal taxable income is less than the amount required to be included in Arizona taxable income, the taxpayer shall add the difference to Arizona gross income. If the amount of the annuity payment included in federal taxable income is greater than the amount required to be included in Arizona taxable income, the taxpayer shall subtract the difference from Arizona gross income.

C. A taxpayer shall include in Arizona taxable income an annuity payment received in the taxable year to the extent that the sum of the proceeds the taxpayer received from the annuity in the current and prior taxable years exceeds the taxpayer's cost of the annuity. The "taxpayer's cost of the annuity" means premiums or other amounts paid by the taxpayer for the annuity.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-205. Expired

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 5220, effective October 31, 2004 (Supp. 04-4).

R15-2C-206. Partnership Income or Loss

A partnership shall calculate Arizona partnership income or loss under A.R.S. Title 43, Chapter 14. If the amount of Arizona partnership income or loss differs from the amount of partnership income or loss calculated under Internal Revenue Code § 702(a)(8), each partner shall adjust Arizona gross income as follows:

1. If the amount of the partner's share of partnership income calculated under Arizona Revised Statutes is greater than the amount calculated under the Internal Revenue Code, the partner shall add the difference to Arizona gross income.
2. If the amount of the partner's share of partnership loss calculated under the Internal Revenue Code is greater than the amount calculated under Arizona Revised Statutes, the partner shall add the difference to Arizona gross income.
3. If the amount of the partner's share of partnership income calculated under the Internal Revenue Code is greater than the amount calculated under Arizona Revised Statutes, the partner shall subtract the difference from Arizona gross income.
4. If the amount of the partner's share of partnership loss calculated under Arizona Revised Statutes is greater than the amount calculated under the Internal Revenue Code, the partner shall subtract the difference from Arizona gross income.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-207. Income-producing Property -- Different Basis

A. A taxpayer shall make an adjustment to federal adjusted gross income for the taxable year in which the taxpayer sells or otherwise disposes of income-producing property having a different basis for Arizona purposes than for federal purposes.

B. The taxpayer shall determine the basis of the property as of January 1, 1979.

1. If the Arizona basis for the property is less than the federal basis, the taxpayer shall add the difference to Arizona gross income.
2. If the Arizona basis of the property is greater than the federal basis, the taxpayer shall subtract the difference from Arizona gross income.

C. This Section does not apply to depreciable property used in a trade or business.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-208. Repealed

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-209. Repealed

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-210. Individual Net Operating Losses

A. For tax years beginning after December 31, 1989, a taxpayer:

1. May take a net operating loss deduction for Arizona purposes only to the extent that the taxpayer's federal adjusted gross income for the taxable year includes the net operating loss deduction,
2. Shall not adjust the net operating loss deduction except as prescribed by subsection (B), and
3. Shall follow federal net operating loss carryback or carryover treatment except as prescribed by subsection (C).

B. A taxpayer shall add to Arizona gross income a net operating loss deduction that is included in the taxpayer's federal adjusted gross income if the taxpayer took the deduction for Arizona purposes in a prior taxable year.

C. A taxpayer shall not carryback a net operating loss deduction to any taxable year ending before January 1, 1990.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-211. Amounts Already Deducted

A taxpayer shall not deduct the same expense twice in computing Arizona taxable income.

1. If a taxpayer includes an expense item in determining the current year's federal adjusted gross income or federal taxable income for the taxable year, the taxpayer shall not include that expense item a second time in determining Arizona taxable income for the same taxable year.

2. If a taxpayer deducted an expense item in an Arizona individual income tax return and deducts the expense item again in a subsequent return in computing either federal adjusted gross income or Arizona taxable income, the taxpayer shall add back the expense item to determine Arizona adjusted gross income.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

ARTICLE 3. SUBTRACTIONS FROM ARIZONA GROSS INCOME

R15-2C-301. Retirement Benefits, Annuities, Pensions

An individual is allowed to subtract up to $2,500.00 per taxable year from Arizona gross income for income received from sources as delineated in A.R.S. § 43-1022(2)(a) and (b).

1. An individual receiving income from more than 1 such source shall only subtract a total of $2,500.00 for all such income received during the taxable year.
2. The amount allowed as a subtraction is calculated per individual. The allowable subtraction for a married-filing- joint return when both spouses receive income from 1 or more such sources is determined based on the actual amount of income which is received by each individual but not to exceed $2,500.00 per individual.
3. The aggregate subtraction allowed for purposes of individuals filing married-filing-separate returns shall not exceed the limitations as delineated in this rule.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2).

R15-2C-302. Repealed

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-303. Repealed

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-304. Lottery Winnings

A. A taxpayer who won a state of Arizona lottery prize before March 22, 1983, and receives the prize in installment payments may subtract the amount of the installment payment that is included in Arizona gross income for the taxable year.

B. A taxpayer may subtract from Arizona gross income an amount not to exceed $5,000 per taxable year from state of Arizona lottery winnings, whether paid in a lump sum or in installments, that were won and collected after March 21, 1983. The combined subtraction from lump sum and installment winnings won and collected after March 21, 1983, shall not exceed $5,000 for a taxable year.

C. A taxpayer who collects both amounts won before March 22, 1983, and amounts won after March 21, 1983, may subtract from Arizona gross income the total winnings collected in the taxable year that the taxpayer won before March 22, 1983, plus an amount of winnings not to exceed $5,000 won after March 21, 1983, and collected in the taxable year.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-305. Social Security and Railroad Retirement Benefits

A. Under A.R.S. § 43-1022, a taxpayer shall subtract from Arizona gross income the amount of Social Security and Tier 1 Railroad Retirement benefits taxable under Internal Revenue Code § 86 that is included in federal adjusted gross income.

B. In accordance with 45 U.S.C. 231(m), a taxpayer shall subtract from Arizona gross income the amount of benefits provided under the Railroad Retirement Act of 1974 that is included in federal adjusted gross income and not subtracted under subsection (A).

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-306. Income Previously Recognized

A taxpayer shall not include the same income item twice in computing Arizona taxable income.

1. If a taxpayer includes an income item in determining federal adjusted gross income or federal taxable income for a taxable year, the taxpayer shall not include that income a second time in determining Arizona taxable income for the same taxable year.
2. If a taxpayer included an income item in an Arizona income tax return and includes the same income item again in the computation of either federal adjusted gross income or Arizona taxable income in a subsequent return, the taxpayer shall subtract the income item included for the second time in the subsequent return to determine Arizona adjusted gross income.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-307. Exemption for Blind Persons

A. If both a husband and wife are blind or partially blind and they elect to file a joint return, they may claim a total of 2 exemptions under A.R.S. § 43-1023(A). For purposes of this Section, "partially blind" means an individual whose vision is no better than 20/200 in the better eye with correcting lenses or who has a field of vision of 20 degrees or less.

B. If a taxpayer or the taxpayer's spouse dies during the taxable year and the decedent was blind or partially blind on the date of death, the decedent is eligible for the exemption under A.R.S. § 43-1023(A).

C. If a taxpayer or the taxpayer's spouse for whom the taxpayer is claiming an exemption under A.R.S. § 43-1023(A)(2) is partially blind on the last day of the taxable year, the taxpayer shall obtain a statement from a licensed optometrist or a physician skilled in diseases of the eye. The taxpayer shall keep the statement for the taxpayer's records. The statement shall certify that the person claiming the exemption or on whose behalf the exemption is claimed:

1. Has vision no better than 20/200 in the better eye with correcting lenses, or
2. Has a field of vision of 20 degrees or less.

D. If the taxpayer's vision is not likely to improve beyond the condition listed in subsection (C), the taxpayer may obtain a statement certified by a licensed optometrist or a physician skilled in diseases of the eye to this effect instead of the annual statement required under subsection (C). The taxpayer shall keep the statement for the taxpayer's records.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-308. Repealed

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

R15-2C-309. Repealed

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 2889, effective June 13, 2001 (Supp. 01-2).

ARTICLE 4. DEDUCTIONS

R15-2C-401. Optional Standard Deduction

A. General
1. An individual under Section 43-1041 may elect to take a standard deduction in lieu of all non-business deductions.
2. The deduction in the case of single taxpayers or married taxpayers filing separately is the lesser of $500 or 10% of the Arizona adjusted gross income. The deduction in the case of married taxpayers filing a joint return is the lesser of $1,000 or 10% of their total Arizona adjusted gross income. Determination of whether an individual is married for the purpose of the preceding sentence shall be made as of the close of his taxable year unless his spouse dies during his taxable year in which case the determination shall be made as of the time of such death and an individual shall be considered as married even though living apart from his spouse unless legally separated under a decree of divorce or separate maintenance.
3. The standard deduction is not allowable:
   a. in the case of a taxable year of less than 12 months where such taxable year arises because of a change in accounting period,
   b. in cases of an estate or trust,
   c. in determination of the net income of a partnership.
4. An election to take the standard deduction is not precluded by reason of the fact that the return is made for a taxable year of less than 12 months because of the death of the taxpayer.

B. The following rules are prescribed for the manner of signifying an election by a taxpayer to take the standard deduction:
1. If a single taxpayer's Arizona adjusted gross income is $20,000 or less, he may take the optional standard deduction only by computing his tax under the table set forth in Section 43-1012. If the combined Arizona adjusted gross income of husband and wife is $40,000 or less, they may take the optional standard deduction only by computing their tax under the table set forth in Section 43-1012.
2. The election for single individuals with gross income of $20,000 or more and married couples with combined gross income of $40,000 or more and a head of a household with gross income of $20,000 or more shall be signified by the taxpayer claiming on his return the amount provided for in Section 43-1041 instead of itemizing the deductions allowed.
3. An election to compute the tax under Section 43-1012 is an election to take the standard deduction.

C. Husband and wife
1. If the husband and wife file separate returns, neither may take the standard deduction unless both of them elect to do so on their individual tax returns.
2. The restriction on the right of a married person to elect the standard deduction in his separate return is applicable with respect to the taxable years of the husband and wife ending in the same calendar year except that in the event of death of 1 spouse the restriction is applicable with respect to the taxable year ended with the death in the taxable year of the surviving spouse in which the death occurs. The restriction applies unless the spouses are legally separated under a decree of divorce or separate maintenance. The determination of whether an individual is married (whether or not living with his spouse) for the purpose of the allowance of the standard deduction shall be made as of the last day of such individual's taxable year unless his spouse dies during such taxable year in which event the determination shall be made as of the date of the death of such spouse.

D. Change of election to take or not to take the standard deduction
1. A change of election to take or not to take the standard deduction for any taxable year may be made before or after the time prescribed for filing the return for the taxable year. However, the period of time prescribed in which a claim for credit or refund of tax must be made is not extended by the right to effect a change of election.
2. If the spouse of the taxpayer filed a separate return for any taxable year that corresponds to the taxable year of the taxpayer, a change of election may not be made by the taxpayer unless:
   a. the spouse makes a change of election in such separate return relative to the standard deduction consistent with the change of election sought by the taxpayer, and
   b. the taxpayer and his spouse file a consent in writing to the assessment within such period of time as may be agreed to with the Department of any deficiency of either to the extent attributable to such change of election even though at the time of the filing of such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law. See subsection (C) of this Section.
3. A change of election for any taxable year shall not be permitted if the tax liability of the taxpayer for the taxable year or the taxpayer's spouse for the taxable year corresponding to the taxable year of the taxpayer has been compromised.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2).

ARTICLE 5. CREDITS

R15-2C-501. Credit for Net Income Taxes Paid to Another State or Country by an Arizona Resident

A. For purposes of this Section, the following definitions apply:
1. "Arizona income tax liability" means the Arizona income tax imposed on the entire income upon which Arizona tax is imposed minus the sum of:
   a. The clean elections fund tax reduction taken under A.R.S. § 16-954; and
   b. Any Arizona income tax credits claimed for the taxable year, except the credit for taxes paid to another state.
2. "Composite income tax return" means a single income tax return filed with another state by a taxable entity that normally would pass through applicable income and deductions to the individual members in which the return represents the interests of and is filed on behalf of a group of individuals who are members of the taxable entity. A partnership or S corporation is generally the type of entity that files a composite return on behalf of its members.
3. "Entire income upon which Arizona tax is imposed" means Arizona adjusted gross income as defined and computed under A.R.S. § 43-1001, but does not include exemptions allowed under A.R.S. § 43-1023.
4. "Entire income upon which the other state's tax is imposed" means the other state's income computed under the equivalent of A.R.S. § 43-1094, but does not include exemptions allowable under the equivalent of A.R.S. § 43-1023.
5. "Income subject to tax by both Arizona and the other state" means the portion of income included in entire income upon which Arizona tax is imposed that is also included in entire income upon which the other state's tax is imposed.
6. "Net income tax" means a tax that grants deductions or exemptions from gross income. A system of taxation that assesses taxes on gross income, gross receipts, or gross dividends is not a net income tax. Taxes withheld from income do not constitute a net income tax. Any tax imposed by another country that qualifies for a credit under Internal Revenue Code §§ 901 and 903 is a net income tax.
7. "Net income tax liability of the other state" means the other state's income tax imposed on the entire income upon which the other state's tax is imposed minus any tax credits claimed against the other state's income tax.
8. "State" means foreign countries and states, territories, and possessions of the United States but does not include the federal government of the United States.

B. An Arizona resident may claim a credit against Arizona income taxes for net income taxes imposed by and paid to another state if:
1. Income taxed in Arizona is from sources within another state;
2. The other state subjects the income to a net income tax, regardless of the residence of the taxpayer; and
3. The other state does not allow a credit to Arizona residents against the net income tax imposed on income subject to tax in Arizona and the other state.

C. The amount of credit for taxes paid to another state is the lesser of the Arizona income tax liability that relates to the income subject to tax by both Arizona and the other state or the net income tax liability of the other state that relates to the income subject to tax by both Arizona and the other state.
1. The Arizona income tax liability that relates to the income subject to tax by both Arizona and the other state is the amount of the income subject to tax in both Arizona and the other state, divided by the entire income upon which Arizona tax is imposed, multiplied by the Arizona income tax liability.
2. The net income tax liability of the other state that relates to the income subject to tax by both Arizona and the other state is the amount of the income subject to tax in both Arizona and the other state, divided by the entire income upon which the other state's tax is imposed, multiplied by the net income tax liability of the other state.

D. The credit is limited to net income taxes. The taxpayer shall not apply the credit against interest or penalties payable to Arizona.

E. The taxpayer shall apply the allowable credit for net income taxes paid to another state only against Arizona income tax for the same taxable year in which the income is subject to tax in the other state.

F. An individual taxpayer who participates in the filing of a composite income tax return may claim a credit for taxes paid to the other state if:
1. The taxpayer meets all the requirements under A.R.S. § 43-1071, and
2. The taxes paid to the other state are imposed on and paid directly by the individual taxpayer and not the entity.

G. For purposes of subsection (F), the Department shall consider taxes to be paid directly by the individual if:
1. The individual makes direct payment to the other state,
2. The individual makes direct payment to the entity filing the composite income tax return,
3. The entity charges the individual's loan account for the amount of the tax, or
4. The entity reduces the individual's capital account.

H. Upon request, the taxpayer shall provide to the Department proof of entitlement to the credit and evidence of payment.
1. The Department shall not allow a credit unless the taxpayer has paid the taxes to the other state.
2. The taxpayer shall maintain proper documentation to prove entitlement to the credit.
3. The taxpayer shall attach a copy of the tax return filed with the other state to the Arizona income tax return on which the taxpayer claims the credit.

I. The taxpayer shall attach the following to the Arizona income tax return on which the taxpayer claims a credit for taxes paid to a foreign country:
1. All information described in subsection (H). However, a taxpayer that claims a credit for taxes paid to a foreign country for amounts withheld at the source shall, instead of the information in subsection (H), attach documentation showing the amount of tax imposed and paid if the foreign country does not require the taxpayer to file a return; and
2. If the tax is paid in a foreign currency, a statement substantiating the conversion rate on the date of payment.

J. For a credit for taxes paid to a foreign country, the taxpayer shall use the conversion rate in effect on the date the taxpayer pays the foreign taxes to the foreign country. If the tax is withheld in foreign currency, the taxpayer shall use the conversion rate in effect on the date on which the tax is withheld. If the taxpayer makes estimated tax payments to the foreign country, the taxpayer shall use the conversion rate in effect on the date the taxpayer makes the estimated tax payment.

K. The taxpayer shall increase or reduce the amount included in entire income upon which Arizona tax is imposed by related additions under A.R.S. § 43-1021 and by related subtractions under A.R.S. § 43-1022. The taxpayer shall increase or reduce the amount included in entire income upon which the other state's tax is imposed by related additions and subtractions under the other state's equivalent of A.R.S. §§ 43-1021 and 43-1022.

L. The taxpayer shall not take a credit under this Section based on interest or penalties paid to another state.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 2441, effective August 6, 2005 (Supp. 05-2).

R15-2C-502. Property Tax Credit

A. The following definitions apply for purposes of this Section:
1. "Adjusted gross income" means the sum of all income not specifically excluded in A.R.S. § 43-1072 whether or not subject to Arizona income tax, except those items that A.R.S. § 43-1072 specifically includes in income.
2. "Member of the household" means a claimant and any other person residing with the claimant in the homestead during the taxable year, whether or not the person is related to, or a dependent of, the claimant.

B. Household income determines eligibility for, and amount of, a property tax credit. A claimant shall arrive at household income by combining the separately determined income of each member of the household.

C. For purposes of arriving at adjusted gross income for each member of the household, all of the following apply:
1. Income from business or farm activities is net income or loss from business or farm activities, determined in the same manner as income or loss reportable for federal income tax purposes;
2. Income from rents or royalties is gross income from rent or royalty activities less deductions, determined in the same manner as income or loss reportable for federal income tax purposes; and
3. Income from capital gains is the net capital gains and losses for each member of the household. Net losses are limited to $1,500 for each household member.

D. There shall be only one claimant under this Section per household per year.

E. If a claimant files a property tax credit claim, the claimant shall attach the following documents to the claim, as applicable:
1. If the claimant owns a home, a copy of the property tax statement indicating the amount of taxes paid for the tax year, the property tax bill stamped "paid," or copies of cancelled checks for taxes paid and a copy of the property tax bill;
2. If the claimant is a resident of a nursing home or a renter, a copy of the completed Arizona Form 201;
3. If the claimant owns a mobile home and pays rent on the mobile home space, a copy of the completed Arizona Form 201 and a copy of the property tax statement indicating the amount of taxes paid on the mobile home for the tax year, the property tax bill stamped "paid," or copies of cancelled checks for taxes paid and a copy of the property tax bill;
4. If the claimant is a shareholder of a cooperative corporation or a condominium association, a statement of the claimant's pro rata share of the assessed property taxes for the tax year and a copy of either:
   a. The mortgage company statement of the corporation or association indicating the total amount of property taxes paid for the tax year; or
   b. A copy of the tax bill of the corporation or association stamped "paid;" or
5. If the claimant received Title 16 Supplemental Security Income payments, a statement from the Social Security Administration indicating the amount of payments for the current tax year.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 2441, effective August 6, 2005 (Supp. 05-2).

R15-2C-503. Renewable Energy Production Tax Credit

A. For each year for which an owner of a qualified energy generator plans to claim a renewable energy production tax credit, the owner shall file one of the following applications:
1. An initial application in accordance with subsection (B) for:
   a. Energy produced in 2011 for which an owner of a qualified energy generator plans to claim a credit on the 2011 tax return filed in 2012, and
   b. Energy produced after 2011 for which an owner of a qualified energy generator did not have a place on the prior year's Credit Authorization List for the renewable energy production tax credit under A.R.S. § 43-1083.02(G).
2. A renewal application in accordance with subsection (C) for an owner of a qualified energy generator that did have a place on the prior year's Credit Authorization List for the renewable energy production tax credit under A.R.S. § 43-1083.02(G).

B. An initial application shall include the following information:
1. The information required by A.R.S. § 43-1083.02(F).
2. The business structure of the applicant.
3. If the credit will be passed through to shareholders or partners, a list including the name, taxpayer identification number, and ownership percentage of each shareholder or partner. If the tax year end is other than December 31, and the shareholders or partners, or ownership percentages change, the applicant shall update the list for the tax year end by the due date of the applicant's Arizona return, including extensions.
4. The applicant's tax year end.
5. The name of the contact person, his or her title, telephone number and fax number.
6. If the applicant has any affiliates or subsidiaries, a list of the affiliates and subsidiaries, including the name, address, taxpayer identification number, and percentage of ownership. The applicant may substitute a federal Form 851, or other federal form with the required information, for this list.
7. Self-assigned name or identification number of the qualified energy generator.
8. Assessor's parcel number or numbers of the land on which the qualified energy generator is located or, if not available, the legal description.
9. The centrally valued property tax identification number for the personal property on the land.
10. The type of qualified energy resource used to generate electricity. If the qualified energy resource is biomass, the type of biomass.
11. The generating capacity of the qualified energy generator.

12. The number of kilowatt-hours of electricity produced for the calendar year.
13. Printouts for the calendar year from the production meter located at the qualified energy generator that:
    a. Measures the output from the qualified energy generator, and
    b. Provides the output information to a grid-tied energy management system.
14. A signed affidavit in which the applicant states that the information contained in the application is true and correct under penalty of perjury and that the qualified energy generator for which the applicant is claiming the credit did not produce electricity prior to 2011.

C. A renewal application shall include the information required by subsections (B)(1) through (6) and (B)(12) through (14). In addition, where the information required by subsections (B)(7) through (11) has changed since the prior year's application, the applicant shall provide the new information on the renewal application.

D. Copies of invoices or receipts from the electricity purchaser, verifying kilowatt-hours sold, shall be made available to the Department upon request.

E. If an owner owns more than one qualified energy generator, the owner shall submit a separate application for each qualified energy generator.

F. Each application shall be mailed separately in its own envelope by United States Postal Service Express Mail to: Arizona Department of Revenue, Renewable Energy Production Tax Credit Program, P.O. Box 25248, Phoenix, AZ 85002. Notwithstanding A.R.S. § 1-218(E)(1), the Department shall not accept applications through any other delivery method for purposes of this Section and A.R.S. § 43-1083.02.

G. For each initial application received in accordance with subsections (B) and (F), the Department shall assign a priority placement number that reflects the date and time on the Express Mail label, without regard to which time zone mailing took place.

H. If the Department receives more than one initial application in accordance with subsection (G) that it would assign the same priority placement number based on date and time on the Express Mail label, then the order received shall be determined by a random drawing of affected applications.

I. If the Department denies an application or approves a smaller amount of credit than the amount requested on the application, the Department's decision is an appealable agency action as defined in A.R.S. § 41-1092(3) and the applicant may appeal the decision under subsection (J) and A.R.S. Title 41, Chapter 6, Article 10.

J. To appeal a decision made under subsection (I), the applicant shall file a petition, in accordance with A.A.C. R15-10-105(B) and A.R.S. § 41-1092.03(B), within 30 days of receipt of the Department's decision.

K. For each decision made under subsection (I), the Department shall reserve the portion of the cap that the applicant would have been entitled to if the Department had approved the application in full, up to the generator cap limit, until the applicant waives or exhausts the appeal rights in subsection (J).

L. For the cap reserved under subsection (K), once the applicant waives or exhausts the appeal rights in subsection (J), the Department shall certify the cap to the next eligible applicant on the Credit Authorization List, until the full cap is certified.

M. In addition to the definitions provided in A.R.S. § 43-1083.02, unless the context provides otherwise, the following definitions apply to this Section and to implementation of A.R.S. § 43-1083.02:
1. "Cap" means the annual tax credit limit of $20 million in A.R.S. §§ 43-1164.03(G) and 43-1083.02(G).
2. "Generator cap" means the annual tax credit limit of $2 million per qualified energy generator in A.R.S. §§ 43-1164.03(G) and 43-1083.02(G).

Historical Note

New Section made by final rulemaking at 18 A.A.R. 600, effective April 8, 2012 (Supp. 12-1).

ARTICLE 6. NONRESIDENTS

R15-2C-601. Income of a Non-resident

A. Gross income
1. Non-residents of the state are required to include in the Arizona gross income only that portion of their federal adjusted gross income which is relevant in determining the amount of net income derived from sources within this state.
2. The gross income of a non-resident of the state who is a member of a partnership, pool, or syndicate includes the member's distributive share of the net income of the partnership, pool, or syndicate in addition to any other income from sources within this state to the extent that the member's distributive share is derived from sources within this state.
3. A non-resident beneficiary of an estate or trust must include in gross income, income from the estate or trust which is deductible by the estate or trust and which is derived from sources within this state.

B. Income from sources within this state includes:
1. Income from real or tangible personal property located in this state.
2. Income from a business, trade, or profession carried on within this state.
3. Income from stocks, bonds, notes, bank deposits, and other intangible personal property having a business or taxable situs in this state.
4. Rentals or royalties for the use of or for the privilege of using in this state patents, copyrights, secret processes and formulas, good will, trade marks, trade brands, franchises, and other like property having a taxable or business situs in this state.

C. Income from real or tangible personal property. Income of a non-resident from sources within this state includes rents from real or tangible personal property in this state, gains realized from the sale or transfer of such property regardless of where the sale or transfer is consummated, and any other type of income derived from the ownership, control, or management of real and tangible personal property located in this state irrespective of whether a trade, business, or profession is carried on within this state.

D. Income from a business, trade, or profession
1. If a non-resident's business, trade, or profession is carried on entirely without the state, no portion of the gross income therefrom should be reported. If, on the other hand, the non-resident's business, trade, or profession is conducted wholly within the state, the entire gross income therefrom must be reported.
2. If the non-resident's business, trade, or profession is conducted partly within and partly without the state, and the part within the state is so separate and distinct from and unconnected with the part without the state that the net income from the part within the state can be determined without regard to the part without the state, only the gross income from the business, trade, or profession within the state should be reported. Thus, if a

non-resident operates hotels both in this state and elsewhere for example, he should report only the gross income from the hotels in this state.

3. Unitary business
   a. The gross income from the entire business, trade, or profession must be reported if a business, trade, or profession carried on within this state is an integral part of a unitary business carried on both within and without the state, or if the part within the state is so connected with the part without the state that the net income from the part within the state cannot be accurately determined independently of the part without the state. Thus, if a non-resident engaged in the business of manufacturing and selling goods for example maintains a factory outside this state and sales offices in this state or vice versa, he must report the gross income from the entire business.
   b. The net income from sources within this state subject to the tax imposed by the law should be determined by subtracting from gross income the deductions allowed by the law and by apportioning the remaining net income to sources within and without the state in the manner described in subsection (D)(4).
4. Every non-resident who conducts a business, trade, or profession within and without the state of the character described in subsection (D)(3) should accompany his return with a schedule of statement showing the following:
   a. The total value of real and tangible personal property
      i. Within the state
      ii. Within and without the state
   b. The total wages, salaries, and other compensation paid for personal services performed
      i. Within the state
      ii. Within and without the state
   c. The total gross sales or charges for personal services performed
      i. Within the state
      ii. Within and without the state
   d. "Total gross sales within the state" shall include all sales relating to Arizona business even though the sales may be subject to confirmation at an out-of-state office and even though title may actually pass at some point outside of this state. Such sales shall include all sales where the product sold is to be used in Arizona. The value of real and tangible personal property generally should be determined by taking the average of the value of such property at the beginning of the taxable year and at the end of the taxable year. Only property used in the business, trade, or profession should be included.
   e. Generally, the amount of net income from a business, trade, or profession of the character described in (D)(3) above which is derived from sources within the state may be determined by taking that portion of the total net income equal to the average percentage of subsections (D)(4)(a)(i), (b)(i) and (c)(i) to subsections (D)(4)(a)(ii), (b)(ii) and (c)(ii) respectively as shown by the schedule or statement accompanying the return.
   f. The use of the foregoing factors shall not be exclusive, and, if the Department believes that the net income from sources within this state cannot properly be determined by the above method, it may require additional factors to be used in making the allocation such as purchases or expenses of manufacture. If a non-resident taxpayer believes that the net income from sources within this state cannot properly be determined by the above method, he may employ another method after 1st receiving the consent of the Department.
   g. Wages, salaries and other compensation for personal services performed in this state
      i. The gross income from commissions earned by a non-resident traveling salesman, agent, or other employee for services performed or sales made whose compensation depends directly on the volume of business transacted by him includes that proportion of the compensation received which the volume of business transacted by that employee with this state bears to the total volume of business transacted by him within and without the state.
      ii. Non-resident actors, singers, performers, entertainers, wrestlers, boxers, etc., must include in gross income as income from sources within this state the gross amount received for performances in this state.
      iii. Non-resident attorneys, physicians, account ants, engineers, etc., even though not regularly engaged in carrying on their professions in this state, must include in gross income as income from sources within this state the entire amount of fees or compensation for services performed in this state on behalf of their clients.
      iv. If non-resident employees including officers of corporations but excluding employees mentioned in subsection (D)(4)(g)(i) above are employed continuously in this state for a definite portion of any taxable year, the gross income of the employees from sources within this state includes the total compensation for the period employed in this state.
      v. If non-resident employees are employed in this state at intervals throughout the year, as would be the case if employed in operating trains, boats, planes, motor buses, truck, etc., between this state and other states, and foreign countries, and are paid on a daily, weekly, or monthly basis; the gross income from sources within this state includes that portion of the total compensation for personal services which the total amount of working time within this state bears to the total amount of working time both within and without the state. If the employees are paid on a mileage basis, the gross income from sources within this state includes that portion of the total compensation for personal services which the number of miles traversed in this state bears to the total number of miles traversed within and without the state. If the employees are paid on some other basis, the total compensation for personal services must be apportioned between this state and other states and foreign countries in such a manner as to allocate to this state that portion of the total compensation which is reasonably attributable to personal services performed in this state.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Correction to manifest typographical error, under subsection R15-2C-601(D)(4)(d), deleted "0" between "sales" and "within" (Supp. 08-4).

R15-2C-602. Income from Intangible Personal Property

A. Income of non-residents from rentals or royalties for the use of or for the privilege of using patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, and other like property in this state is taxable if such intangible property has a business situs in this state within the meaning of subsection (C) below.

B. Income of non-residents from intangible personal property such as shares of stock in corporations, bonds, notes, bank deposits and other indebtedness is taxable as income from sources within this state only if the property has a situs for taxation in this state. However, if a non-resident buys or sells stocks, bonds, and other such property in this state or places orders with brokers in this state to buy or sell such property regularly, systematically, and continuously as to constitute doing business in this state, the profit or gain derived from such activity is taxable as income from a business carried on here irrespective of the situs of the property for taxation.

C. Business situs of intangible personal property

1. Intangible personal property has a business situs in this state if it is employed as capital in this state or possession and control of the property has been localized in connection with a business, trade, or profession in this state so that the substantial use of the property and the value attached to it become an asset of the business, trade, or profession in this state.

   Example: If a non-resident pledges stocks, bonds, or other intangible personal property in this state as security for the payment of indebtedness, taxes, etc., incurred in connection with a business in this state, the property has a business situs here. Again, if a non-resident maintains a branch office here and a bank account on which the agent in charge of the branch office may draw for the payment of expenses in connection with the activities in this state, the bank account has a business situs here.
2. If intangible personal property of a non-resident has acquired a business situs here, the entire income from the sale thereof is income from sources within this state and is taxable to the non-resident regardless of where the sale is consummated.

D. Transactions in this state extending over a period of less than 6 months shall not constitute doing business within this state.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2).

R15-2C-603. Credit for Income Taxes Paid to Another State or Country by a Nonresident

A. For purposes of this Section, the following definitions apply:

1. "Arizona income tax liability" means the Arizona income tax imposed on the entire income upon which Arizona tax is imposed minus the sum of:
   a. The clean elections fund tax reduction taken under A.R.S. § 16-954; and
   b. Any Arizona income tax credits claimed for the taxable year, except the credit for taxes paid to another state.
2. "Composite income tax return" means a single income tax return filed by a partnership or S corporation to Arizona on behalf of a group of individuals who are nonresidents of Arizona.
3. "Entire income upon which Arizona tax is imposed" means Arizona adjusted gross income computed under A.R.S. § 43-1094, but does not include exemptions allowed under A.R.S. § 43-1023.
4. "Entire income upon which the other state's tax is imposed" means the other state's income computed under the equivalent of A.R.S. § 43-1001, but does not include exemptions allowable under the equivalent of A.R.S. § 43-1023.
5. "Income subject to tax by both Arizona and the other state" means the portion of income included in entire income upon which Arizona tax is imposed that is also included in entire income upon which the other state's tax is imposed.
6. "Net income tax" means a tax that grants deductions or exemptions from gross income. A system of taxation that assesses taxes on gross income, gross receipts, or gross dividends is not a net income tax. Taxes withheld from income do not constitute a net income tax. Any tax imposed by another country that qualifies for a credit under Internal Revenue Code §§ 901 and 903 is a net income tax.
7. "Net income tax liability of the other state" means the other state's income tax imposed on the entire income upon which the other state's tax is imposed minus any tax credits claimed against the other state's income tax.
8. "State" means foreign countries and states, territories, and possessions of the United States but does not include the federal government of the United States.

B. A nonresident of Arizona may claim a credit against Arizona income taxes if the nonresident is not allowed a credit by the state of residence for taxes paid to Arizona and either of the following criteria apply:

1. The other state does not tax Arizona residents on income derived from sources within the other state, or
2. The other state allows Arizona residents credit for taxes paid on income subject to tax by the other state and Arizona.

C. A nonresident that participates in the filing of a composite income tax return to Arizona shall not claim a credit for taxes paid to another state.

D. The amount of credit for taxes paid to another state is the lesser of the Arizona income tax liability that relates to the income subject to tax by both Arizona and the other state or the net income tax liability of the other state that relates to the income subject to tax by both Arizona and the other state.

1. The Arizona income tax liability that relates to the income subject to tax by both Arizona and the other state is the amount of the income subject to tax in both Arizona and the other state, divided by the entire income upon which Arizona tax is imposed, multiplied by the Arizona income tax liability.
2. The net income tax liability of the other state that relates to the income subject to tax by both Arizona and the other state is the amount of the income subject to tax in both Arizona and the other state, divided by the entire income upon which the other state's tax is imposed, multiplied by the net income tax liability of the other state.

E. The credit for taxes paid to another state is limited to net income taxes. The taxpayer shall not apply the credit against interest or penalties payable to Arizona.

F. The taxpayer shall apply the allowable credit for net income taxes paid to another state only against Arizona income tax for the same taxable year in which the income is subject to tax in the other state.

G. Upon request, the taxpayer shall provide to the Department proof of entitlement to the credit and evidence of payment.
1. The Department shall not allow a credit unless the taxpayer has paid the taxes to the other state.
2. The taxpayer shall maintain proper documentation to prove entitlement to the credit.
3. The taxpayer shall attach a copy of the tax return filed with the other state to the Arizona income tax return on which the taxpayer claims the credit.

H. The taxpayer shall attach the following to the Arizona income tax return on which the taxpayer claims a credit for taxes paid to a foreign country:
1. All information described in subsection (G). However, a taxpayer that claims a credit for taxes paid to a foreign country for amounts withheld at the source shall, instead of the documentation in subsection (G), attach documentation showing the amount of tax imposed and paid if the foreign country does not require the taxpayer to file a return; and
2. If the tax is paid in a foreign currency, a statement substantiating the conversion rate on the date of payment.

I. For a credit for taxes paid to a foreign country, the taxpayer shall use the conversion rate in effect on the date the taxpayer pays the foreign taxes to the foreign country. If the tax is withheld in foreign currency, the taxpayer shall use the conversion rate in effect on the date the tax is withheld. If the taxpayer makes estimated tax payments to the foreign country, the taxpayer shall use the conversion rate in effect on date the taxpayer makes the estimated tax payment.

J. The taxpayer shall increase or reduce the amount included in entire income upon which Arizona tax is imposed by related additions under A.R.S. § 43-1021 and by related subtractions under A.R.S. § 43-1022. The taxpayer shall increase or reduce the amount included in entire income upon which the other state's tax is imposed by related additions and subtractions under the other state's equivalent of A.R.S. §§ 43-1021 and 43-1022.

K. The taxpayer shall not take a credit under this Section based on interest or penalties paid to another state.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 2441, effective August 6, 2005 (Supp. 05-2).

R15-2C-604. Nonresident Members of Professional Athletic Teams

A. The Arizona source income of a nonresident individual who is a member of a professional athletic team includes that portion of the individual's total compensation for services rendered as a member of the professional athletic team during a taxable year which the number of duty days spent within Arizona rendering services for the team in any manner during the taxable year bears to the total number of duty days spent both within and without Arizona during the taxable year. Duty days shall be included in the taxable year in which they occur.

B. Travel days that do not involve a game, practice, team meeting, promotional caravan or other similar team event in Arizona are not considered duty days spent in Arizona. However, these travel days shall be considered in the total duty days spent both within and without Arizona.

C. For purposes of this Section:
1. The term "professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer, or hockey team.
2. The term "member of a professional athletic team" includes employees who are active players, players on the disabled list, and any other persons required to travel and who travel with and perform services for a professional athletic team on a regular basis. This includes, but is not limited to, coaches, managers, trainers, and broadcasters.
3. The term "duty days" includes:
   a. All days during a taxable year from the beginning of a professional athletic team's 1st regular game of the season through the last game in which the team competes or is scheduled to compete except:
      i. If a person joins a team during the period described in subsection (C)(3)(a), the person's duty days shall begin on the day the person joins the team. Conversely, if a person leaves a team during the period described in subsection (C)(3)(a), the person's duty days shall end on the day the person leaves the team. If a person switches teams during the taxable year, a separate duty day calculation shall be made for the period the person is with each team.
      ii. Days for which a member of a professional athletic team is not compensated and is not rendering services for the team in any manner, including days when the member is suspended without pay and prohibited from performing any services for the team, shall not be treated as duty days.
   b. Days that do not fall within the period described in subsection (C)(3)(a) on which a member of a professional athletic team renders a service for a team, except practice days and exhibition games before the 1st regular game of the season (for example, participation in instructional leagues, the "Pro Bowl," or promotional events). Rendering a service includes conducting training after the 1st regular game of the season and rehabilitation activities, but only if conducted at the team facilities.
   c. Game days (except exhibition games, practice days, and days spent at team meetings after the 1st regular game of the season), promotional events, and days served with the team through all post-season games in which the team competes or is scheduled to compete.
   d. Days on the disability list. However, days for which a member of a professional athletic team is on the disabled list and does not conduct rehabilitation activities at team facilities in Arizona and is not otherwise rendering services for the team in Arizona, shall not be considered duty days spent in Arizona.
   e. The provisions of this subsection can be illustrated by the following examples:
      Example 1: Player A, a member of a professional athletic team, is a nonresident of Arizona. Player A's contract for the team requires A to report to the team's training camp and to participate in all exhibition, regular season, and playoff games. Player A has a contract that covers seasons that occur during year1/year2 and year2/year3. Player A's contract provides that A receives $500,000 for the year1/year2 season and $600,000 for the year2/year3 season. Assuming player A receives $550,000 from the contract during taxable year 2 ($250,000 for one-half the year1/year2 season and $300,000 for one-half the year2/year3 season), the portion of

the compensation received by player A for taxable year 2, attributable to Arizona, is determined by multiplying the compensation player A receives during the taxable year ($550,000) by a fraction, the numerator of which is the total number of duty days player A spends rendering services for the team in Arizona during taxable year 2 (attributable to both the year1/year2 season and the year2/year3 season) and the denominator of which is the total number of player A's duty days spent both within and without Arizona for the entire taxable year.

Example 2: Player B, a member of a professional athletic team, is a nonresident of Arizona. During the season, B is injured and is unable to render services for B's team. While B is undergoing medical treatment at a clinic, which is not a team facility, but is located in Arizona, B's team travels to Arizona for a game. The number of days B's team spends in Arizona for practice, games, meetings, and other activities, while B is present at the clinic, are not considered duty days spent in Arizona for B for that taxable year for purposes of this Section, but the days are included within total duty days spent both within and without Arizona.

Example 3: Player C, a member of a professional athletic team, is a nonresident of Arizona. During the season, C is injured and is unable to render services for C's team. C performs rehabilitation exercises at the team facilities in Arizona as well as at personal facilities in Arizona. The days C performs rehabilitation exercises in the team facilities are duty days spent in Arizona for C for that taxable year for purposes of this Section. However, days C spends at personal facilities in Arizona are not duty days spent in Arizona for C for the taxable year for purposes of this Section, but these days are included within total duty days spent both within and without Arizona.

Example 4: Player D, a member of a professional athletic team, is a nonresident of Arizona. During the season, D travels to Arizona to participate in the annual all-star game as a representative of D's team. The number of days D spends in Arizona for practice, the game, meetings, etc., are duty days spent in Arizona for D for the taxable year for purposes of this Section, as well as being included within total duty days spent both within and without Arizona.

Example 5: Assume the same facts as given in example 4, except that player D is not participating in the all-star game and is not rendering services for D's team in any manner. Instead D is travelling to and attending the game solely as a spectator. The number of days D spends in Arizona for the game are not duty days spent in Arizona for purposes of this Section. However, these days are included within total duty days spent both within and without Arizona.

4. The term "total compensation for services rendered as a member of a professional athletic team" means the total compensation received during the taxable year for services rendered from the beginning of the official pre-season training period through the last game in which the team competes or is scheduled to compete during the taxable year. Total compensation includes compensation received for services that are rendered during the taxable year on a date that does not fall within this period (for example, participation in instructional leagues, the "Pro Bowl," or promotional events).
5. For purposes of subsection (C)(4) total compensation includes, but is not limited to, salaries, wages, bonuses as described in subsection (C)(6), and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed during the year. Total compensation does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services rendered for the team.
6. For purposes of this Section, "bonuses" included in "total compensation for services rendered as a member of a professional athletic team" subject to the allocation described in subsection (A) are:
   a. Bonuses earned as a result of play (for example, performance bonuses) during the season, including bonuses paid for championship, playoff or "bowl" games played by the team, or for selection to all-star league or other honorary positions; and
   b. Bonuses paid for signing a contract, unless all of the following conditions are met:
      i. The payment of the signing bonus is not conditional upon the signee playing any games for the team, or performing any subsequent services for the team, or even making the team;
      ii. The signing bonus is payable separately from the salary and any other compensation; and
      iii. The signing bonus is nonrefundable.

D. If it is demonstrated that the method provided under this Section does not fairly and equitably apportion compensation, the Department may allow the member of a professional athletic team to apportion and allocate compensation under an alternative method prescribed by the Department as long as the prescribed method results in a fair and equitable apportionment. A nonresident member of a professional athletic team may submit a proposal for an alternative method to apportion compensation if the nonresident member demonstrates that the method provided under this Section does not fairly and equitably apportion compensation. The proposed method must be fully explained in the nonresident member's Arizona nonresident personal income tax return.

E. This Section is effective January 1, 2001.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 4504, effective January 1, 2001 (Supp. 00-4).

R15-2C-605. Nonresident Professional Athletes Who Are Not Team Members

Individual nonresident professional athletes who are not members of a professional athletic team and whose income is event-oriented (for example, golfers, tennis players, boxers, and jockeys) shall allocate to Arizona income earned in Arizona and expenses allowable in arriving at federal adjusted gross income that are allocable to the Arizona source income.

Example: A professional golfer comes into Arizona to compete in a tournament. The golfer wins $150,000 prize money based on success in the tournament. The golfer must report the $150,000 to Arizona as Arizona income. The golfer may subtract expenses that are allowable in arriving at federal adjusted gross income and that are incurred in winning the $150,000.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 4504, effective November 7, 2000 (Supp. 00-4).

ARTICLE 7. REPEALED

R15-2C-701. Repealed

Historical Note
New Section made by exempt rulemaking at 7 A.A.R. 5715, effective November 29, 2001 (Supp. 01-4). Repealed by exempt rulemaking at 14 A.A.R. 4249, effective October 24, 2008 (Supp.08-4).

R15-2C-702. Repealed

Historical Note
New Section made by exempt rulemaking at 7 A.A.R. 5715, effective November 29, 2001 (Supp. 01-4). Repealed by exempt rulemaking at 14 A.A.R. 4249, effective October 24, 2008 (Supp.08-4).

R15-2C-703. Repealed

Historical Note
New Section made by exempt rulemaking at 7 A.A.R. 5715, effective November 29, 2001 (Supp. 01-4). Repealed by exempt rulemaking at 14 A.A.R. 4249, effective October 24, 2008 (Supp.08-4).

R15-2C-704. Repealed

Historical Note
New Section made by exempt rulemaking at 7 A.A.R. 5715, effective November 29, 2001 (Supp. 01-4). Repealed by exempt rulemaking at 14 A.A.R. 4249, effective October 24, 2008 (Supp.08-4).

R15-2C-705. Repealed

Historical Note
New Section made by exempt rulemaking at 7 A.A.R. 5715, effective November 29, 2001 (Supp. 01-4). Repealed by exempt rulemaking at 14 A.A.R. 4249, effective October 24, 2008 (Supp.08-4).

SUBCHAPTER D. CORPORATIONS

ARTICLE 1. GENERAL

R15-2D-101. Definitions

In addition to the definitions provided in A.R.S. §§ 43-104, 43-1101, and 43-1131, the following definitions apply to this Subchapter:

"Allocation" means the assignment of nonbusiness income to a particular state.

"Apportionment" means the division of business income between states by the use of a formula that contains apportionment factors.

"Arizona affiliated group" has the same meaning as prescribed in A.R.S. § 43-947(I).

"Business activity" means transactions and activity occurring in the regular course of a particular trade or business of a taxpayer.

"Combined return" means a corporate income tax return filed by a group of commonly owned corporations or businesses that constitute a unitary business, except that a combined return does not include either a foreign corporation that is not itself subject to a tax imposed by A.R.S. Title 43, or an insurance company that is exempt under A.R.S. § 43-1201.

"Consolidated return" means a corporate income tax return filed by an Arizona affiliated group under A.R.S. § 43-947.

"Employee" means any officer of a corporation; or any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee.

"Incidental to" means occurring in, or associated with, the normal, typical, or customary operations of the particular trade or business under consideration.

"Sales" means all gross receipts derived by a taxpayer from transactions and activity in the regular course of a trade or business and includes all gross receipts of the taxpayer not allocated under A.R.S. §§ 43-1134 through 43-1138.

"Unitary business" means an entity, group of entities, or components of an entity whose basic operations are substantially integrated and interdependent. The determination of whether an entity, group of entities, or components of an entity constitute a unitary business is made under R15-2D-401.

Historical Note
Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

ARTICLE 2. ADDITIONS TO ARIZONA GROSS INCOME

R15-2D-201. Repealed

Historical Note
Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 654, effective January 11, 2001 (Supp. 01-1).

ARTICLE 3. SUBTRACTIONS FROM ARIZONA GROSS INCOME

R15-2D-301. Repealed

Historical Note
Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 654, effective January 11, 2001 (Supp. 01-1).

R15-2D-302. Corporate Net Operating Loss

A. The following definitions apply for purposes of this rule:
1. "Arizona adjusted income" means Arizona gross income of the taxpayer adjusted by the additions and subtractions as delineated in A.R.S. Title 43, Chapter 11, Article 3, except as provided in subsections (B) and (E) of this rule.
2. "Arizona gross income" means federal taxable income for the taxable year.
3. "Arizona net operating loss" means Arizona adjusted income which is a negative amount.
4. "Taxable year" means taxable year as defined in statute.

B. In calculating the Arizona net operating loss, the taxpayer shall not include:
1. An Arizona net operating loss carryforward,
2. A net operating loss incurred by the taxpayer prior to doing business in Arizona; or,
3. A net operating loss from a prior period if such loss was incurred by another corporation or group of corporations, prior to a merger, consolidation, or reorganization with the taxpayer, to the extent that Arizona adjusted income, earned after the merger, consolidation, or reorganization,

is not attributable to the same entity which incurred the net operating loss.

a. A net operating loss, incurred by a separate corporation required to file a combined return, may be carried forward against that portion of the combined income which is related to the former separate corporation.
b. The portion of any combined net operating loss which is related to a separate corporation which is determined to not be includible in the unitary group may be carried forward against income of that corporation computed on a separate basis.
c. The portion of the combined income or loss which is related to the separate corporation shall be determined by computing a ratio based on the property, payroll, and sales factors of the separate corporation to the combined group's total property, payroll, and sales factors. This ratio shall be multiplied by the combined net income or loss subject to apportionment resulting in the net income or loss attributable to the separate corporation.
d. If the separate corporation operates both within and without Arizona, the Arizona portion of the separate corporation's income or loss shall be computed by multiplying the income attributable to that separate corporation by the corporation's ratio of Arizona property, payroll, and sales factors to the corporation's total property payroll and sales factors plus any income or loss allocable to Arizona.

C. An Arizona net operating loss may be carried forward to each of the 5 succeeding taxable years of the taxpayer.

1. An Arizona net operating loss, or any part thereof, which is not used during the 5 succeeding taxable years, shall be lost to the taxpayer.
2. A taxpayer shall not carryback an Arizona net operating loss.
3. Arizona net operating loss carryforwards shall be reduced by the amount of Arizona adjusted income incurred in any of the 5 succeeding taxable years.
4. For purposes of determining the 5-year carryforward limitation, each Arizona net operating loss carryover shall be applied separately to Arizona adjusted income in the order in which the Arizona net operating loss was incurred.
5. The aggregate of all Arizona net operating loss carryforwards meeting the 5-year carryforward limitation may be applied to any Arizona adjusted income incurred in a taxable year.

D. A taxpayer claiming an Arizona net operating loss carryforward shall file a statement with the corporate income tax return for the taxable year in which the Arizona net operating loss carryforward is claimed. The statement shall include a detailed schedule showing the computation of the Arizona net operating loss carryforward.

E. In calculating and applying an Arizona net operating loss, a multistate taxpayer shall be subject to:

1. The provisions of A.R.S. Title 43, Chapter 11, Article 4;
2. The statutory provisions regarding the Arizona net operating loss; and
3. The provisions of this rule.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2).

R15-2D-303. Domestic International Sales Corporation (DISC)

A. For purposes of this Section, "DISC" means a corporation that elects to be treated as a DISC under Internal Revenue Code § 992. The Arizona gross income of a DISC is the DISC's federal taxable income computed as if the DISC were a corporation that had not elected to be treated as a DISC. A DISC that meets the combined return filing requirements of R15-2D-401 shall file as part of a combined return unless:

1. The DISC is a foreign corporation that is not subject to Arizona income tax, or
2. The corporation with which the DISC would otherwise be required to file a combined return is a member of an Arizona affiliated group as defined in A.R.S. § 43-947.

B. For purposes of subsections (B) and (C), "deducted amount" means the amount of commissions, rentals, and other amounts paid or accrued to a DISC that is deducted in computing federal taxable income. A corporation that directly or indirectly owns or controls 50% or more of the voting stock of a DISC shall add to Arizona gross income the entire deducted amount, unless either subsection (B)(1) or (B)(2) applies.

1. If the corporation and the DISC file as part of the same Arizona combined return, no addition to Arizona gross income is required.
2. If the DISC is taxable in Arizona and subsection (B)(1) does not apply, the addition to Arizona gross income is the deducted amount minus the quotient of the DISC's Arizona taxable income attributable to the deducted amount divided by the corporation's apportionment ratio computed under A.R.S. § 43-1139. In no case shall the addition to Arizona gross income be less than zero.
   Example: Corporation A owns 60% of the voting stock of a DISC. Corporation A has a 50% Arizona apportionment ratio and the DISC has a 10% Arizona apportionment ratio for the taxable year. Corporation A and the DISC are not required to file a combined return. Corporation A pays the DISC commissions of $100,000 and deducts this amount on its federal income tax return. The DISC's Arizona taxable income attributable to the commission is $10,000 ($100,000 x 10%). Therefore, Corporation A's addition to Arizona gross income for the DISC commissions is $80,000 ($100,000 - ($10,000 ÷ .50)).

C. A corporation that deducts the interest charge required under Internal Revenue Code § 995(f) in determining federal taxable income for the taxable year shall add to Arizona gross income the amount of the interest charge deducted, unless subsection (C)(1), (C)(2), or (C)(3) applies.

1. If the corporation and a DISC file as part of the same Arizona combined return for the taxable year in which the corporation reports DISC income related to the interest charge, the corporation shall not add the interest charge to Arizona gross income.
2. If the interest charge is attributable to the deducted amount that the corporation is required to add to Arizona gross income under subsection (B), the corporation shall not add the interest charge to Arizona gross income.
3. If the interest charge is attributable to income of a DISC, the dividends of which are includible in the corporation's Arizona taxable income, the corporation shall not add the interest charge to Arizona gross income.
   Example: Corporation B owns 30% of a DISC that is not a foreign corporation. If the DISC dividends are includible in the Arizona taxable income of Corporation B, the interest charge is not added to Corporation B's Arizona gross income.

D. The Department shall not adjust DISC transactions that comply with the inter-company pricing provisions of Internal Revenue Code § 994.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2896, effective June 13, 2001 (Supp. 01-2).

R15-2D-304. Expired

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 5220, effective October 31, 2004 (Supp. 04-4).

R15-2D-305. Deferred Exploration Expenses

A. A taxpayer may elect to subtract a ratable portion of deferred exploration expenses added to income under A.R.S. § 43-1121. To make the election, a taxpayer shall attach a statement to the return for the applicable taxable year. The taxpayer shall disclose the following in the statement:
1. The amount of exploration expenses subject to the election; and
2. The name, location, and nature of the ore or mineral deposit to which the election relates.

B. A taxpayer may make an election under this Section at any time before the expiration of the period for filing a claim for credit or refund for the taxable year the election is to be effective. An election made under this Section is binding for the taxable year unless the taxpayer revokes the election to deduct exploration expenses under Internal Revenue Code § 617. If the taxpayer revokes the federal election, the taxpayer shall file Arizona amended income tax returns to reflect the changes in federal taxable income and Arizona taxable income that result from the revocation of the election.

C. Except as provided by subsection (D), a taxpayer shall compute the subtraction for a ratable portion of deferred exploration expenses by using the following formula:

$$A = B \times [C / (C + D)]$$

The above variables are defined as follows:

"A" is the deferred exploration expense subtraction allowable for the taxable year,

"B" is the total deferred exploration expenses reduced by the amount of deferred exploration expenses subtracted in prior taxable years,

"C" is the number of units of ore or mineral sold during the taxable year from the mine or deposit for which the deferred exploration expenses were incurred, and

"D" is the number of units of ore or mineral remaining at the end of the taxable year to be recovered and sold from the mine or deposit for which the deferred exploration expenses were incurred.

D. A taxpayer that has elected to recapture and capitalize exploration expenses under Internal Revenue Code § 617(b)(1)(A) shall reduce the amount computed under subsection (C) by the amount of the federal depletion deducted for the current taxable year that is allocable to the amount of Arizona deferred exploration expenses. A taxpayer shall not reduce the amount computed under subsection (C) to less than zero. A taxpayer shall compute the amount of the federal depletion deduction allocable to the Arizona deferred exploration expenses by multiplying the federal depletion deduction that relates to the mineral interest for which the exploration expenses were incurred by the ratio of the Arizona deferred exploration expenses to the total federal adjusted basis of the mineral interest before any depletion deduction. A taxpayer shall make the computation under this subsection for each subsequent taxable year until the cumulative amount of subtractions for deferred exploration expenses for all taxable years equals the total amount of exploration expenses that were deferred. The amount of the federal depletion deduction allocable to the deferred exploration expenses shall be considered a subtraction of deferred exploration expenses for purposes of computing:
1. The variable B in the formula under subsection (C) for subsequent taxable years,
2. The Arizona adjusted basis under subsection (I), and
3. The cumulative amount of subtractions for deferred exploration expenses.

E. A taxpayer that has elected to recapture and capitalize exploration expenses under Internal Revenue Code § 617(b)(1)(A) and not to defer up to $75,000 of exploration expenses under A.R.S. § 43-1121, shall add to Arizona gross income the amount of federal depletion deducted for the current taxable year that is allocable to the exploration expenses not deferred. A taxpayer shall compute the amount of the federal depletion deduction allocable to the exploration expenses not deferred by multiplying the federal depletion deduction that relates to the mineral interest for which the exploration expenses were incurred by the ratio of the exploration expenses not deferred to the total federal adjusted basis of the mineral interest before any depletion deduction. A taxpayer shall make the adjustment under this subsection for each subsequent taxable year until the cumulative adjustments for all taxable years equal the total amount of exploration expenses not deferred.

F. For purposes of computing the subtraction under subsection (C), a taxpayer shall estimate the number of recoverable units of ore or mineral according to an accepted industry method. The taxpayer shall revise the estimate if, before the close of the current taxable year, it is determined, as the result of further discovery, development, or operation, that the remaining units are materially greater or less than the units previously estimated. The revised estimate shall be used for the current taxable year and subsequent taxable years until it is determined that another revision is required.

G. A taxpayer that leases an ore or mineral deposit and retains a royalty interest in the ore or mineral deposit may subtract the ratable portion of related deferred exploration expenses as computed under subsection (C).

H. If a taxpayer abandons an ore or mineral interest, the taxpayer may subtract the related unamortized deferred exploration expenses in the taxable year of abandonment. For purposes of this subsection, a taxpayer has abandoned an ore or mineral interest during the taxable year if all of the following conditions exist:
1. The taxpayer has discontinued all operations and activities with respect to the ore or mineral interest.
2. The taxpayer has no intention of exploring, developing, or otherwise using the ore or mineral interest in the future.
3. The taxpayer has no intention of selling, exchanging, or otherwise disposing of the ore or mineral interest.

I. A taxpayer that sells property for which exploration expenses were incurred shall report the difference between the federal adjusted basis of the property and the Arizona adjusted basis of the property in the year of the sale. If the Arizona adjusted basis exceeds the federal adjusted basis, a subtraction from income for the excess is required. If the federal adjusted basis exceeds the Arizona adjusted basis, an addition to income for

the excess is required. The Arizona adjusted basis of the property is computed as follows:
1. The federal adjusted basis, plus
2. The exploration expenses added to income under A.R.S. § 43-1121, minus
3. The subtraction from income for the federal exploration expense recapture under A.R.S. § 43-1122, minus
4. The total subtractions from income for deferred exploration expenses allowed under this Section.

J. A taxpayer shall not include the amount of mine exploration expenses that were not deferred under A.R.S. § 43-1121 in computing the subtraction from income for the recapture of mine exploration expenses under A.R.S. § 43-1122.

K. Under A.R.S. § 43-1122, a taxpayer may elect to subtract a ratable portion of deferred exploration expenses related to oil, gas, or geothermal resources. A taxpayer shall make the election and compute the subtraction in the same manner as the election related to ore and mineral property.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 4105, effective October 4, 2000 (Supp. 00-4).

R15-2D-306. Amortization of Property Used for Atmospheric and Water Pollution Control

A. A taxpayer may elect to amortize, over a 60-month period, the adjusted basis of any device, machinery, or equipment that is certified by the Arizona Department of Environmental Quality as property that collects and controls atmospheric and water pollutants and contaminants at their source. The amortization subtractions allowed for the 60-month period are in lieu of the federal depreciation and amortization related to the pollution control property. The related federal depreciation and amortization deducted in computing federal taxable income is an addition to income under A.R.S. § 43-1121. The adjusted basis for purposes of amortization is the basis for determining depreciation under Internal Revenue Code § 167 on the date the pollution control property is placed in service. The adjusted basis does not include land or buildings.

B. A taxpayer that elects to amortize pollution control property shall include a statement in the original or amended return for the taxable year of election. The taxpayer shall identify in the statement each piece of property subject to the election, the month the property is placed in service, the adjusted basis of the property, and the date of certification by the Arizona Department of Environmental Quality.

C. The amortization period is 60 consecutive months beginning with the month the property is placed in service. If the property is disposed of or retired from service before the end of the 60-month period, the amortization period ends with the month of disposition or retirement. The monthly amortization allowable is computed by dividing the adjusted basis of the property at the beginning of the amortization period by 60. The total amortization subtraction for a particular taxable year is the sum of the amortization for each month of the amortization period that falls within the taxable year.

D. A taxpayer may elect to discontinue the amortization election before the end of the 60-month amortization period.
1. A taxpayer shall include a statement in the original or amended return for the taxable year that the election to discontinue amortization is effective. The taxpayer shall identify in the statement each piece of property for which the election to discontinue amortization applies and the last month of amortization.
2. Generally, a taxpayer is not required to make the addition to income referred to in subsection (A) for the months following the election to discontinue amortization. However, an addition to income is required for the federal depreciation or amortization that exceeds the adjusted basis not previously recovered through depreciation or amortization. For example, a taxpayer elects to discontinue amortization after 48 months. If the property had an adjusted basis of $100,000 at the beginning of the amortization period, the adjusted basis remaining to be recovered is $20,000 ($100,000 minus the previous amortization of $80,000). If federal depreciation for the property is $10,000 per year for 10 years, an addition to income of $10,000 per year is required beginning with the third taxable year following the election to discontinue amortization.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 4105, effective October 4, 2000 (Supp. 00-4).

R15-2D-307. Amortization of Child Care Facilities

A. The following definitions apply for purposes of amortization of child care facilities under A.R.S. § 43-1130 and this Section:
1. "Child care facility" means a facility as defined under A.R.S. § 36-881.
2. "Employee" means any person employed by a taxpayer that owns a child care facility.
3. "Property" means a child care facility and its related equipment of a character subject to depreciation.

B. For purposes of qualifying for the 24-month amortization period under A.R.S. § 43-1130(B), a child care facility is considered to be primarily for the children of employees of the taxpayer if the required ratio is at least 80% for the taxable year during which the property is placed in service. The taxpayer shall maintain a required ratio of at least 80% for the subsequent taxable years that include part of the 24-month amortization period.
1. "Required ratio" means:
   a. The total daily attendance of employee children for the taxable year, divided by
   b. The total daily attendance of all children for the taxable year.
2. For purposes of computing the required ratio, the employees of all joint owners of a child care facility are considered to be employees of each of the joint owners.

C. To elect either the 24-month or the 60-month amortization period, a taxpayer shall attach to the income tax return for the taxable year during which the property is placed in service a written statement that contains all of the following information:
1. A clear description of the property.
2. The date of expenditure or the period during which the expenditures were made for the property.
3. The date the property was placed in service.
4. The amount of the expenditure.
5. The amortization period elected.
6. The annual amortization deduction claimed with respect to the property.

D. A taxpayer may make an election under this Section at any time before the expiration of the period for filing a claim for credit or refund for the taxable year that the property is placed in service.

E. A taxpayer may revoke an election made under this Section at any time before the expiration of the period for filing a claim for credit or refund for the taxable year that the property is placed in service. A taxpayer that revokes an election made under this Section shall attach a statement to an amended income tax return for the taxable year that the election was made. The taxpayer shall identify in the statement the property for which the revocation is effective.

F. The amortization period begins with the month the property is placed in service. A taxpayer shall compute the monthly amortization allowable by dividing the cost of the property by the number of months in the amortization period. The total amortization subtraction for a particular taxable year is the sum of the amortization for each month of the amortization period that falls within the taxable year.

1. If the amortization election is terminated as provided under subsection (H), the taxpayer shall prorate the amortization for the month during which the termination occurs, based on the ratio of the number of days in the month that are before the termination date to the total number of days in the month.
2. If a taxpayer qualified for the 24-month amortization in the preceding taxable year and fails to meet the 80% requirement under subsection (B) in the current taxable year, the last month of the preceding taxable year is the final month of amortization.

G. A taxpayer shall treat additions or improvements to an existing item of amortized property as a separate item of property. A taxpayer may treat 2 or more items of property as a single item of property if the items are placed in service within the same month.

H. The amortization election made with respect to an item of property is terminated as of the earliest date on which either of the following occurs:

1. The specific use of the item of property in connection with the operation of a child care facility is discontinued.
2. The child care facility no longer meets applicable requirements in this Section.

I. Under A.R.S. § 43-1121, a taxpayer that elects to amortize child care facility property shall add to Arizona gross income the related federal depreciation or amortization deducted under Internal Revenue Code § 167 or 188. If the Arizona amortization election is terminated, the taxpayer may recover the remaining unamortized cost of the property by reducing the addition to income required under A.R.S. § 43-1121.

1. The amount of the reduction for the taxable year of termination is the amount of the related federal depreciation and amortization allocable to the portion of the taxable year after the termination date.
2. The amount of the reduction for taxable years subsequent to the taxable year of termination is the amount of the related federal depreciation and amortization.
3. The taxpayer may reduce the addition to income in the taxable year of termination and subsequent taxable years until the cumulative reductions equal the unamortized cost of the property.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 4105, effective October 4, 2000 (Supp. 00-4).

ARTICLE 4. MULTISTATE DIVISION OF INCOME

R15-2D-401. Unitary Business and Combined Returns

A. An entity, group of entities, or components of an entity is not a unitary business for apportionment purposes unless there is actual substantial interdependence and integration of the basic operations of the business carried on in more than one taxing jurisdiction. The potential to operate an entity or a component as part of the unitary business is not dispositive.

B. The determination of whether the operations of a taxpayer constitute a unitary business is based on economic substance and not form. Therefore, a unitary business may consist of part of a corporation, one corporation, or many corporations. If the unitary business consists of more than one corporation, the corporations comprising the unitary business shall file a combined return apportioning the business income of the corporations using a single apportionment formula.

C. The main reason for defining a business as unitary is that its components in various states are so tied together at the basic operational level that it is difficult to determine the state in which profits are earned. Centralized top-level management, financing, accounting, insurance and benefit programs, or overhead functions by a home office are not sufficient for a business to be unitary without further analysis of the basic operations of the components.

D. The following are necessary threshold characteristics for components of an entity, an entity, or a group of entities to be considered a unitary business:

1. The entities comprising the unitary business are owned or controlled, directly or indirectly, by the same interests that collectively own more than 50 percent of the voting stock,
2. The entities or components share common management, and
3. The entities or components have reconciled accounting systems.

E. The presence of the three characteristics listed in subsection (D) is not sufficient for a business to be considered unitary without evidence of substantial operational integration. Factors that indicate operational integration include the following:

1. The same or similar business conducted by components;
2. Vertical development of a product by components, such as manufacturing, distribution, and sales;
3. Horizontal development of a product by components, such as sales, service, repair, and financing;
4. Transfer of materials, goods, products, and technological data and processes between components;
5. Sharing of assets by components;
6. Sharing or exchanging of operational employees by components;
7. Centralized training of operational employees;
8. Centralized mass purchasing of inventory, materials, equipment, and technology;
9. Centralized development and distribution of technology relating to the day-to-day operations of the components;
10. Use of common trademark or logo at the basic operational level;
11. Centralized advertising with impact at the basic operational level;
12. Exclusive sales-purchase agreements between components;
13. Price differentials between components as compared to unrelated businesses;
14. Sales or leases between components; and
15. Any other integration between components at the basic operational level.

F. Not all of the factors listed in subsection (E) need be present in every unitary business.

G. A manufacturing, producing, or mercantile type of business is not a unitary business unless there is a substantial transfer of material, products, goods, technological data and processes, or machinery and equipment between the branches, divisions, subsidiaries, or affiliates.

1. A transfer of 20 percent of the total goods annually manufactured, produced, or purchased as inventory for processing or sale, or both, by the transferor, or 20 percent of the total goods annually acquired for processing or sale, or both, by the transferee is presumptive evidence of a unitary business.
2. A smaller percentage of goods transferred may be indicative of a unitary business if other characteristics indicating substantial operational integration are present.

H. In a unitary service business, the operations of the various components or entities of the business are integrated and interrelated by their involvement with the central office or parent in delivering substantially the same service. The day-to-day operations of the components or entities use the same procedures and technologies that are developed, organized, purchased, or prescribed by the central office or parent. There usually is an exchange of employees among the components or entities and centralized training of employees.

I. A taxpayer may have more than one unitary business. In this case, it is necessary to determine the business income attributable to each separate unitary business. The income of each business is apportioned using an apportionment formula that considers the in-state and out-of-state factors of the business.

J. Generally, a conglomerate composed of diverse businesses is not a single unitary business. However, a line or lines of business within the conglomerate may be a unitary business if the operations of the components of the line or lines are integrated and interrelated.

K. All members of a combined return shall determine income using the same accounting period.

1. If the members of a combined return have different accounting periods, the accounting period to be used by the members shall be determined as follows:
   a. If the combined return includes the common parent corporation, the parent's accounting period is used.
   b. If the combined return does not include the common parent corporation, the accounting period of a member that has a presence in Arizona shall be used. The same group member's accounting period shall be used consistently from year to year.
2. Each member of a combined return that uses an accounting period that is different from the common accounting period determined in subsection (K)(1), shall use one of the following methods to determine the income to be included in the common accounting period:
   a. Determine income and related deductions using actual book or accounting entries for the relevant period.
   b. Determine income based on the number of months falling within the required common accounting period. For example, if one member uses a calendar year, and the common accounting period ends October 31, 1981, the member will include 2/12 of the income for the year ended December 31, 1980, and 10/12 of the income for the year ended December 31, 1981. Estimates may be necessary if this proration method involves a member's year that ends subsequent to the common accounting period.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-402. Repealed

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 654, effective January 11, 2001 (Supp. 01-1).

R15-2D-403. Taxable in Another State

A. A taxpayer is subject to the allocation and apportionment provisions of A.R.S. §§ 43-1131 through 43-1148 if it has income from business activity that is taxable both within and without this state. A taxpayer's income from business activity is taxable without this state if the taxpayer, by reason of the business activity, is taxable in another state under either one of the two tests specified in A.R.S. § 43-1133. A taxpayer is not taxable in another state with respect to a particular trade or business merely because the taxpayer conducts activities in that other state pertaining to the production of nonbusiness income or business activities relating to a separate trade or business.

B. A taxpayer is "subject to" one of the taxes specified in A.R.S. § 43-1133(1) if it carries on business activities in a state and that state imposes one of the taxes on the taxpayer. Any taxpayer that asserts that it is subject to one of the taxes specified in A.R.S. § 43-1133(1) in another state shall furnish to the Department upon its request evidence to support that assertion. The Department may request that the evidence include proof that the taxpayer has filed the requisite tax return in the other state and has paid any taxes imposed under the laws of the other state. The taxpayer's failure to produce this proof may be taken into account in determining whether the taxpayer is subject to one of the taxes specified in A.R.S. § 43-1133(1) in the other state.

1. A taxpayer that voluntarily files and pays one or more of the taxes specified in A.R.S. § 43-1133(1) when not required to do so by the laws of the other state or pays a minimal fee for qualification, organization, or the privilege of doing business in that state is not "subject to" one of the taxes specified in A.R.S. § 43-1133(1) if the taxpayer:
   a. Does not engage in business activity in that state; or
   b. Engages in some business activity, not sufficient for nexus, and the minimum tax bears no relationship to the taxpayer's business activity within that state.
2. The concept of taxability in another state is based upon the premise that every state in which the taxpayer is engaged in business activity may impose an income tax even though every state does not do so. In states that do not impose an income tax, other types of taxes may be imposed as a substitute. Therefore, the Department shall consider only those taxes enumerated in A.R.S. § 43-1133(1) that are basically revenue raising rather than regulatory measures in determining whether the taxpayer is "subject to" one of the taxes in another state.

   Example 1: State A requires all nonresident corporations that qualify or register in State A to pay to the Secretary of State an annual license fee or tax for the privilege of doing business in the state regardless of whether the privilege is in fact exercised. The amount paid is determined according to the total authorized capital stock of the corporation; the rates are progressively higher by bracketed amounts. The statute sets a minimum fee of $50 and a maximum fee of $500. Failure to pay the tax bars a corporation from using the state courts for enforcement of its rights. State A also imposes a corporation income tax. Nonresident Corporation X is qualified in State A and pays the required fee to the Secretary of State but does not carry on any business activity in State A (although it may use the courts of State A). Corporation X is not "taxable" in State A.

Example 2: The facts are the same as example one except that Corporation X is subject to and pays the corporation income tax. Payment is prima facie evidence that Corporation X is "subject to" the net income tax of State A and is "taxable" in State A.

Example 3: State B requires all nonresident corporations qualified or registered in State B to pay to the Secretary of State an annual permit fee or tax for doing business in the state. The base of the fee or tax is the sum of outstanding capital stock, and surplus and undivided profits. The fee or tax base attributable to State B is determined by a three-factor apportionment formula. Nonresident Corporation X, which operates a plant in State B, pays the required fee or tax to the Secretary of State. Corporation X is "taxable" in State B.

Example 4: State A has a corporation franchise tax measured by net income for the privilege of doing business in that state. Corporation X files a return based on its business activity in the state but the amount of computed liability is less than the minimum tax. Corporation X pays the minimum tax. Corporation X is subject to State A's corporation franchise tax.

C. A.R.S. § 43-1133(2) applies if the taxpayer's business activity is sufficient to give the state jurisdiction to impose a net income tax by reason of the business activity. Jurisdiction to tax is not present if the state is prohibited from imposing the tax by reason of the provisions of Public Law 86-272, 15 U.S.C.A. §§ 381-384.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4). Correction to manifest typographical error, under subsection R15-2D-403(B), deleted "2" between "A.R.S." and "§" as adopted at 5 A.A.R. 3766 (Supp. 08-4).

R15-2D-404. Apportionment Formula

A. All business income of each trade or business of the taxpayer shall be apportioned to this state by use of the apportionment formula in A.R.S. § 43-1139. The elements of the apportionment formula are the property factor, the payroll factor, and the sales factor of the trade or business of the taxpayer.

B. A unitary business that files a combined return shall use an apportionment formula that combines the property, payroll, and sales figures of all of the unitary group members before calculating the factors.

C. An Arizona affiliated group that files a consolidated return shall use an apportionment formula that combines the property, payroll, and sales figures of all of the members of the Arizona affiliated group before calculating the factors.

D. This Section does not apply to a taxpayer engaged in air commerce that apportions its income in accordance with A.R.S. § 43-1139(B).

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-405. Intercompany Eliminations

Members of a combined or consolidated return shall eliminate intercompany amounts included in the group's income, expense, and apportionment factors when necessary to avoid distortion of the group's Arizona taxable income.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

ARTICLE 5. BUSINESS AND NONBUSINESS INCOME

R15-2D-501. General

A. For purposes of administration, the income of a taxpayer is business income unless clearly classifiable as nonbusiness income.

B. The classification of income by labels, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, or nonoperating income, is of no aid in determining whether income is business or nonbusiness income. Income of any type or class and from any source is business income if it arises from transactions and activity occurring in the regular course of a trade or business. Accordingly, the critical elements in determining whether income is "business income" or "nonbusiness income" are the transactions and activity of a particular trade or business. In general, all transactions and activity of a taxpayer that are the result of or incidental to the operations of a particular trade or business of the taxpayer are transactions and activity arising in the regular course of, and constitute integral parts of, a trade or business.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-502. Rents From Real and Tangible Personal Property

Rental income from real and tangible personal property is business income if the property with respect to which the rental income is received is used in the taxpayer's trade or business or is incidental to the trade or business and is includable in the property factor.

Example 1: The taxpayer operates a multistate car rental business. The income from the car rentals is business income.

Example 2: The taxpayer is engaged in the heavy construction business in which it uses equipment such as cranes, tractors, and earth-moving vehicles. The taxpayer makes short-term leases of the equipment when particular pieces of equipment are not needed on any particular project. The rental income is business income.

Example 3: The taxpayer operates a multistate chain of men's clothing stores. The taxpayer purchases a five-story office building for use in connection with its trade or business. It uses the street floor as one of its retail stores and the second and third floors for its general corporate headquarters. The remaining two floors are leased to others. The rental of the two floors is incidental to the operation of the taxpayer's trade or business. The rental income is business income.

Example 4: The taxpayer operates a multistate chain of grocery stores. It purchases as an investment an office building in another state with surplus funds and leases the entire building to others. The net rental income is not business income of the grocery store trade or business. Therefore, the net rental income is nonbusiness income.

Example 5: The taxpayer operates a multistate chain of men's clothing stores. The taxpayer invests in a 20-story office building and uses the street floor as one of its retail stores and the second floor for its general corporate headquarters. The remaining 18 floors are leased to others. The rental of the 18 floors is not incidental to but rather is separate from the operation of the taxpayer's trade or business. The net rental income is not business income of the clothing store trade or business. Therefore, the net rental income is nonbusiness income.

Example 6: The taxpayer constructed a plant for use in its multistate manufacturing business and 20 years later the plant was closed and put up for sale. The plant was rented for a temporary period from the time it was closed by the taxpayer until it was sold 18 months later. The rental income is business income and the gain on the sale of the plant is business income.

Example 7: The taxpayer operates a multistate chain of grocery stores. It owned an office building that it occupied as its corporate headquarters. Because of inadequate space, the taxpayer acquired a new and larger building elsewhere for its corporate headquarters. The old building was rented to an investment company under a five-year lease. Upon expiration of the lease, the taxpayer sold the building at a gain (or loss). The net rental income received over the lease period is nonbusiness income and the gain (or loss) on the sale of the building is nonbusiness income.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-503. Gains or Losses From Sales of Assets

Gain or loss from the sale, exchange, or other disposition of tangible or intangible personal property or real property constitutes business income if the property while owned by the taxpayer was used in the taxpayer's trade or business. However, if the property was used for the production of nonbusiness income or otherwise was removed from the property factor, in accordance with Article 6, before its sale, exchange, or other disposition, the gain or loss constitutes nonbusiness income.

Example 1: In conducting its multistate manufacturing business, the taxpayer systematically replaces automobiles, machines, and other equipment used in the business. The gains or losses resulting from those sales constitute business income.

Example 2: The taxpayer constructed a plant for use in its multistate manufacturing business and 20 years later sold the property at a gain while it was in operation by the taxpayer. The gain is business income.

Example 3: Same as example two except that the plant was closed and put up for sale but was not in fact sold until a buyer was found 18 months later. The gain is business income.

Example 4: Same as example two except that the plant was rented while being held for sale. The rental income is business income and the gain on the sale of the plant is business income.

Example 5: The taxpayer operates a multistate chain of grocery stores. It owned an office building that it occupied as its corporate headquarters. Because of inadequate space, the taxpayer acquired a new and larger building elsewhere for its corporate headquarters. The old building was rented to an unrelated investment company under a five-year lease. Upon expiration of the lease, the taxpayer sold the building at a gain (or loss). The gain (or loss) on the sale is nonbusiness income and the rental income received over the lease period is nonbusiness income.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-504. Interest

Interest income is business income if the intangible property with respect to which the taxpayer receives interest arises out of or is created in the regular course of the taxpayer's trade or business operations or if the purpose for acquiring and holding the intangible property is related to or incidental to the trade or business operations.

Example 1: The taxpayer operates a multistate chain of department stores, selling for cash and on credit. The taxpayer receives service charges, interest, or time-price differentials and the like with respect to installment sales and revolving charge accounts. These amounts are business income.

Example 2: The taxpayer conducts a multistate manufacturing business. During the year the taxpayer receives a federal income tax refund and collects a judgment against a debtor of the business. Both the tax refund and the judgment bear interest. The interest income is business income.

Example 3: The taxpayer is engaged in a multistate manufacturing and wholesaling business. In connection with that business, the taxpayer maintains special accounts to cover items such as worker's compensation claims, rain and storm damage, and machinery replacement. The moneys in those accounts are invested at interest. Similarly, the taxpayer temporarily invests funds intended for payment of federal, state, and local tax obligations. The interest income is business income.

Example 4: The taxpayer is engaged in a multistate money order and traveler's check business. In addition to the fees received in connection with the sale of the money orders and traveler's checks, the taxpayer earns interest income by investing the funds pending their redemption. The interest income is business income.

Example 5: The taxpayer is engaged in a multistate manufacturing and selling business. The taxpayer usually has working capital totaling $200,000 that it regularly invests in short-term, interest-bearing securities. The interest income is business income.

Example 6: In January, the taxpayer sells all of the stock of a subsidiary for $20,000,000. The funds are placed in an interest-bearing account pending a decision by management as to how the funds are to be used. The interest income is nonbusiness income.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-505. Dividends

Dividends are business income if the stock with respect to which the taxpayer receives dividends arises out of or was acquired in the regular course of the taxpayer's trade or business operations or if the purpose for acquiring and holding the stock is related to or incidental to the trade or business operations.

Example 1: The taxpayer operates a multistate chain of stock brokerage houses. During the year, the taxpayer receives dividends on stock that it owns. The dividends are business income.

Example 2: The taxpayer is engaged in a multistate manufacturing and wholesaling business. In connection with that business, the taxpayer maintains special accounts to cover items such as worker's compensation claims, rain and storm damage, and machinery replacement. A portion of the moneys in those accounts is invested in interest-bearing bonds. The remainder is invested in various common stocks listed on national stock exchanges. Both the interest income and any dividends are business income.

Example 3: The taxpayer and several unrelated corporations own all of the stock of a corporation whose business operations consist solely of acquiring and processing materials for delivery to the corporate owners. The taxpayer acquired the stock to obtain a source of supply of materials used in its manufacturing business. The dividends are business income.

Example 4: The taxpayer is engaged in a multistate heavy construction business. Much of its construction work is performed for agencies of the federal government and various state governments. Under state and federal laws applicable to contracts for these agencies, a contractor must have adequate bonding capacity, as measured by the ratio of its current assets (cash and marketable securities) to current liabilities. To maintain an adequate bonding capacity, the taxpayer holds various stocks and interest-bearing securities. Both the interest income and any dividends received are business income.

Example 5: The taxpayer receives dividends from the stock of its subsidiary or affiliate, which acts as the marketing agency for products manufactured by the taxpayer. The dividends are business income.

Example 6: The taxpayer is engaged in a multistate glass manufacturing business. It also holds a portfolio of stock and interest-bearing securities, the acquisition and holding of which are unrelated to the manufacturing business. The dividends and interest income received are nonbusiness income.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-506. Royalties

Patent and copyright royalties are business income if the patent or copyright with respect to which the taxpayer receives royalties arises out of or is created in the regular course of the taxpayer's trade or business operations or if the purpose for acquiring and holding the patent or copyright is related to the trade or business operations. Other royalties and licensing fees are business income if the property or licensing agreement that generates the income arises out of or is created in the regular course of the taxpayer's trade or business operations or if the purpose for acquiring and holding the property or license agreement is related to or incidental to the trade or business operations.

Example 1: The taxpayer is engaged in the multistate business of manufacturing and selling industrial chemicals. In connection with that business the taxpayer obtained patents on certain of its products. The taxpayer licensed the production of the chemicals in foreign countries, in return for which the taxpayer receives royalties. The royalties received by the taxpayer are business income.

Example 2: The taxpayer is engaged in the music publishing business and holds copyrights on numerous songs. The taxpayer acquires the assets of a smaller publishing company, including music copyrights. The taxpayer later uses these acquired copyrights in its business. Any royalties received on these copyrights are business income.

Example 3: The same as example two, except that the acquired company also held the patent on a type of phonograph needle. The taxpayer does not manufacture or sell phonographs or phonograph equipment. Any royalties received on the patent are nonbusiness income.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-507. Proration of Deductions

In most cases an allowable deduction of a taxpayer will be applicable only to the business income arising from a particular trade or business or to a particular item of nonbusiness income. In some cases an allowable deduction may apply to the business incomes of more than one trade or business or to several items of nonbusiness income. In these cases the deduction shall be prorated among the trades or businesses and the items of nonbusiness income in a manner that fairly distributes the deduction among the classes of income to which it applies.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-508. Consistency and Uniformity in Reporting

A. If a taxpayer departs from or modifies the manner in which income has been classified as business income or nonbusiness income, or the manner of prorating any related deduction, in Arizona returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

B. If the returns or reports filed by a taxpayer for all states to which the taxpayer reports under the Uniform Division of Income for Tax Purposes Act are not uniform in the classification of income as business or nonbusiness income, or the application or proration of any related deduction, the taxpayer shall disclose the nature and extent of the variance upon request by the Department.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

ARTICLE 6. PROPERTY FACTOR

R15-2D-601. General

A. The property factor, as defined in A.R.S. § 43-1140, for each trade or business of a taxpayer includes all real and tangible personal property owned or rented by the taxpayer and used during the tax period in the regular course of the trade or business. The term "real and tangible personal property" includes land, buildings, machinery, stocks of goods, equipment, but does not include coin or currency.

B. A taxpayer shall exclude from the property factor property used in connection with the production of nonbusiness income.

C. Property used both in the regular course of a taxpayer's trade or business and in the production of nonbusiness income is included in the property factor only to the extent the property is used in the regular course of the taxpayer's trade or business. The method of determining that portion of the value to be included in the property factor will depend upon the facts of each case.

D. The property factor includes the average value of property includable in the factor.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-602. Property Used for the Production of Business Income

A. A taxpayer shall include in the property factor property that is used, available for use, or capable of being used during the tax period in the regular course of the taxpayer's trade or business.

B. A taxpayer shall include in the property factor property held as reserves or standby facilities or property held as a reserve source of materials. For example, a plant temporarily idle or raw material reserves not currently being processed are includable in the factor.

C. A taxpayer shall exclude from the property factor property or equipment under construction during the tax period, except inventoriable goods in process, until the property or equipment is used in the regular course of the taxpayer's trade or business. If the property or equipment is partially used in the regular course of the taxpayer's trade or business while under construction, the value of the property to the extent used shall be included in the property factor.

D. Property used in the regular course of the trade or business of the taxpayer remains in the property factor until its permanent withdrawal is established by an identifiable event such as its conversion to the production of nonbusiness income, its sale, or the lapse of an extended period of time (normally, five years) during which the property is held for sale.

Example 1: The taxpayer closes its manufacturing plant in State X and holds the property for sale. The property remains vacant until its sale one year later. The value of the manufacturing plant is included in the property factor until the plant is sold.

Example 2: Same as example one except that the property is rented until the plant is sold. The plant is included in the property factor until the plant is sold.

Example 3: The taxpayer closes its manufacturing plant and leases the building under a five-year lease. The plant is included in the property factor until the lease begins.

Example 4: The taxpayer operates a chain of retail grocery stores. Taxpayer closes Store A, which is then remodeled into three small retail stores such as a dress shop, dry cleaning, and barber shop, which are leased to unrelated parties. The property is removed from the property factor on the date the remodeling of Store A begins.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-603. Property Factor Numerator

The numerator of the property factor is the average value of the real and tangible personal property owned or rented by a taxpayer and used in this state during the tax period in the regular course of the taxpayer's trade or business.

1. Property in transit between locations of the taxpayer to which it belongs is considered to be at its destination for purposes of the property factor.
2. Property in transit between a buyer and seller that is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices is included in the numerator according to the state of destination.
3. The value of mobile or movable property such as construction equipment, trucks, or leased electronic equipment that is located within and without this state during the tax period is determined for purposes of the numerator of the property factor on the basis of total time within the state during the tax period.
4. An automobile assigned to a traveling employee is included in the numerator of the property factor of the state to which the employee's compensation is assigned under the payroll factor or in the numerator of the property factor of the state in which the automobile is licensed.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-604. Valuation of Owned Property

A. Property owned by a taxpayer is valued at its original cost. Generally, "original cost" means the basis of the property for federal income tax purposes (before any federal adjustments) at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements to the property and partial disposition of the property, by reason of sale, exchange, abandonment, or other similar event. However, capitalized intangible drilling and development costs are included in the property factor whether or not they have been expensed for either federal or state tax purposes.

Example 1: The taxpayer acquires a factory building in this state at a cost of $500,000 and, 18 months later, expends $100,000 for major remodeling of the building. The taxpayer files its return for the current taxable year on the calendar-year basis. The taxpayer claims a depreciation deduction in the amount of $22,000 with respect to the building on the return for the current taxable year. The value of the building includable in the numerator and the denominator of the property factor is $600,000; the depreciation deduction is not taken into account in determining the value of the building for purposes of the property factor.

Example 2: During the current taxable year, Corporation X merges into Corporation Y in a tax-free reorganization under the Internal Revenue Code. At the time of the merger, Corporation X owns a factory that it built five years earlier at a cost of $1,000,000. Corporation X has been depreciating the factory at the rate of two percent per year, and its basis to Corporation X, at the time of the merger is $900,000. Because the property is acquired by Corporation Y in a transaction in which, under the Internal Revenue Code, its basis to Corporation Y is the same as its basis to Corporation X, Corporation Y includes the property in its property factor at Corporation X's original cost, without adjustment for depreciation, $1,000,000.

Example 3: Corporation Y acquires the assets of Corporation X in a liquidation by which Corporation Y is entitled to use its stock cost as the basis of the Corporation X assets under Internal Revenue Code § 334(b)(2). Under these circumstances, Corporation Y's cost of the assets is the purchased price of the Corporation X stock, prorated over the Corporation X assets.

B. If the original cost of property is unascertainable, the property is included in the property factor at its fair market value as of the date of acquisition by the taxpayer.

C. Inventory of stock of goods is included in the property factor in accordance with the valuation method used for federal income tax purposes.

D. Property acquired by gift or inheritance is included in the property factor at its basis for determining depreciation for federal income tax purposes.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-605. Valuation of Rented Property

A. Property rented by a taxpayer is valued at eight times its net annual rental rate. The net annual rental rate for any item of rented property is the annual rental rate paid by the taxpayer for the property, less the aggregate annual subrental rates paid by subtenants of the taxpayer. Subrents are not deducted when the subrents constitute business income because the taxpayer uses the property that produces the subrents in the regular course of a trade or business of the taxpayer when it is producing the subrent income; accordingly, there is no reduction in its value. If the adjustment for subrents produces a negative or inaccurate value of rented property, the special provisions in R15-2D-902 apply.

Example 1: The taxpayer receives subrents from a bakery concession in a food market operated by the taxpayer. Because the subrents are business income they are not deducted from rent paid by the taxpayer for the food market.

Example 2: The taxpayer rents a five-story office building primarily for use in its multistate business, uses three floors for its offices and subleases two floors to various other businesses and persons such as professionals and shops. The rental of the two floors is incidental to the operation of the taxpayer's trade or business. Because the subrents are business income, they are not deducted from the rent paid by the taxpayer.

Example 3: The taxpayer rents a 20-story office building and uses the lower two stories for its general corporation headquarters. The remaining 18 floors are subleased to others. The rental of the 18 floors is not incidental to but rather is separate from the operation of the taxpayer's trade or business. Because the subrents are nonbusiness income they are deducted from the rent paid by the taxpayer.

B. "Annual rental rate" means the amount paid as rental for property for a 12-month period.

1. If property is rented for less than a 12-month period, the rent paid for the actual period of rental is the "annual rental rate" for the tax period.
2. If a taxpayer has rented property for a term of 12 or more months and the current tax period covers a period of less than 12 months (due, for example, to a reorganization or change of accounting period), the taxpayer shall annualize the rent paid for the short tax period. If the rental term is for less than 12 months, the rent is not annualized beyond its term.

   Example 1: Taxpayer A ordinarily files its returns based on a calendar year and merges into Taxpayer B on April 30. The net rent paid under a lease with five years remaining is $2,500 a month. The rent for the tax period January 1 to April 30 is $10,000. After the rent is annualized the net rent is $30,000 ($2,500 x 12).

   Example 2: Same facts as in example one except that the lease would have terminated on August 31. In this case, the annualized rent is $20,000 ($2,500 x 8).
3. A taxpayer shall not annualize rent when the rental term is on a month-to-month basis.

C. "Annual rent" means the actual sum of money or other consideration payable, directly or indirectly, by a taxpayer or for its benefit for the use of property and includes:

1. Any amount payable for the use of real or tangible personal property, or any part of the property, whether designated as a fixed sum of money or as a percentage of sales, profits, or otherwise.

   Example: A taxpayer, under the terms of a lease, pays a lessor $1,000 per month as a base rental and at the end of year pays the lessor one percent of its gross sales of $400,000. The annual rent is $16,000 ($12,000 plus one percent of $400,000 or $4,000).
2. Any amount payable as additional rent or instead of rents, such as interest, taxes, insurance, repairs, or any other items that are required to be paid by the terms of the lease or other arrangement, not including amounts paid as service charges, such as utilities or janitor services. If a payment includes rent and other charges unsegregated, the amount of rent is determined by consideration of the relative values of the rent and the other items.

   Example 1: A taxpayer, under to the terms of a lease, pays the lessor $12,000 a year rent plus taxes in the amount of $2,000 and interest on a mortgage in the amount of $1,000. The annual rent is $15,000.

   Example 2: A taxpayer stores part of its inventory in a public warehouse. The total charge for the year is $1,000 of which $700 is for the use of storage space and $300 for inventory insurance, handling and shipping charges, and C.O.D. collections. The annual rent is $700.

D. "Annual rent" does not include:

1. Incidental day-to-day expenses, such as hotel or motel accommodations and daily rental of automobiles; and
2. Royalties based on extraction of natural resources, whether represented by delivery or purchase. For purposes of this subsection, a royalty includes any consideration conveyed or credited to a holder of an interest in property that constitutes a sharing of current or future production of natural resources from the property, irrespective of the method of payment or how the

consideration may be characterized, whether as a royalty, advance royalty, rental, or otherwise.

E. For purposes of the property factor, leasehold improvements are treated as property owned by a taxpayer regardless of whether the taxpayer is entitled to remove the improvements or the improvements revert to the lessor upon expiration of the lease. The original cost of leasehold improvements are included in the property factor.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-606. Averaging of Monthly Property Values

The Department may require or allow averaging of monthly values if that method is required to properly reflect the average value of a taxpayer's property for the tax period. The Department shall not require the averaging of monthly values if that method has a de minimis effect on a taxpayer's Arizona tax liability for the tax period.

1. Averaging of monthly values will generally be required if substantial fluctuations in the values of the property exist during the tax period or if property is acquired after the beginning of the tax period or disposed of before the end of the tax period.

   Example: The monthly value of the taxpayer's property is as follows:

January	$2,000	July	$15,000
February	$2,000	August	$17,000
March	$3,000	September	$23,000
April	$3,500	October	$25,000
May	$4,500	November	$13,000
June	$10,000	December	$2,000
Subtotal	$25,000	Subtotal	$95,000
		Total	$120,000

   The average monthly value of the taxpayer's property includable in the property factor for the income year is $10,000 (120,000 divided by 12).

2. Rented property is averaged by determining the net annual rental rate of the property.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-607. Consistency and Uniformity in Reporting

A. If a taxpayer departs from or modifies the manner of valuing property, or of excluding or including property in the property factor, used in Arizona returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

B. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports under the Uniform Division of Income for Tax Purposes Act are not uniform in the valuation of property or in the exclusion or inclusion of property in the property factor, the taxpayer shall disclose the nature and extent of the variance upon request by the Department.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

ARTICLE 7. PAYROLL FACTOR

R15-2D-701. General

A. The payroll factor, as defined in A.R.S. § 43-1143, for each trade or business of a taxpayer includes the total amount paid by the taxpayer in the regular course of its trade or business for compensation during the tax period.

1. The total amount "paid" to employees is determined upon the basis of the taxpayer's accounting method.
   a. If the taxpayer has adopted the accrual method of accounting, all compensation properly accrued is deemed to have been paid.
   b. Notwithstanding the taxpayer's method of accounting, compensation paid to employees may, at the election of the taxpayer, be included in the payroll factor by use of the cash method if the taxpayer is required to report the compensation under that method for unemployment compensation purposes.
2. The compensation of any employee for activities that are connected with the production of nonbusiness income is excluded from the payroll factor.

   Example 1: The taxpayer uses some of its employees in the construction of a storage building which, upon completion, is used in the regular course of the taxpayer's trade or business. The wages paid to those employees are treated as a capital expenditure by the taxpayer. The amount of those wages is included in the payroll factor.

   Example 2: The taxpayer owns various securities that it holds as an investment separate and apart from its trade or business. The management of the taxpayer's investment portfolio is the only duty of Mr. X, an employee. The salary paid to Mr. X is excluded from the payroll factor.
3. Payments made to an independent contractor or any other person not properly classifiable as an employee are excluded from the payroll factor.
4. Only amounts paid directly to employees are included in the payroll factor. Amounts considered paid directly include the value of board, rent, housing, lodging, and other benefits or services furnished to employees by the taxpayer in return for personal services, provided that the amounts constitute income to the recipient under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, such as those employed in foreign countries, the determination of whether benefits or services would constitute income to the employees shall be made as though the employees were subject to the Internal Revenue Code.

B. Generally, a person is considered to be an employee if the person is treated by the taxpayer as an employee for purposes of the payroll taxes imposed by the Federal Insurance Contributions Act. However, because certain individuals are included within the term "employees" in the Federal Insurance Contributions Act who are not employees under the usual common-law rules, a taxpayer may establish that a person who is treated as an employee for purposes of the Federal Insurance Contributions Act is not an employee for purposes of this Section.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-702. Payroll Factor Denominator

The denominator of the payroll factor is the total compensation paid by the taxpayer everywhere during the tax period. Therefore, compensation paid to employees whose services are performed entirely in a state where the taxpayer is immune from taxation is included in the denominator of the payroll factor.

Example: A taxpayer has employees in its state of legal domicile (State A) and is taxable in State B. In addition, the taxpayer has other employees whose services are performed entirely in State C where the taxpayer is immune from taxation under the provisions of Public Law 86-272. The compensation paid to the employees in State C is assigned to State C where the services are performed (included in the denominator but not the numerator of the payroll factor) even though the taxpayer is not taxable in State C.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-703. Payroll Factor Numerator

The numerator of the payroll factor is the total compensation paid in this state during the tax period by the taxpayer for compensation. The tests in A.R.S. § 43-1144 for determining whether compensation is paid in this state are derived from the Model Unemployment Compensation Act. Accordingly, if the taxpayer includes compensation paid to employees in the payroll factor by use of the cash method of accounting or if the taxpayer is required to report the compensation under this method for unemployment compensation purposes, the Department shall presume that the total wages reported by the taxpayer to this state for unemployment compensation purposes constitute compensation paid in this state except for compensation excluded under this Article. The presumption may be overcome by evidence satisfactory to the Department that an employee's compensation is not properly reportable to this state for unemployment compensation purposes.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-704. Compensation Paid in this State: Definitions

For the purpose of determining whether compensation is paid in this state under this Article and A.R.S. § 43-1144, the following definitions apply:

1. "Incidental" means any service that is temporary or transitory in nature or rendered in connection with an isolated transaction.
2. "Place from which the service is directed or controlled" means the site from which the power to direct or control is exercised by the taxpayer.
3. "Base of operations" means the site of more or less permanent nature from which the employee starts work and to which the employee customarily returns in order to:
   a. Receive instructions from the taxpayer,
   b. Receive communications from the taxpayer's customers or other persons,
   c. Replenish stock or other materials,
   d. Repair equipment, or
   e. Perform any other functions necessary to the exercise of the trade or profession.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-705. Consistency and Uniformity in Reporting

A. If the taxpayer departs from or modifies the treatment of compensation paid used in Arizona returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

B. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports under the Uniform Division of Income for Tax Purposes Act are not uniform in the treatment of compensation paid, the taxpayer shall disclose the nature and extent of the variance upon request by the Department.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

ARTICLE 8. SALES FACTOR

R15-2D-801. General

A. The following are provisions for determining "sales" under A.R.S. § 43-1145:

1. In the case of a taxpayer engaged in manufacturing and selling or purchasing and reselling goods or products, "sales" includes all gross receipts from the sales of the goods or products (or other property of a kind that would properly be included in the inventory of the taxpayer if on hand at the close of the tax period) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. For purposes of this subsection, "gross receipts" means gross sales less returns and allowances and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to the sales. Federal and state excise taxes (including sales taxes) are included as part of the receipts if the taxes are passed on to the buyer or included as part of the selling price of the product.
2. In the case of cost-plus-fixed-fee contracts, such as the operation of a government-owned plant for a fee, "sales" includes the entire reimbursed cost plus the fee.
3. In the case of a taxpayer engaged in providing services, such as the operation of an advertising agency or the performance of equipment service contracts or research and development contracts, "sales" includes the gross receipts from the performance of the services including fees, commissions, and similar items.
4. In the case of a taxpayer engaged in renting or licensing the use of real or tangible property, "sales" includes the gross receipts from these activities.
5. In the case of a taxpayer engaged in the sale, assignment, or licensing the use of intangible personal property such as patents and copyrights, "sales" includes the gross receipts from these activities.
6. If a taxpayer derives receipts from the sale of equipment used in its business, those receipts constitute "sales." For example, a truck express company owns a fleet of trucks and sells its trucks under a regular replacement program. The gross receipts from the sales of the trucks are included in the sales factor.

B. In some cases certain gross receipts are disregarded in determining the sales factor so that the apportionment formula will operate fairly to apportion to this state the income of the taxpayer's trade or business. See R15-2D-903.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-802. Repealed

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 654, effective January 11, 2001 (Supp. 01-1).

R15-2D-803. Sales Factor Numerator

The numerator of the sales factor is the gross receipts attributable to this state and derived by the taxpayer from transactions and activity in the regular course of its trade or business. All interest income, service charges, carrying charges, or time-price differential charges incidental to the gross receipts are included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-804. Property Delivered or Shipped to a Purchaser within this State

A. Property is deemed to be delivered or shipped to a purchaser within this state if the recipient is located in this state, even though the property is ordered from outside this state.

Example: The taxpayer, with inventory in State A, sells $100,000 of its products to a purchaser with branch stores in several states, including this state. The order for the purchase is placed by the purchaser's central purchasing department, located in State B. The taxpayer ships $25,000 of the purchase order directly to purchaser's branch store in this state. The branch store in this state is the "purchaser within this state" with respect to $25,000 of the taxpayer's sales.

B. Property is delivered or shipped to a purchaser within this state if the shipment terminates in this state, even though the property is subsequently transferred by the purchaser to another state.

Example: The taxpayer makes a sale to a purchaser who maintains a central warehouse in this state at which all merchandise purchases are received. The purchaser reships the goods to its branch stores in other states for sale. All of the taxpayer's products shipped to the purchaser's warehouse in this state constitute property delivered or shipped to a purchaser within this state.

C. The term "purchaser within this state" includes the ultimate recipient of the property if the taxpayer in this state, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this state.

Example: A taxpayer in this state sells merchandise to a purchaser in State A. The taxpayer directs the manufacturer or supplier of the merchandise in State B to ship the merchandise to the purchaser's customer in this state according to purchaser's instructions. The sale by the taxpayer is "in this state."

D. If property being shipped by a seller from the state of origin to a consignee in another state is diverted while en route to a purchaser in this state, the sales are in this state.

Example: The taxpayer, a produce grower in State A, begins shipment of perishable produce to the purchaser's place of business in State B. While en route, the produce is diverted to the purchaser's place of business in this state in which the taxpayer is subject to tax. The sale by the taxpayer is in this state.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-805. Sales of Tangible Personal Property to the United States Government

Sales of tangible personal property to the United States Government are not included in the numerator of the sales factor. For the purposes of this Section, only sales for which the United States Government makes direct payment to the seller under the terms of a contract constitute sales to the United States Government. Thus, as a general rule, sales by a subcontractor to a prime contractor, who has the contract with the United States Government, do not constitute sales to the United States Government.

Example 1: A taxpayer contracts with General Services Administration to deliver X number of trucks that are paid for by the United States Government. The sale is a sale to the United States Government.

Example 2: The taxpayer, as a subcontractor to a prime contractor with the National Aeronautics and Space Administration, contracts to build a component of a rocket for $1,000,000. The sale by the subcontractor to the prime contractor is not a sale to the United States Government.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-806. Sales other than Sales of Tangible Personal Property in this State

This Section provides for the inclusion in the numerator of the sales factor of gross receipts from transactions other than sales of tangible personal property (including transactions with the United States Government). Under this Section, gross receipts are attributed to this state if the income-producing activity that gives rise to the receipts is performed wholly within this state. Also, gross receipts are attributed to this state if, with respect to a particular item of income, the income-producing activity is performed within and without this state but the greater proportion of the income-producing activity is performed in this state rather than in any other state, based on costs of performance.

1. The term "income-producing activity" applies to each separate item of income and means the transactions and activities directly engaged in by a taxpayer in the regular course of its trade or business for the ultimate purpose of obtaining gains or profit. Income-producing activity does not include transactions and activities performed on behalf of a taxpayer, such as those conducted on its behalf by an independent contractor. Accordingly, "income-producing activity" includes but is not limited to the following:

a. The rendering of personal services by employees or the use of tangible and intangible property by the taxpayer in performing a service;
b. The sale, rental, leasing, licensing, or other use of real property;
c. The rental, leasing, licensing, or other use of tangible personal property; and
d. The sale, licensing, or other use of intangible personal property. The mere holding of intangible personal property is not, of itself, an income-producing activity.

2. The term "costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the trade or business of the taxpayer.
3. The following are special provisions for determining when receipts from the income-producing activities described are in this state:
   a. Gross receipts from the sale, lease, rental, or licensing of real property are in this state if the real property is located in this state.
   b. Gross receipts from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state. The rental, lease, licensing, or other use of tangible personal property in this state is an income-producing activity separate from the rental, lease, licensing, or other use of the same property while located in another state; consequently, if property is within and without this state during the rental, lease, or licensing period, gross receipts attributable to this state are measured by the ratio of the time the property is physically present or is used in this state to the total time the property is present or used anywhere during that period.
   Example: The taxpayer is the owner of 10 railroad cars. During the year, the total of the days during which each railroad car is present in this state is 50 days. The receipts attributable to the use of each of the railroad cars in this state are a separate item of income and shall be determined as follows:
   [(10 x 50)] ÷ (10 x 365)] x Total Receipts = Receipts Attributable to this State
   c. Gross receipts for the performance of personal services are attributable to this state to the extent the services are performed in this state. If services relating to a single item of income are performed partly within and partly without this state, the gross receipts from the performance of the services are attributable to this state only if the greater proportion of the services is performed in this state, based on costs of performance. Usually, if services are performed partly within and partly without this state, the services performed in each state constitute a separate income-producing activity; in such a case the gross receipts from the performance of services attributable to this state are measured by the ratio of the time spent performing the services in this state to the total time spent performing the services everywhere. Time spent performing services includes the amount of time expended in the performance of a contract or other obligation that gives rise to the gross receipts. Personal service not directly connected with the performance of the contract or other obligation, such as time expended in negotiating the contract, is excluded from the computations.
   Example 1: The taxpayer, a road show, gives theatrical performances at various locations in State X and in this state during the tax period. All gross receipts from performances given in this state are attributed to this state.
   Example 2: The taxpayer, a public opinion survey corporation, conducts a poll by means of its employees in State X and in this state for the sum of $9,000. The project required 600 hours to obtain the basic data and prepare the survey report. The taxpayer expended 200 of the 600 hours in this state. The receipts attributable to this state are $3,000 [(200 ÷ 600) x $9,000].

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-807. Consistency and Uniformity in Reporting

A. If the taxpayer departs from or modifies the basis for excluding or including gross receipts in the sales factor used in Arizona returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.
B. If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under the Uniform Division of Income for Tax Purposes Act are not uniform in the inclusion or exclusion of gross receipts, the taxpayer shall disclose the nature and extent of the variance upon request by the Department.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

ARTICLE 9. DEPARTURE FROM STANDARD APPORTIONMENT AND ALLOCATION PROVISIONS

R15-2D-901. General

A. A.R.S. § 43-1148 permits a departure from the allocation and apportionment provisions only in limited cases. A.R.S. § 43-1148 may be invoked only if unusual fact situations produce incongruous results under the apportionment and allocation provisions contained in A.R.S. Title 43, Chapter 11, Article 4.
B. If a departure from the allocation and apportionment provisions referred to in subsection (A) includes a change in the number of factors, the denominator of the apportionment ratio shall be adjusted to reflect the change.
Example 1: If two equally weighted factors are used, the denominator is two.
Example 2: If two factors are used and one of the factors is double weighted, the denominator is three.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-902. Special Provisions for the Property Factor

The following special provisions apply to the property factor of the apportionment formula:

1. If the subrents taken into account in determining the net annual rental rate under R15-2D-605 produce a negative or inaccurate value for any item of property, the Department shall require and the taxpayer shall use another method that will properly reflect the value of the rented property. In no case, however, shall the value be less than an amount that bears the same ratio to the annual rental rate paid by the taxpayer for the property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property.
   Example: The taxpayer rents a 10-story building at an annual rental rate of $1,000,000. Taxpayer occupies two stories and sublets eight stories for $1,000,000 a year. The net annual rental rate of the taxpayer shall not be less than 2/10ths of the taxpayer's annual rental rate for the entire year, or $200,000.
2. If property owned by others is used by the taxpayer at no charge or rented by the taxpayer for a nominal rate, the net annual rental rate for the property shall be determined on the basis of a reasonable market rental rate for the property.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

R15-2D-903. Special Provisions for the Sales Factor

The following special provisions apply to the sales factor of the apportionment formula:

1. If substantial amounts of gross receipts arise from an incidental or occasional sale of a fixed asset used in the regular course of the taxpayer's trade or business, those gross receipts are excluded from the sales factor. For example, gross receipts from the sale of a factory or plant are excluded.
2. Insubstantial amounts of gross receipts, arising from incidental or occasional transactions or activities, may be excluded from the sales factor, unless their exclusion would materially affect the amount of income apportioned to this state. For example, the taxpayer ordinarily may include or exclude from the sales factor gross receipts from transactions such as the sale of office furniture, business automobiles, or other similar items.
3. If the income-producing activity with respect to business income from intangible personal property can be readily identified, the income is included in the denominator of the sales factor and, if the income-producing activity occurs in this state, in the numerator of the sales factor as well. For example, usually the income-producing activity can be readily identified with respect to interest income received on deferred payments on sales of tangible property and income from the sale, licensing, or other use of intangible personal property. If business income from intangible property cannot readily be attributed to any particular income-producing activity of the taxpayer, the income is not assigned to the numerator of the sales factor for any state and is excluded from the denominator of the sales factor. For example, if business income in the form of dividends received on stock, royalties received on patents or copyrights, or interest received on bonds, debentures, or government securities results from the mere holding of the intangible personal property by the taxpayer, the dividends and interest shall be excluded from the denominator of the sales factor.
4. Items of income that are not subject to taxation under A.R.S. Title 43 or judicial decision is excluded from the sales factor. Examples of these items include controlled corporation dividends, gross-up dividends, Subpart F dividends, and interest from federal obligations.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 4973, effective October 5, 2001 (Supp. 01-4).

ARTICLE 10. CREDITS

R15-2D-1001. Environmental Technology Facility Tax Credit

A. A taxpayer claiming a tax credit for a qualified environmental technology facility under A.R.S. § 43-1169 shall retain records as required by A.R.S. § 42-1105. In addition, a taxpayer shall retain the following records to substantiate the tax credit:
   1. A copy of the completed application packet submitted to the Arizona Department of Commerce.
   2. The certificate of qualification issued by the Arizona Department of Commerce.
   3. A copy of the memorandum of understanding entered into with the Arizona Department of Commerce.
   4. A copy of each of the environmental technology annual qualification reports filed with the Arizona Department of Commerce.
   5. A schedule showing the amount of credit claimed for each taxable year and the amount used for each taxable year.
   6. The source documents that support the amount and date of capital expenditures made in constructing a qualified environmental technology facility.

B. A taxpayer shall retain the records specified in subsection (A) for the period in which the Department may issue a deficiency assessment for any taxable year that the taxpayer claims a credit or a carryover credit. A taxpayer may retain source documents in a machine-sensible format or through microfilm or microfiche, if the information is retrievable on request by Department personnel.

C. In addition to the recapture of previously used credits required by subsections (G) and (H) of A.R.S. § 43-1169, a taxpayer shall reduce the amount of any unused carryover credit related to amounts spent to construct a qualified environmental technology facility as follows:
   1. If, before the facility is placed in service, the taxpayer abandons construction or changes plans in a manner that no longer qualifies as an environmental technology manufacturing, producing, or processing facility under A.R.S. § 41-1514.02, the total unused carryover credit is reduced to zero.
   2. If, within five years after being placed in service, the facility ceases for any reason to operate as an environmental technology manufacturing, producing, or processing facility as described in A.R.S. § 41-1514.02, the total unused carryover credit is reduced by the applicable percentage in A.R.S. § 43-1169(H).

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 4105, effective October 4, 2000 (Supp. 00-4).

R15-2D-1002. Renewable Energy Production Tax Credit

A. For each year for which an owner of a qualified energy generator plans to claim a renewable energy production tax credit, the owner shall file one of the following applications:

1. An initial application in accordance with subsection (B) for:
   a. Energy produced in 2011 for which an owner of a qualified energy generator plans to claim a credit on the 2011 tax return filed in 2012, and
   b. Energy produced after 2011 for which an owner of a qualified energy generator did not have a place on the prior year's Credit Authorization List for the renewable energy production tax credit under A.R.S. § 43-1164.03(G).
2. A renewal application in accordance with subsection (C) for an owner of a qualified energy generator that did have a place on the prior year's Credit Authorization List for the renewable energy production tax credit under A.R.S. § 43-1164.03(G).

B. An initial application shall include the following information:
1. The information required by A.R.S. § 43-1164.03(F).
2. The business structure of the applicant.
3. If the credit will be passed through to shareholders or partners, a list including the name, taxpayer identification number, and ownership percentage of each shareholder or partner. If the tax year end is other than December 31, and the shareholders or partners, or ownership percentages change, the applicant shall update the list for the tax year end by the due date of the applicant's Arizona return, including extensions.
4. The applicant's tax year end.
5. The name of the contact person, his or her title, telephone number and fax number.
6. If the applicant has any affiliates or subsidiaries, a list of the affiliates and subsidiaries, including the name, address, taxpayer identification number, and percentage of ownership. The applicant may substitute a federal Form 851, or other federal form with the required information, for this list.
7. Self-assigned name or identification number of the qualified energy generator.
8. Assessor's parcel number or numbers of the land on which the qualified energy generator is located or, if not available, the legal description.
9. The centrally valued property tax identification number for the personal property on the land.
10. The type of qualified energy resource used to generate electricity. If the qualified energy resource is biomass, the type of biomass.
11. The generating capacity of the qualified energy generator.
12. The number of kilowatt-hours of electricity produced for the calendar year.
13. Printouts for the calendar year from the production meter located at the qualified energy generator that:
    a. Measures the output from the qualified energy generator, and
    b. Provides the output information to a grid-tied energy management system.
14. A signed affidavit in which the applicant states that the information contained in the application is true and correct under penalty of perjury and that the qualified energy generator for which the applicant is claiming the credit did not produce electricity prior to 2011.

C. A renewal application shall include the information required by subsections (B)(1) through (6) and (B)(12) through (14). In addition, where the information required by subsections (B)(7) through (11) has changed since the prior year's application, the applicant shall provide the new information on the renewal application.

D. Copies of invoices or receipts from the electricity purchaser, verifying kilowatt-hours sold, shall be made available to the Department upon request.

E. If an owner owns more than one qualified energy generator, the owner shall submit a separate application for each qualified energy generator.

F. Each application shall be mailed separately in its own envelope by United States Postal Service Express Mail to: Arizona Department of Revenue, Renewable Energy Production Tax Credit Program, P.O. Box 25248, Phoenix, AZ 85002. Notwithstanding A.R.S. § 1-218(E)(1), the Department shall not accept applications through any other delivery method for purposes of this Section and A.R.S. § 43-1164.03.

G. For each initial application received in accordance with subsections (B) and (F), the Department shall assign a priority placement number that reflects the date and time on the Express Mail label, without regard to which time zone mailing took place.

H. If the Department receives more than one initial application in accordance with subsection (G) that it would assign the same priority placement number based on date and time on the Express Mail label, then the order received shall be determined by a random drawing of affected applications.

I. If the Department denies an application or approves a smaller amount of credit than the amount requested on the application, the Department's decision is an appealable agency action as defined in A.R.S. § 41-1092(3) and the applicant may appeal the decision under subsection (J) and A.R.S. Title 41, Chapter 6, Article 10.

J. To appeal a decision made under subsection (I), the applicant shall file a petition, in accordance with A.A.C. R15-10-105(B) and A.R.S. § 41-1092.03(B), within 30 days of receipt of the Department's decision.

K. For each decision made under subsection (I), the Department shall reserve the portion of the cap that the applicant would have been entitled to if the Department had approved the application in full, up to the generator cap limit, until the applicant waives or exhausts the appeal rights in subsection (J).

L. For the cap reserved under subsection (K), once the applicant waives or exhausts the appeal rights in subsection (J), the Department shall certify the cap to the next eligible applicant on the Credit Authorization List, until the full cap is certified.

M. In addition to the definitions provided in A.R.S. § 43-1164.03, unless the context provides otherwise, the following definitions apply to this Section and to implementation of A.R.S. § 43-1164.03:
1. "Cap" means the annual tax credit limit of $20 million in A.R.S. §§ 43-1164.03(G) and 43-1083.02(G).
2. "Generator cap" means the annual tax credit limit of $2 million per qualified energy generator in A.R.S. §§ 43-1164.03(G) and 43-1083.02(G).

Historical Note

New Section made by final rulemaking at 18 A.A.R. 603, effective April 8, 2012 (Supp. 12-1).

ARTICLE 11. REPEALED

R15-2D-1101. Repealed

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 5720, effective November 29, 2001 (Supp. 01-4). Repealed by exempt rulemaking at 14 A.A.R. 4253, effective October 24, 2008 (Supp. 08-4).

R15-2D-1102. Repealed

Historical Note
New Section made by exempt rulemaking at 7 A.A.R. 5720, effective November 29, 2001 (Supp. 01-4). Repealed by exempt rulemaking at 14 A.A.R. 4253, effective October 24, 2008 (Supp. 08-4).

R15-2D-1103. Repealed

Historical Note
New Section made by exempt rulemaking at 7 A.A.R. 5720, effective November 29, 2001 (Supp. 01-4). Repealed by exempt rulemaking at 14 A.A.R. 4253, effective October 24, 2008 (Supp. 08-4).

R15-2D-1104. Repealed

Historical Note
New Section made by exempt rulemaking at 7 A.A.R. 5720, effective November 29, 2001 (Supp. 01-4). Repealed by exempt rulemaking at 14 A.A.R. 4253, effective October 24, 2008 (Supp. 08-4).

R15-2D-1105. Repealed

Historical Note
New Section made by exempt rulemaking at 7 A.A.R. 5720, effective November 29, 2001 (Supp. 01-4). Repealed by exempt rulemaking at 14 A.A.R. 4253, effective October 24, 2008 (Supp. 08-4).

SUBCHAPTER E. TAX-EXEMPT ORGANIZATIONS

ARTICLE 1. ORGANIZATIONS EXEMPT FROM TAX

R15-2E-101. Feeder Organization Not Exempt from Tax

A. In determining the primary purpose of an organization for purposes of A.R.S. § 43-1202, all circumstances must be considered, including the size and extent of the trade or business and the size and extent of those activities of the organization that are specified in the applicable paragraph of A.R.S. § 43-1201.
1. If a subsidiary organization of a tax-exempt parent organization is an integral part of the exempt activities of the parent organization, the exemption will remain valid even if the subsidiary derives a profit from the dealings with the parent organization.
   Example: A subsidiary organization that is operated for the sole purpose of furnishing electric power used by the tax-exempt parent organization is exempt from tax.
2. If a subsidiary organization of a tax-exempt parent organization is operated for the primary purpose of carrying on a trade or business that is unrelated to the parent' exempt activities, then the subsidiary organization is not exempt from tax.
   Example: If a subsidiary organization is operated primarily for the purpose of furnishing electric power to consumers other than the tax-exempt parent organization, then the subsidiary organization is not exempt because the business would be an unrelated trade or business if regularly carried on by the parent organization. Similarly, if the subsidiary is owned by several unrelated exempt organizations and is operated for the purpose of furnishing electric power to each of them, it is not exempt because the business would be an unrelated trade or business if regularly carried on by any one of the tax-exempt organizations.

B. In certain cases, an organization that carries on a trade or business for profit but is not operated for the primary purpose of carrying on the trade or business is subject to tax under A.R.S. § 43-1231.

Historical Note
Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2326, effective May 14, 2001 (Supp. 01-2).

ARTICLE 2. DENIAL OF EXEMPT STATUS

R15-2E-201. Denial of Exemption

A. The Department shall deny exempt status to an organization described in A.R.S. § 43-1201(4), if the organization:
1. Violates the restrictions in A.R.S. § 43-1201(4), or
2. Engages in any of the prohibited transactions listed in A.R.S. § 43-1213, or
3. Has unreasonable accumulations of income as defined in A.R.S. § 43-1214 at the end of the taxable year.

B. Subsections (A)(2) and (A)(3) do not apply to organizations listed in A.R.S. § 43-1215.

C. The Department shall send written notification to an organization that is denied exemption under subsection (A). The Department shall send the notification by registered mail to the last known address of the organization.

Historical Note
Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2326, effective May 14, 2001 (Supp. 01-2).

R15-2E-202. Determination of Reasonable Accumulation of Income

A. For the purpose of A.R.S. § 43-1214, "income" is determined under the same principles used to determine the earnings or profits of a corporation. The following are not included in determining the reasonableness of an accumulation of income:
1. The accumulation of gain on the sale or exchange of a donated asset to the extent that the gain represents the excess of the fair market value of the assets when acquired by the organization over the substituted basis in the hands of the organization, and
2. The accumulation of gain on the sale or exchange of property held for the production of investment income such as dividends, interest, and rents where the proceeds of that sale or exchange are within a reasonable time reinvested in property acquired and held in good faith for the production of investment income.

B. Whether the conditions specified in A.R.S. § 43-1214 are present in any case shall be determined from all the facts. The conditions specified in A.R.S. § 43-1214 may result from the use of only one organization or of a chain of two or more organizations.

Historical Note
Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2326, effective May 14, 2001 (Supp. 01-2).

R15-2E-203. Procedure to Recover Exempt Status

A. Any organization denied exemption under A.R.S. § 43-1201(4), due to the provisions of A.R.S. §§ 43-1211 or 43-1212 may file a new claim for exemption with the Department. The claim shall contain the information generally required of an organization claiming exemption under A.R.S. § 43-1201 and an affidavit that the organization has ceased engaging in any transactions prohibited by A.R.S. § 43-1213 and will not knowingly engage in a prohibited transaction. An authorized principal officer of the organization shall sign the affidavit.

B. The Department shall notify the organization in writing if it has satisfied all exemption requirements.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2326, effective May 14, 2001 (Supp. 01-2).

ARTICLE 3. RETURNS OF EXEMPT ORGANIZATIONS

R15-2E-301. Returns of Tax-exempt Organizations

A. Every organization required to file a return under A.R.S. § 43-1242 shall file the return on the basis of the established annual accounting period of the organization. If the organization does not have an established accounting period, then the return is due on the basis of the calendar year.

B. Tax-exempt organizations shall file the Arizona exempt organization annual information return or a copy of its equivalent federal information return to the Department on or before the 15th day of the 5th month after the close of the taxable year.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2326, effective May 14, 2001 (Supp. 01-2).

SUBCHAPTER F. ESTATES AND TRUSTS

ARTICLE 1. RETURNS

R15-2F-101. Fiduciary Returns

A. In cases in which the gross income of the estate or trust is $5,000 or more, a copy of the will or trust instrument sworn to by the fiduciary as a true and complete copy must be filed with the fiduciary return of the estate or trust together with a statement by the fiduciary indicating the provisions of the will or trust instrument which in his opinion determine the extent to which the income of the estate or trust is taxable to the estate or trust, the beneficiaries, or the grantor respectively. However, if a copy of the will or trust instrument and statement relating to the provisions of the will or trust instrument have once been filed, they need not be filed again if the fiduciary return contains a statement showing when they were filed. If the trust instrument is amended in any way after such copies have been filed, a copy of the amendment must be filed with the return for the taxable year in which the amendment was made. In addition, the fiduciary must attach a statement to the copy of the amendment indicating the effect, if any, in his opinion of such amendment on the extent to which the income of the estate or trust is taxable to the estate or trust, the beneficiaries, or the grantor, respectively.

B. A certificate that all taxes due or to become due from the decedent or estate for whom a fiduciary acts have been paid or secured will not be issued unless all the following requirements are complied with:

1. A return must be filed by or on behalf of the decedent and for the estate for each taxable year in which the respective incomes of the decedent or estate exceeded the requirements for filing returns.
2. Although it is possible that no tax will become due from an estate for the year in which it is distributed, since all the income of the estate may be either properly paid or credited to the beneficiaries and hence deductible, a return for each year must be filed at the time the certificate is requested, regardless of the amount of gross or net income for such year. Such return must disclose all income to be distributed to beneficiaries upon the final distribution of the estate as well as income property paid or credited to beneficiaries during the year covered by the return and prior to final distribution.
3. A statement under declaration of perjury must be made by the fiduciary on the request for certificate, regarding the status of returns filed by or on behalf of the decedent or for the estate for the 4 taxable years immediately preceding the date a certificate is requested. The statement required should indicate the years for which returns were filed or indicate the years for which the gross and net incomes were less than the amount necessary to require the filing of returns. If additional information is required, a supplemental statement will be requested.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2).

R15-2F-102. Expired

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 11 A.A.R. 618, effective October 31, 2004 (Supp. 05-1).

R15-2F-103. Expired

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 11 A.A.R. 618, effective October 31, 2004 (Supp. 05-1).

ARTICLE 2. IMPOSITION OF TAX ON ESTATES AND TRUSTS

R15-2F-201. Expired

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 5220, effective October 31, 2004 (Supp. 04-4).

SUBCHAPTER G. PARTNERSHIPS

ARTICLE 1. TAXATION OF PARTNERSHIPS

R15-2G-101. Partnerships

A. For purposes of this Section:

1. “Distributive share of the partnership” means a partner’s share, as determined under the partnership agreement, of the items enumerated in A.R.S. § 43-1412.
2. “Arizona distributive share of the partnership” means the amount computed in subsection (A)(1), subject to the allocation and apportionment provisions of A.R.S. §§ 43-1131 through 43-1148.

B. A partnership is not subject to income tax but shall file a return of income for information purposes.

C. In computing taxable income:

1. A resident partner shall include the resident partner’s distributive share of the partnership.
2. A nonresident partner shall include the nonresident partner’s Arizona distributive share of the partnership.

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 2898, effective June 13, 2001 (Supp. 01-2).

R15-2G-102. Repealed

Historical Note

Recodified at 6 A.A.R. 2308, filed in the Office of the Secretary of State June 2, 2000 (Supp. 00-2). Section repealed by final rulemaking at 7 A.A.R. 2898, effective June 13, 2001 (Supp. 01-2).