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Governor

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Director

ARIZONA WITHHOLDING TAX RULING

WTR 16-4

(This ruling supersedes Arizona Withholding Tax Ruling WTR 93-3)

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

ISSUE:

For withholding tax purposes, does the Arizona Department of Revenue accept an Internal Revenue Service determination regarding whether a worker is an employee or an independent contractor?

RULING:

For withholding tax purposes, the Department of Revenue will follow the determination of the Internal Revenue Service with respect to a worker's status as employee or independent contractor.

DISCUSSION:

Every employer is required to withhold Arizona income tax from compensation paid to any employee for services performed in Arizona. The Arizona income tax which is required to be withheld is a percentage of wages as defined in Internal Revenue Code (IRC) § 3401(a). If the Internal Revenue Service determines that a worker is an independent contractor there are no "wages" upon which to impose withholding. Therefore, the federal determination of employment status applies for purposes of Arizona withholding.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-401(A) provides that the amount an employer is to deduct and retain from wages is an amount prescribed by tables adopted by the department. The Arizona withholding is based on a percentage of gross taxable wages.

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Page 2

"Gross taxable wages" is the amount that meets the federal definition of "wages" contained in IRC § 3401 and that will generally be included in box 1 of the employee's federal Form W-2 at the end of the calendar year (i.e. gross wages net of pretax deductions, such as the employee's portion of health insurance premiums).

IRC § 3401(a) defines the term "wages" for federal withholding purposes.

Grant Nülle, Deputy Director

Signed: July 25, 2016

Explanatory Notice

The purpose of a tax ruling is to provide interpretive guidance to the general public and to department personnel. A tax ruling is intended to encompass issues of law which are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement which provides interpretation, details or supplementary information concerning the application of the law. Relevant statute, case law, or administrative rules, as well as a subsequent ruling, may modify or negate any or all of the provisions of any tax ruling. See GTP 96-1 for more detailed information regarding documents issued by the Department of Revenue.