

Employer's Instructions for the Employee's Arizona Withholding Percentage Election

Arizona Form A-4

Obtain additional information or assistance by calling one of the numbers listed below:

Phoenix	(602) 255-2060
From area codes 520 and 928, toll-free	(800) 843-7196
Hearing impaired TDD user	
Phoenix	(602) 542-4021
From area codes 520 and 928, toll-free	(800) 397-0256

Obtain tax rulings, tax procedures, tax forms and instructions, and other tax information by accessing the department's Internet home page at www.azdor.gov.

Arizona Revised Statutes (ARS) § 43-401 requires an employer to make Form A-4 available to employees at all times and to inform employees of the Arizona withholding election options.

Beginning July 1, 2010, Arizona withholding is based on a percentage of gross taxable wages. "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). Employees may also designate an additional amount to be withheld from each paycheck.

New Employees

New employees must complete Form A-4 within the first five days of employment. If the employee does not complete this form, the employer must withhold 2.7% of the employee's gross taxable wages, until the employer receives a completed form from the employee.

Current Employees

Current employees must complete Form A-4 to elect a different Arizona withholding percentage or to change the additional amount designated to be withheld from each paycheck. If the employee wants to increase or decrease the amount of Arizona withholding, the employee must complete Form A-4 to change the Arizona withholding percentage or change the additional amount designated to be withheld each paycheck.

Electing a Withholding Percentage of Zero

An employee may elect an Arizona withholding percentage of zero, if the employee expects to have no Arizona income tax liability for the current taxable year. If an employee makes this election, the employer will not withhold Arizona income tax from the employee's compensation for payroll periods beginning after the date of the employee's election.

NOTE: *This election must be renewed annually by each employee claiming to be exempt from Arizona withholding.*

Voluntary Withholding Election by a Nonresident Employee Exempt Under ARS § 43-403(A)(5)

A qualifying employee may use this form to voluntarily elect to have a portion of the employee's compensation withheld under the provisions of ARS § 43-403(D)(1) for application toward the employee's Arizona income tax liability. The employee completes

this form to elect an Arizona withholding percentage and to designate an additional amount to be withheld from each paycheck.

NOTE: *This exemption does not apply to a nonresident employee who is in this state solely for athletic or entertainment purposes.*

QUALIFYING CRITERIA FOR THE ARS § 43-403(A)(5) EXEMPTION.

The exemption under the provisions of ARS § 43-403(A)(5) applies to wages paid to nonresident individuals who are:

1. Employed by a company having property, payroll, and sales in Arizona or by a related entity having more than 50 percent direct or indirect common ownership; **and**
2. Physically present in Arizona for less than 60 days in a calendar year for the purpose of performing a service that will benefit the employer.

Activities not included in determining the number of days of service are:

- a. Being in transit.
- b. Engaging in personal activities.
- c. Participating in training or professional development activities or attending meetings that are not directly connected to the Arizona operations of the employer.

A "related entity having more than 50 percent direct or indirect common ownership" means that the related entities are more than 50 percent owned by the same interests. The examples below illustrate three different situations in which the nonresident employee is performing services in Arizona for such an entity for less than 60 days during a calendar year. In these examples, the employer has met the qualifying criteria for the ARS § 43-403(A)(5) exemption and, therefore, does not have to withhold Arizona income taxes from compensation paid to the employee for services performed in Arizona.

Example 1:

Corporation A is the U.S. domestic parent of Corporation B, a wholly owned foreign subsidiary corporation. Corporation A has property, payroll and sales in Arizona. Corporation B operates in China and does not have property, payroll and sales in Arizona. Individual R, an Arizona nonresident, is an employee of Corporation B. Individual R performs services for Corporation B in Arizona for 45 days during calendar year 2011.

Example 2:

Corporation F, based in California, is the common parent of Corporation W. Corporation F does not have property, payroll and sales in Arizona. Corporation W does have property, payroll and sales in Arizona. Individual L, an Arizona nonresident, is an employee of Corporation F. Individual L performs services for Corporation F in Arizona for 55 days during calendar year 2011.

Example 3:

Individual D owns 60 percent of Corporation K and 51 percent of Corporation S. Individual N owns 40 percent of Corporation K and 49 percent of Corporation S. Corporation S has property, payroll and sales in Arizona. Corporation K, based in California, does not have property, payroll and sales in Arizona. Individual T, an Arizona nonresident, is an employee of Corporation K. Individual T performs services for Corporation K in Arizona for 35 days during calendar year 2011.