

PROCEDURE FOR FILING FINAL WITHHOLDING REPORTS/RETURNS

WTP 92-1

ISSUE:

When a business is sold, discontinued, converted to a new form or all employees of the business are dismissed, what are the employer's duties in regard to its withholding reporting requirements?

APPLICABLE LAW AND DISCUSSION:

A.R.S. ó 43-402 states, in part:

For the purposes of this article, "employer" means the person for whom an individual performs or performed any service of whatever nature, as the employee of such person...except that if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, "employer" means the person having control of the payment of such wages.

A.R.S. ó 43-401.C, as amended, states in part:

On or before April 30, July 31, October 31 and January 31 each year the employer shall reconcile the amounts payable during the preceding calendar quarter in a manner prescribed by the department.

A.A.C. R15-2-401.C states:

The employer shall submit the quarterly reconciliation required pursuant to A.R.S. ó 43-401 upon the quarterly reconciliation form supplied by the Department.

A.R.S. ó 43-412.A, as amended, states in part:

Every employer shall, at the time of filing a reconciliation pursuant to section 43-401, subsection B, deliver to the department a return in the form prescribed by the department showing the total amount of wages, salaries, bonuses and other emoluments paid to employees, the amount deducted pursuant to this chapter and such other information as the department may require.

A.R.S. ó 43-412.B, as amended,

The employer shall make an annual return for the calendar year to the department on forms provided by it summarizing the total compensation paid and the tax withheld for each employee during the calendar year and file such return with the department on or before February 28 of the year following the year for which the report is made.

The Department of Revenue would prefer that the employer file its final annual withholding tax return, Arizona Form A-1R, accompanied by the state copies of federal Forms W-2, at the same time as the final quarterly reconciliation report, Arizona Form A1-QR, is filed. However, the Department is aware that it is often difficult for a business to obtain the applicable forms in order to file by that date.

CONCLUSION:

If a business is sold, discontinued, converted to a new form or all employees are dismissed, the employer should:

1. File a quarterly reconciliation report of income tax withheld, Arizona Form A1-QR, for the last quarter in which income taxes were withheld from employees, on or before the normal due date of the report. The employer should indicate on the report that this is the final report.
2. File the annual withholding tax return, Arizona Form A-1R, accompanied by the state copies of federal Forms W-2 for all employees, on or before the normal due date for the return.
3. Notify the License and Registration Section of the Department of Revenue, **in writing**, that the withholding registration certificate should be cancelled. The employer should send the original registration certificate, with "CANCEL" written across the front of the registration certificate and write the effective date of the cancellation on the withholding registration certificate.

If the employer elects to file the Form A-1R and state copies of federal Forms W-2 at the normal due date, the employer should provide a written statement to the License and Registration Section, at the time that the withholding registration certificate cancellation notice is filed, showing the following information:

- (a) the date of the last payment of wages,
- (b) the address at which the records will be kept,
- (c) the name of the person keeping such records, and

(d) if the business of an employer has been sold or otherwise transferred to another person, the name and address of such person and the date on which such sale or other transfer took place. If no such sale or transfer occurred or the employer does not know the name of the person to whom the business was sold or transferred, that fact should be included in the statement.

Paul Waddell, Director
Signed September 30, 1992