

2007 Nonresident Credit for Taxes Paid to Another State or Country

Arizona Form 309-NR

Phone Numbers

If you have questions, please call one of the following numbers:

Phoenix	(602) 255-3381
From area codes 520 & 928 toll-free	(800) 352-4090
Form orders	(602) 542-4260
Recorded Tax Information	
Phoenix	(602) 542-1991
From area codes 520 & 928 toll-free	(800) 845-8192
Hearing impaired TDD user	
Phoenix	(602) 542-4021
From area codes 520 & 928 toll-free	(800) 397-0256

You may also visit our web site at: www.azdor.gov

Why Has Arizona Form 309 Changed?

In *Stearns v. Arizona Department of Revenue*, 212 Ariz. 333, 131 P.3d 1063 (App. 2006), the Arizona Court of Appeals overruled the department's interpretation of the formula for calculating the credit for taxes paid to another state. The department's former method of calculating the credit was based on adjusted gross income. Under the court's decision, "a resident taxpayer's 'taxable income' forms the denominator of the tax credit" and "the numerator of the fraction, which consists of 'income subject to tax' in both the other state and Arizona, is equivalent to that portion of the out-of-state income that is taxable in both states." *Stearns* at 335-36, 131 P.3d at 1065-66. To reflect the new formula that the *Stearns* decision requires, the department has developed new forms.

Which Form Should I Use?

Form 309-NR

Use Form 309-NR to figure your credit if you are a nonresident of Arizona filing Form 140NR and you qualify to claim the credit. See the following instructions for more information.

Form 309-PY

Use Form 309-PY to figure your credit if you are a part-year Arizona resident filing Form 140PY and you qualify to claim the credit. See Form 309-PY for more information.

Form 309-R

Use Form 309-R to figure your credit if you are a full-year Arizona resident filing Form 140, you have source income from another state, and you qualify to claim the credit. See Form 309-R for more information.

Form 309-D

Use Form 309-D to figure your credit if you are a full-year Arizona resident filing Form 140, you are also considered to be a resident of another state under the laws of that other state, and you are filing a resident return to that other state. See Form 309-D for more information.

Purpose of Form

Use Form 309-NR if you are a nonresident filing Arizona Form 140NR. Use Form 309-NR to figure your credit for taxes paid to Arizona and another state or country on the same income.

If claiming a credit for more than one state or country, make a separate computation for each state or country.

For more information about this credit, see Arizona Department of Revenue Income Tax Procedure ITP 07-1. To get a copy of this procedure, visit the department's web site at www.azdor.gov, or call one of the phone numbers listed on this page.

NOTE: You must notify the department immediately if the other state or country credits or refunds taxes for which you have received an Arizona credit. In this case, you must file an amended return.

Complete Form 309-NR only if you meet the following.

1. You are filing a 2007 Arizona nonresident income tax return (Form 140NR).
2. You paid a **net** income tax to another qualified state or country for 2007.
 - If you are claiming a credit for taxes paid to another state, payroll taxes withheld from income do not constitute a net income tax. Having tax withheld from your pay by Arizona and another state does not by itself qualify you for this credit. You must file a net income tax return to the other state.
 - If you are claiming a credit for taxes paid to another country, a net income tax paid to another country includes those taxes that qualify for a credit under Internal Revenue Code Sections 901 and 903.

NOTE: To claim a credit for taxes paid to a foreign country, you must complete Arizona Form 309-NR. You must complete Form 309-NR even if you did not have to complete federal Form 1116 to claim a credit on your federal return.

You may not claim this credit for the following.

1. Income taxes paid to any city or county.
2. Interest or penalties paid to another state or country.

NOTE: If you file an amended return after you claim this credit, be sure to recalculate the credit, if required.

Application of Credit

Claim this credit only if the income was subject to tax in both Arizona and the other state or country in the same tax year.

You cannot apply this credit against interest or penalties payable to Arizona.

NOTE: You may use this credit only in the year incurred. You cannot carry the credit forward to the next year. You also cannot carry the credit back to a prior year.

A credit against Arizona income taxes is allowed for Arizona nonresidents who are not allowed a credit by their state or country of residence for taxes paid to Arizona if either:

1. The other state or country does not tax Arizona residents on income derived from sources within the other state or country.

2. The other state or country allows Arizona residents credit for taxes paid on income subject to tax by the other state or country and Arizona.

Arizona nonresidents who file resident returns with the following states qualify for the credit.

California, Indiana, Oregon and Virginia.

NOTE: This list is subject to change at any time.

Required Attachments

If you are claiming a credit for taxes paid to another state, you must attach a copy of the tax return filed to the other state.

NOTE: *If you do not attach a copy of the return filed with the other state, you may not claim the credit.*

If you are claiming a credit for taxes paid to a foreign country, attach the following information to your Arizona income tax return.

1. A copy of the tax return you filed to the foreign country. If you are claiming a credit for taxes paid to a foreign country for amounts withheld at the source, and are not required to file a return with that country, attach documentation showing the amount of tax imposed and paid.
2. If the tax is paid in a foreign currency, a statement substantiating the conversion rate on the date of payment. Identify your authority for your conversion rate.

Line-by-Line Instructions for Form 309-NR

Enter your name and SSN as shown on Arizona Form 140NR or 140X.

Make sure that every return, statement, or document that you file with the department has your SSN. Failing to include the proper numbers may subject you or your preparer to a penalty. Make sure that all of the required identification numbers are clear and correct. Your return may take longer to process if identification numbers are missing, incorrect, or unclear.

If your name appears first on the return, make sure your social security number is the first number listed.

If you are claiming a credit for income taxes paid to another state, enter in the space provided, the two-letter abbreviation for that state. See page 4 of these instructions for a list of state abbreviations.

If you are claiming a credit for income taxes paid to another country, enter the name of that country on the line provided.

Computation of Income Subject to Tax by Both Arizona and the Other State or Country During 2007 - Lines 1 through 3 -

Line 1 -

Identify the income item from which the income subject to tax in both Arizona and the other state or country is derived. If you have more than one income item, complete lines 1b through 1d, as necessary. Examples of such income are business income, partnership income, wages, etc. Enter an item on lines 1a through 1d only if your Arizona gross income and the gross income of the return filed with the other state or country includes the income from that item.

If you are claiming a credit for taxes paid to another country, and that country withheld at the source, and you are not required to file a return with that country, enter the item of income from which the foreign taxes were withheld.

Line 2 -

Add the amounts entered on lines 1a through 1d. Enter the total on line 2.

Line 3 -

Enter the amount of income from line 2 that is included in Arizona adjusted gross income and in the other state's or country's equivalent of Arizona adjusted gross income. This is the amount of income reportable to both Arizona and the other state or country adjusted by additions and subtractions related to that income required under Arizona law, or any additions or subtractions related to that income required under the other state's or country's law.

The following example illustrates how to complete lines 1 through 3 of Arizona Form 309-NR.

EXAMPLE:

Facts:

Mr. and Mrs. M are residents of State X. Mr. M is an active duty military member who is stationed in Arizona. Mr. M receives wages from the military and from a part-time job in Arizona. Mrs. M receives wages from employment in Arizona. During the taxable year for which the credit is being claimed, Mr. and Mrs. M received the following income.

Mr. M's military wages	\$ 22,500
Mr. M's part-time employment wages	\$ 10,000
Mrs. M's wages	\$ 27,500
Rental income from State X property	\$ 15,000
Total income	<u>\$ 75,000</u>

As Reported on State X Return		As Reported on Arizona Return		
Federal adjusted gross income	\$ 75,000		Federal	Arizona
Less subtraction for two earner wage income	(2,000)	Wages	\$ 60,000	\$ 37,500
State X adjusted gross income	\$ 73,000	Rental Income	\$ 15,000	
		Federal adjusted gross income	\$ 75,000	
		Arizona gross income		\$ 37,500

Mr. and Mrs. M must report Mr. M's part-time employment wages of \$10,000 and Mrs. M's wages of \$27,500 to Arizona. Mr. and Mrs. M also include this \$37,500 of wages in income for State X. However, State X allows Mr. and Mrs. M to subtract \$2,000 of the \$60,000 wage income reported to State X as a two earner deduction. Of the \$2,000 subtraction, \$750 (22,500/60,000 X 2,000) is allocable to military income of \$22,500 and \$1,250 (37,500/60,000 X 2,000) is allocable to the other wages (\$37,500) reported to State X. Therefore, only \$36,250 of the \$37,500 in wages reportable to both State X and Arizona is included in Arizona adjusted gross income and the adjusted gross income equivalent of State X.

1a wages	\$ 37,500
1b	
1c	
1d	
2 Add lines 1a through 1d	\$ 37,500
3 Amount of income from line 2 included in both Arizona adjusted gross income and the adjusted gross income equivalent of the other state or country.	\$ 36,250

Portion of Arizona Source Income Taxable to the Other State or Country - Lines 4 through 12 -

Complete lines 4 through 12 to figure the amount of Arizona source income taxable to the other state or country. To determine this amount, you must apportion your deductions and exemptions between Arizona source income and all other income reported to the other state or country.

Line 4 -

Enter the other state's or country's equivalent of Arizona adjusted gross income.

Line 5 -

Enter the other state's or country's equivalent of the Arizona exemptions for age 65 or over, blind, dependents or qualifying parents or ancestors.

Line 8 -

Enter the amount of itemized deductions or the standard deduction claimed on the return filed with the other state or country.

Line 9 -

Enter the other state's or country's equivalent of the Arizona personal exemptions plus the amount entered on Form 309-NR, line 5.

Lines 10 through 12 -

To complete lines 10 through 12, follow the instructions on Form 309-NR for those lines.

Credit Computation - Lines 13 through 22 -**Line 13 - Arizona Taxable Income**

Enter the amount from Form 140NR, page 1, line 22.

Line 15 - Other State or Country Taxable Income

Enter the taxable income from the return filed with the other state or country.

Line 17 - Tax Paid to the Other State or Country

Enter the amount of income tax paid to the other state or country. This is the tax paid to the other state or country minus any tax credits claimed against the other state's or country's income tax. Do not include federal income taxes or any taxes paid to a city or county. Also, do not include any amount paid to the other state or country for penalty or interest. Amounts of tax paid or accrued to a country do not

include amounts that are reasonably certain to be refunded, credited, rebated, abated, or forgiven.

Line 20 - Arizona tax

Enter your Arizona tax liability less any credits. However, do not reduce your Arizona tax liability by the other state tax credit.

For 2007, use the chart below to help you figure your Arizona tax liability prior to tax credits.	
Form	
140NR	Subtract line 24 from line 28.
140X	Subtract line 27 from line 30

NOTE: *If you are taking other tax credits, you must reduce your Arizona tax by the amount of those other tax credits. For the purpose of this computation, be sure to reduce your Arizona tax by both refundable and nonrefundable credits.*

Line 22 -

Enter the smaller of the amount entered on line 18 or line 21. Enter the result here and also on Arizona Form 301, line 7b.

List of State Abbreviations

State		State		State		State	
Alabama	AL	Indiana	IN	Mississippi	MS	Oklahoma	OK
Arkansas	AR	Iowa	IA	Missouri	MO	Oregon	OR
California	CA	Kansas	KS	Montana	MT	Pennsylvania	PA
Colorado	CO	Kentucky	KY	Nebraska	NE	Rhode Island	RI
Connecticut	CT	Louisiana	LA	New Jersey	NJ	South Carolina	SC
Delaware	DE	Maine	ME	New Mexico	NM	Utah	UT
Georgia	GA	Maryland	MD	New York	NY	Vermont	VT
Hawaii	HI	Massachusetts	MA	North Carolina	NC	Virginia	VA
Idaho	ID	Michigan	MI	North Dakota	ND	West Virginia	WV
Illinois	IL	Minnesota	MN	Ohio	OH	Wisconsin	WI