



Douglas A. Ducey
Governor

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Director

ARIZONA WITHHOLDING TAX RULING

WTR 16-5

(This ruling supersedes Arizona Withholding Tax Ruling WTR 99-2)

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:

Is withholding required on the amount of a pension or annuity paid to an individual taxed in Arizona?

RULING:

Arizona withholding is not required on pension or annuity payments. However, a taxpayer may elect voluntary withholding on pensions or annuities that are required to be included in the individuals Arizona gross income. If the election is made, the payment of the pension or annuity shall be treated as if it were the payment of wages by an employer to an employee.

DISCUSSION:

Arizona Revised Statutes (A.R.S.) § 43-401(A) requires withholding only on wages or other compensation paid to an employee. Therefore, pension and annuity payments are not subject to mandatory Arizona income tax withholding.

However, A.R.S. § 43-404 allows a taxpayer to elect voluntary withholding on pensions or annuities. Such an election can only be made for pensions or annuities which are required to be included in the recipient's Arizona gross income. "Annuity" means any amount paid to an individual as a pension or annuity, but only to the extent that the amount is includible in the Arizona gross income of that individual. An annuity is paid out in a series of regular payments. Therefore, a taxpayer may NOT elect to have Arizona income tax withheld from non-periodic payments, lump sum distributions, or individual retirement account distributions that are not paid out in a series of regular payments or for amounts that are not included in Arizona gross income.

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The request for voluntary withholding must be in writing and be accompanied by Arizona Form A-4P indicating the amount of Arizona income tax to be withheld.

When withholding is elected, the payments are treated as wages paid by an employer to an employee for a payroll period. Therefore, the payor is subject to the withholding, reporting and payment requirements of the withholding statutes.

APPLICABLE LAW:

A.R.S. § 43-401(A) requires every employer to withhold Arizona income tax from wages, salary, bonus or other emolument paid to any employee for services performed within the state.

A.R.S. § 43-404 extends withholding to individuals receiving pensions or annuities should these individuals elect to have Arizona income tax withheld. If the election for withholding is made, the annuity will be treated as if it were a payment of wages by an employer to an employee for the payroll period.

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 that are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement that provides interpretation, detail, or supplementary information concerning 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.