
NOTICES OF EMERGENCY RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Emergency Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the emergency rules should be addressed to the agency proposing them.

Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF EMERGENCY RULEMAKING

TITLE 15. REVENUE

**CHAPTER 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION**

[R15-107]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Articles, Parts or Sections Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| Article 7 | New Article |
| R15-10-702 | New Section |
| R15-10-703 | New Section |
| R15-10-704 | New Section |
| R15-10-706 | New Section |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 42-1004
Implementing statute: Laws 2015, First Regular Session, Chapter 10, § 19
- 3. The effective date of the rules:**
August 19, 2015
- a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
These rules are effective immediately upon filing with the Secretary of State’s Office in order to comply with the deadlines set forth in Laws 2015, First Regular Session, Chapter 10, § 19. The need for an immediate effective date is not due to a delay or inaction on the agency’s part.
- b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
N/A
- 4. Citations to all related emergency rulemaking notices published in the Register as specified in R1-1-409(A) that pertain to the record of this Notice of Emergency Rulemaking?**
N/A
- 5. The agency’s contact person who can answer questions about the rulemaking:**
Name: Christie Comanita
Address: Department of Revenue
1600 W. Monroe
Phoenix, AZ 85007
Telephone: (602) 716-6791
Fax: (602) 716-7995
E-mail: ccomanita@azdor.gov
- 6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
The rules provide guidance and direction for the administration of the Arizona Tax Recovery Program. Laws 2015, First Regular Session, Chapter 10, § 19, states that the Department of Revenue may make emergency rules as nec-



essary to administer the Program.

The tax recovery program is an opportunity for taxpayers to settle their tax liabilities at the lowest possible cost. The program is authorized by Laws 2015, First Regular Session, Chapter 10, § 19. Both individuals and businesses that owe back taxes may apply for the tax recovery program subject to certain conditions. A taxpayer must pay the total tax due for all tax recovery periods with the application. If a taxpayer fails to pay the entire amount of tax due, tax recovery will not be granted. If a taxpayer is granted tax recovery, the department will waive or abate civil penalties and interest that were or could have been assessed for the periods covered by the application. In addition, if tax recovery is granted, no civil, administrative, or criminal actions will be brought against the taxpayer for the periods covered by the application.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

N/A

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

N/A

9. A summary of the economic, small business, and consumer impact:

N/A per A.R.S. § 41-1055(D).

10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:

a. Whether the rule requires a permit, whether a general permit is used and, if not, the reasons why a general permit is not used:

N/A

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and, if so, citation to the statutory authority to exceed the requirements of federal law:

N/A

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

N/A

11. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

12. An agency explanation about the situation justifying the rulemaking as an emergency rule:

The Legislature has authorized the adoption of emergency rules in Laws 2015, First Regular Session, Chapter 10, § 19, paragraph K, subparagraph 2 by providing that the Director of the Department of Revenue may adopt emergency rules pursuant to § 41-1026, as necessary to administer the program. These rules meet the emergency requirements because they are necessary to comply with deadlines imposed under the program and to avoid serious prejudice to the public interest or the interest of the taxpayers of Arizona.

13. The date the Attorney General approved the emergency rules:

August 19, 2015

14. The full text of the rules follows:

TITLE 15. REVENUE

**CHAPTER 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION**

ARTICLE 7. TAX RECOVERY PROGRAM

Section

R15-10-702. General

R15-10-703. Tax Periods Under Audit

R15-10-704. Gross Income Tax Return

R15-10-706. Application of Payments and Credits



ARTICLE 7. TAX RECOVERY PROGRAM

R15-10-702. General

- A. The Arizona Department of Revenue has established a Tax Recovery Program for the period of September 1, 2015 through October 31, 2015, as required under Laws 2015, First Regular Session, Chapter 10, § 19.
B. The Tax Recovery Program applies to tax liabilities for the following:
1. Income tax, including individual, corporate and fiduciary;
2. Transaction privilege tax;
3. Severance tax;
4. Use tax;
5. Telecommunications excise tax;
6. County excise taxes;
7. Tax on water use;
8. Jet fuel excise and use tax;
9. Car rental surcharge levied under A.R.S. § 5-839;
10. Tax on hotels levied under A.R.S. § 5-840;
11. County jail district excise tax levied under A.R.S. § 48-4022;
12. Car rental surcharge for major league spring training levied under A.R.S. § 48-4234;
13. Public health services district transaction privilege tax or property tax levied under A.R.S. § 48-5805;
C. To qualify for the Tax Recovery Program, the taxpayer must submit a complete and correct application for recovery and such application must be received by the department no later than November 2, 2015. The taxpayer does not qualify for recovery under the Tax Recovery Program if any amount of the unpaid tax is not included with the application.
D. Any return or report filed under the Tax Recovery Program is subject to verification as provided in law.

R15-10-703. Tax Periods Under Audit

- A. A taxpayer may apply for tax recovery for a tax period under audit only if the application for tax recovery contains all of the tax periods under audit that are within the liability period as defined by Laws 2015, First Regular Session, Chapter 10, § 19. The department shall reject as incomplete an application that contains less than all of the tax periods under audit that are within the liability period. A taxpayer shall not include on an application for tax recovery any tax periods occurring after the liability period, even if included in the tax periods under audit.
B. For purposes of this Section, "tax periods under audit" means all of the tax periods
1. that were included in:
a. proposed assessments issued by the department that were mailed to the taxpayer at the same time;
b. department requests for tax returns that were mailed to the taxpayer at the same time;
c. department requests for information that were mailed to the taxpayer at the same time; or
d. department requests for scheduling an audit that were mailed to the taxpayer at the same time; and
2. for which the taxpayer continues to have administrative or judicial appeal rights.

R15-10-704. Gross Income Tax Return

- A. An individual taxpayer that does not have sufficient information to fully complete the Arizona personal income tax return may file a gross income tax return. To file a gross income tax return, a taxpayer shall complete the form, Arizona Tax Recovery Application – Individual Gross Income Tax Return.
B. A taxpayer that files a gross income tax return shall use the following table to calculate the tax due. The tax rate is determined by locating the income range of the gross income for the tax year for which recovery is sought. The gross income for the year shall be multiplied by the tax rate listed under the income range for that tax year. For example, for 2004 if gross income is \$50,000, the tax due is \$975 (\$50,000 X .0195).

Table with 5 columns: Tax Year, \$0 Through-\$39,999, \$40,000 Through \$99,999, \$100,000 Through \$199,999, \$200,000 And Above. Rows include tax rates for years 2001-2005.



<u>2006</u>	<u>.0114</u>	<u>.0179</u>	<u>.0234</u>	<u>.0374</u>
<u>2007</u>	<u>.0105</u>	<u>.0167</u>	<u>.0217</u>	<u>.0350</u>
<u>2008</u>	<u>.0102</u>	<u>.0167</u>	<u>.0216</u>	<u>.0336</u>
<u>2009</u>	<u>.0097</u>	<u>.0168</u>	<u>.0217</u>	<u>.0331</u>
<u>2010</u>	<u>.0098</u>	<u>.0171</u>	<u>.0221</u>	<u>.0336</u>
<u>2011</u>	<u>.0099</u>	<u>.0174</u>	<u>.0226</u>	<u>.0343</u>
<u>2012</u>	<u>.0101</u>	<u>.0177</u>	<u>.0228</u>	<u>.0347</u>
<u>2013</u>	<u>.0101</u>	<u>.0178</u>	<u>.0229</u>	<u>.0338</u>

R15-10-706. Application of Payments and Credits

- A.** Payments received pursuant to a tax recovery application shall be applied to the tax periods on the application. Partial payment for a tax period will be applied to the tax liability starting with the oldest tax period and progressing chronologically until all the payments have been applied, but will not entitle the taxpayer to the benefits under the Tax Recovery Program. The taxpayer will remain subject to the full penalty and interest.
- B.** Tax periods for which the taxpayer is entitled to a refund or credit may be included on a tax recovery application. The credit shall be applied to other tax periods included in the application in the order described in subsection (A).
- C.** For purposes of determining the total tax due from a taxpayer applying for tax recovery, credits from overpayment of other tax periods shall be applied as if a payment had been received on the fifteenth day of April of the year following the calendar year of the tax period of the overpayment. For example, a taxpayer has an overpayment of income tax for calendar year 2004 and an under payment of income tax for calendar year 2005. The credit from the overpayment in 2004 will be applied to the 2005 liability as if it were a payment made on April 15, 2005.
- D.** No refund shall be given to a taxpayer for payments made or credits applied prior to September 1, 2015 for any tax periods included in a tax recovery application. If a credit for overpayment in one or more of the tax periods contained in a tax recovery application exceeds the total tax liabilities for all other tax periods contained in the application, the amount due shall be reduced to zero but no refund shall be paid.