

Senate Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 2

SENATE BILL 1185

AN ACT

AMENDING SECTIONS 42-1001, 43-105, 43-401, 43-403, 43-404 AND 43-412, ARIZONA
REVISED STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-1001, Arizona Revised Statutes, is amended to
3 read:

4 42-1001. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Board" or "state board" means either the state board of tax
7 appeals or the state board of equalization, as applicable.

8 2. "Court" means the tax court or superior court, whichever is
9 applicable.

10 3. "Department" means the department of revenue.

11 4. "Director" means the director of the department.

12 5. "Internal revenue code" means the United States internal revenue
13 code of 1986, as amended and in effect as of January 1, 2008 2009, including
14 those provisions that became effective during 2007 2008 with the specific
15 adoption of their retroactive effective dates but excluding all changes to
16 the code enacted after January 1, 2008 2009.

17 Sec. 2. Section 43-105, Arizona Revised Statutes, is amended to read:

18 43-105. Internal revenue code; definition; application

19 A. FOR PURPOSES OF COMPUTING INCOME TAX PURSUANT TO THIS TITLE, FOR
20 TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2008, "INTERNAL REVENUE
21 CODE" MEANS THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED, IN
22 EFFECT ON JANUARY 1, 2009, INCLUDING THOSE PROVISIONS THAT BECAME EFFECTIVE
23 DURING 2008 WITH THE SPECIFIC ADOPTION OF ALL FEDERAL RETROACTIVE EFFECTIVE
24 DATES, BUT EXCLUDING ANY CHANGE TO THE CODE ENACTED AFTER JANUARY 1, 2009.

25 ~~A.~~ B. For purposes of computing income tax pursuant to this title,
26 for taxable years beginning from and after December 31, 2007 THROUGH DECEMBER
27 31, 2008, "internal revenue code" means the United States internal revenue
28 code of 1986, as amended, in effect on January 1, 2008, including those
29 provisions that became effective during 2007 with the specific adoption of
30 all federal retroactive effective dates, ~~but excluding any change to the code~~
31 ~~enacted after January 1, 2008~~ AND INCLUDING THOSE PROVISIONS OF THE ECONOMIC
32 STIMULUS ACT OF 2008 (P.L. 110-185), THE HEROES EARNINGS ASSISTANCE AND
33 RELIEF TAX ACT OF 2008 (P.L. 110-245), THE HEARTLAND, HABITAT, HARVEST AND
34 HORTICULTURE ACT OF 2008 (P.L. 110-246), THE HOUSING ASSISTANCE TAX ACT OF
35 2008 (P.L. 110-289), THE EMERGENCY ECONOMIC STABILIZATION ACT OF 2008
36 (P.L. 110-343) AND THE WORKER, RETIREE, AND EMPLOYER RECOVERY ACT OF 2008
37 (P.L. 110-458) THAT ARE RETROACTIVELY EFFECTIVE DURING TAXABLE YEARS
38 BEGINNING FROM AND AFTER DECEMBER 31, 2007 THROUGH DECEMBER 31, 2008.

39 ~~B.~~ C. For purposes of computing income tax pursuant to this title,
40 for taxable years beginning from and after December 31, 2006 through December
41 31, 2007, "internal revenue code" means the United States internal revenue
42 code of 1986, as amended, in effect on January 1, 2007, including those
43 provisions that became effective during 2006 with the specific adoption of
44 all federal retroactive effective dates and including those provisions of the
45 small business and work opportunity tax act of 2007 (P.L. 110-28), the energy

1 independence and security act of 2007 (P.L. 110-140), Public Law 110-141, the
2 mortgage forgiveness debt relief act of 2007 (P.L. 110-142), and the tax
3 technical corrections act of 2007 (P.L. 110-172), THE ECONOMIC STIMULUS ACT
4 OF 2008 (P.L. 110-185), THE HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF
5 2008 (P.L. 110-245), THE HEARTLAND, HABITAT, HARVEST AND HORTICULTURE ACT OF
6 2008 (P.L. 110-246), THE HOUSING ASSISTANCE TAX ACT OF 2008 (P.L. 110-289),
7 THE EMERGENCY ECONOMIC STABILIZATION ACT OF 2008 (P.L. 110-343) AND THE
8 WORKER, RETIREE, AND EMPLOYER RECOVERY ACT OF 2008 (P.L. 110-458) that are
9 retroactively effective during taxable years beginning from and after
10 December 31, 2006 through December 31, 2007.

11 ~~C.~~ D. For purposes of computing income tax pursuant to this title,
12 for taxable years beginning from and after December 31, 2005 through December
13 31, 2006, "internal revenue code" means the United States internal revenue
14 code of 1986, as amended, in effect on January 1, 2006, including those
15 provisions that became effective during 2005 with the specific adoption of
16 all federal retroactive effective dates and including those provisions of the
17 tax increase prevention and reconciliation act of 2005 (P.L. 109-222), the
18 pension protection act of 2006 (P.L. 109-280), the tax relief and health care
19 act of 2006 (P.L. 109-432), the small business and work opportunity tax act
20 of 2007 (P.L. 110-28), the mortgage forgiveness debt relief act of 2007
21 (P.L. 110-142), and the tax technical corrections act of 2007 (P.L. 110-172),
22 THE HEARTLAND, HABITAT, HARVEST AND HORTICULTURE ACT OF 2008 (P.L. 110-246)
23 AND THE HOUSING ASSISTANCE TAX ACT OF 2008 (P.L. 110-289) that are
24 retroactively effective during taxable years beginning from and after
25 December 31, 2005 through December 31, 2006.

26 ~~D.~~ E. For purposes of computing income tax pursuant to this title,
27 for taxable years beginning from and after December 31, 2004 through December
28 31, 2005, "internal revenue code" means the United States internal revenue
29 code of 1986, as amended, in effect on January 1, 2005, including those
30 provisions that became effective during 2004 with the specific adoption of
31 all federal retroactive effective dates and including those provisions of the
32 Katrina emergency tax relief act of 2005 (P.L. 109-73), the energy tax
33 incentives act of 2005 (title XIII of the energy policy act of 2005
34 (P.L. 109-58)), the gulf opportunity zone act of 2005 (P.L. 109-135), and the
35 tax technical corrections act of 2007 (P.L. 110-172), THE HEARTLAND, HABITAT,
36 HARVEST AND HORTICULTURE ACT OF 2008 (P.L. 110-246) AND THE HOUSING
37 ASSISTANCE TAX ACT OF 2008 (P.L. 110-289) that are retroactively effective
38 during taxable years beginning from and after December 31, 2004 through
39 December 31, 2005.

40 ~~E.~~ F. For purposes of computing income tax pursuant to this title,
41 for taxable years beginning from and after December 31, 2003 through December
42 31, 2004, "internal revenue code" means the United States internal revenue
43 code of 1986, as amended, in effect on January 1, 2004, including those
44 provisions that became effective during 2003 with the specific adoption of
45 all federal retroactive effective dates and including those provisions of the

1 working families tax relief act of 2004 (P.L. 108-311), the American jobs
2 creation act of 2004 (P.L. 108-357), the Katrina emergency tax relief act of
3 2005 (P.L. 109-73), the energy tax incentives act of 2005 (title XIII of the
4 energy policy act of 2005 (P.L. 109-58)), the gulf opportunity zone act of
5 2005 (P.L. 109-135), and the tax technical corrections act of 2007
6 (P.L. 110-172) AND THE HEARTLAND, HABITAT, HARVEST AND HORTICULTURE ACT OF
7 2008 (P.L. 110-246) that are retroactively effective during taxable years
8 beginning from and after December 31, 2003 through December 31, 2004.

9 ~~F.~~ G. For purposes of computing income tax pursuant to this title,
10 for taxable years beginning from and after December 31, 2002 through December
11 31, 2003, "internal revenue code" means the United States internal revenue
12 code of 1986, as amended, in effect on January 1, 2003, including those
13 provisions that became effective during 2002 with the specific adoption of
14 all federal retroactive effective dates and including those provisions of the
15 working families tax relief act of 2004 (P.L. 108-311), the American jobs
16 creation act of 2004 (P.L. 108-357), the jobs and growth tax relief
17 reconciliation act of 2003 (P.L. 108-27), the military family tax relief act
18 of 2003 (P.L. 108-121), the medicare prescription drug, improvement, and
19 modernization act of 2003 (P.L. 108-173), and the tax technical corrections
20 act of 2007 (P.L. 110-172) AND THE HEARTLAND, HABITAT, HARVEST AND
21 HORTICULTURE ACT OF 2008 (P.L. 110-246) that are retroactively effective
22 during taxable years beginning from and after December 31, 2002 through
23 December 31, 2003.

24 ~~G.~~ H. For purposes of computing income tax pursuant to this title,
25 for taxable years beginning from and after December 31, 2001 through December
26 31, 2002, "internal revenue code" means the United States internal revenue
27 code of 1986, as amended, in effect on March 9, 2002, including those
28 provisions that became effective during 2001 with the specific adoption of
29 all federal retroactive effective dates and including those provisions of the
30 working families tax relief act of 2004 (P.L. 108-311), the American jobs
31 creation act of 2004 (P.L. 108-357), the jobs and growth tax relief
32 reconciliation act of 2003 (P.L. 108-27), the military family tax relief act
33 of 2003 (P.L. 108-121), and the tax technical corrections act of 2007
34 (P.L. 110-172) AND THE HEARTLAND, HABITAT, HARVEST AND HORTICULTURE ACT OF
35 2008 (P.L. 110-246) that are retroactively effective during taxable years
36 beginning from and after December 31, 2001 through December 31, 2002.

37 ~~H.~~ I. For purposes of computing income tax pursuant to this title,
38 for taxable years beginning from and after December 31, 2000 through December
39 31, 2001, "internal revenue code" means the United States internal revenue
40 code of 1986, as amended, in effect on January 1, 2001, including those
41 provisions that became effective during 2000 with the specific adoption of
42 all federal retroactive effective dates and including those provisions of the
43 working families tax relief act of 2004 (P.L. 108-311), the American jobs
44 creation act of 2004 (P.L. 108-357), the economic growth and tax relief
45 reconciliation act of 2001 (P.L. 107-16), the job creation and worker

1 assistance act of 2002 (P.L. 107-147), the military family tax relief act of
2 2003 (P.L. 108-121) and the tax technical corrections act of 2007
3 (P.L. 110-172) that are retroactively effective during taxable years
4 beginning from and after December 31, 2000 through December 31, 2001.

5 ~~I.~~ J. For purposes of computing income tax pursuant to this title,
6 for taxable years beginning from and after December 31, 1999 through December
7 31, 2000, "internal revenue code" means the United States internal revenue
8 code of 1986, as amended, in effect on January 1, 2000, including those
9 provisions that became effective during 1999 with the specific adoption of
10 all federal retroactive effective dates and including those provisions of the
11 community renewal tax relief act of 2000 (P.L. 106-554), the installment tax
12 correction act of 2000 (P.L. 106-573), FSC repeal and extraterritorial income
13 exclusion act of 2000 (P.L. 106-519), the trade and development act of 2000
14 (P.L. 106-200), the economic growth and tax relief reconciliation act of 2001
15 (P.L. 107-16), the job creation and worker assistance act of 2002
16 (P.L. 107-147) and the military family tax relief act of 2003 (P.L. 108-121)
17 that are retroactively effective during taxable years beginning from and
18 after December 31, 1999 through December 31, 2000.

19 ~~J.~~ K. For purposes of computing income tax pursuant to this title,
20 for taxable years beginning from and after December 31, 1998 through December
21 31, 1999, "internal revenue code" means the United States internal revenue
22 code of 1986, as amended, in effect on January 1, 1999, including those
23 provisions that became effective during 1998 with the specific adoption of
24 all federal retroactive effective dates and including those provisions of the
25 miscellaneous trade and technical corrections act of 1999 (P.L. 106-36), the
26 ticket to work and work incentives improvement act of 1999 (P.L. 106-170),
27 the community renewal tax relief act of 2000 (P.L. 106-554), the installment
28 tax correction act of 2000 (P.L. 106-573) and the military family tax relief
29 act of 2003 (P.L. 108-121) that are retroactively effective during taxable
30 years beginning from and after December 31, 1998 through December 31, 1999.

31 ~~K.~~ For purposes of computing income tax pursuant to this title, for
32 taxable years beginning from and after December 31, 1997 through December 31,
33 1998, "internal revenue code" means the United States internal revenue code
34 of 1986, as amended, in effect on January 1, 1998, including those provisions
35 that became effective during 1997 with the specific adoption of all federal
36 retroactive effective dates and including those provisions of the IRS
37 restructuring and reform act of 1998 (P.L. 105-206), the tax and trade relief
38 extension act of 1998 (P.L. 105-277), the surface transportation revenue act
39 of 1998 (P.L. 105-178), the miscellaneous trade and technical corrections act
40 of 1999 (P.L. 106-36) and the military family tax relief act of 2003
41 (P.L. 108-121) that are retroactively effective during the taxable years
42 beginning from and after December 31, 1997 through December 31, 1998.

1 Sec. 3. Section 43-401, Arizona Revised Statutes, is amended to read:
2 43-401. Withholding tax; rates; election by employee

3 A. Except as provided by subsection B of this section, every employer
4 at the time of the payment of wages, salary, bonus or other emolument to any
5 employee whose compensation is for services performed within this state shall
6 deduct and retain from the compensation an amount THAT IS DETERMINED BY THE
7 DEPARTMENT PURSUANT TO SUBSECTION D OF THIS SECTION OR THAT IS equal to a
8 percentage, determined pursuant to subsection C of this section, of the total
9 amount of the federal income tax deducted and withheld by an employer from
10 the total value of such wages, bonus or other emolument of an employee under
11 the provisions of the United States internal revenue code computed without
12 deductions for any amount withheld.

13 B. An employer may voluntarily elect to not withhold tax during
14 December by notifying:

15 1. The department on a form prescribed by the department.

16 2. The employer's employees in writing in a manner prescribed by the
17 department.

18 C. The percentage deducted and retained under subsection A of this
19 section:

20 1. THROUGH APRIL 30, 2009 shall be:

21 ~~1-~~ (a) If the employee's annual compensation is less than fifteen
22 thousand dollars, ten per cent, nineteen per cent, twenty-three per cent,
23 twenty-five per cent, thirty-one per cent or thirty-seven per cent, at the
24 employee's election pursuant to subsection ~~F-~~ G of this section.

25 ~~2-~~ (b) If the employee's annual compensation is fifteen thousand
26 dollars or more, nineteen per cent, twenty-three per cent, twenty-five per
27 cent, thirty-one per cent or thirty-seven per cent, at the employee's
28 election pursuant to subsection ~~F-~~ G of this section.

29 ~~3-~~ (c) Zero per cent at the election of an employee who had no state
30 income tax liability in the prior taxable year and expects to have no state
31 income tax liability for the current taxable year.

32 2. BEGINNING FROM AND AFTER APRIL 30, 2009 THROUGH DECEMBER 31, 2009,
33 IF AN EMPLOYEE'S RATE OF WITHHOLDING UNDER PARAGRAPH 1 OF THIS SUBSECTION
34 IMMEDIATELY BEFORE MAY 1, 2009 WAS:

35 (a) ZERO PER CENT AT THE ELECTION OF AN EMPLOYEE WHO HAD NO STATE
36 INCOME TAX LIABILITY IN THE PRIOR TAXABLE YEAR AND EXPECTS TO HAVE NO STATE
37 INCOME TAX LIABILITY FOR THE CURRENT TAXABLE YEAR, THE WITHHOLDING TAX RATE
38 SHALL REMAIN ZERO PER CENT.

39 (b) TEN PER CENT, THE WITHHOLDING TAX RATE SHALL BE INCREASED TO 11.5
40 PER CENT.

41 (c) NINETEEN PER CENT, THE WITHHOLDING TAX RATE SHALL BE INCREASED TO
42 21.9 PER CENT.

43 (d) TWENTY-THREE PER CENT, THE WITHHOLDING TAX RATE SHALL BE INCREASED
44 TO 26.5 PER CENT.

1 (e) TWENTY-FIVE PER CENT, THE WITHHOLDING TAX RATE SHALL BE INCREASED
2 TO 28.8 PER CENT.

3 (f) THIRTY-ONE PER CENT, THE WITHHOLDING TAX RATE SHALL BE INCREASED
4 TO 35.7 PER CENT.

5 (g) THIRTY-SEVEN PER CENT, THE WITHHOLDING TAX RATE SHALL BE INCREASED
6 TO 42.6 PER CENT.

7 3. BEGINNING FROM AND AFTER DECEMBER 31, 2009 THROUGH JUNE 30, 2010,
8 IF AN EMPLOYEE'S RATE OF WITHHOLDING UNDER PARAGRAPH 2 OF THIS SUBSECTION
9 IMMEDIATELY BEFORE JANUARY 1, 2010 WAS:

10 (a) ZERO PER CENT AT THE ELECTION OF AN EMPLOYEE WHO HAD NO STATE
11 INCOME TAX LIABILITY IN THE PRIOR TAXABLE YEAR AND EXPECTS TO HAVE NO STATE
12 INCOME TAX LIABILITY FOR THE CURRENT TAXABLE YEAR, THE WITHHOLDING TAX RATE
13 SHALL REMAIN ZERO PER CENT.

14 (b) 11.5 PER CENT, THE WITHHOLDING TAX RATE SHALL BE DECREASED TO 10.7
15 PER CENT.

16 (c) 21.9 PER CENT, THE WITHHOLDING TAX RATE SHALL BE DECREASED TO 20.3
17 PER CENT.

18 (d) 26.5 PER CENT, THE WITHHOLDING TAX RATE SHALL BE DECREASED TO 24.5
19 PER CENT.

20 (e) 28.8 PER CENT, THE WITHHOLDING TAX RATE SHALL BE DECREASED TO 26.7
21 PER CENT.

22 (f) 35.7 PER CENT, THE WITHHOLDING TAX RATE SHALL BE DECREASED TO 33.1
23 PER CENT.

24 (g) 42.6 PER CENT, THE WITHHOLDING TAX RATE SHALL BE DECREASED TO 39.5
25 PER CENT.

26 D. BEGINNING FROM AND AFTER JUNE 30, 2010, THE AMOUNT DEDUCTED AND
27 RETAINED UNDER SUBSECTION A OF THIS SECTION SHALL BE PRESCRIBED BY TABLES
28 ADOPTED BY THE DEPARTMENT. ON OR BEFORE MARCH 15, 2010, THE DEPARTMENT SHALL
29 SUBMIT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE A COPY OF THE TABLE.

30 ~~D.~~ E. If the amount collected and payable by the employer to the
31 department in each of the preceding four calendar quarters did not exceed an
32 average of one thousand five hundred dollars, the amount collected shall be
33 paid to the department on or before April 30, July 31, October 31 and January
34 31 for the preceding calendar quarter. If such amount exceeded one thousand
35 five hundred dollars in each of the preceding four calendar quarters, the
36 employer shall pay to the department the amount the employer deducts and
37 retains pursuant to this section at the same time as the employer is required
38 to make deposits of federal tax pursuant to section 6302 of the internal
39 revenue code. On or before April 30, July 31, October 31 and January 31 each
40 year the employer shall reconcile the amounts payable during the preceding
41 calendar quarter in a manner prescribed by the department, except that if the
42 full amount collected and payable is paid timely to the department under this
43 subsection, the employer may reconcile the amounts on or before May 10,
44 August 10, November 10 and February 10 each year. The department by rule may
45 allow and determine which employers qualify for annual payments of

1 withholding taxes, with an annual report by the employer pursuant to section
2 43-412, subsection B, if the qualifying employer has established sufficient
3 payment history to indicate that the employer is current and in good standing
4 pursuant to standards established by rule. For any business which has not
5 had a withholding certificate for the four preceding consecutive quarters,
6 the quarterly average shall be computed in a manner prescribed by the
7 department.

8 ~~E.~~ F. If an employer fails to make a timely monthly payment because
9 prior to that reporting period it reported on a quarterly basis instead of on
10 a monthly basis, the department shall notify the employer that it is out of
11 compliance with this section. Notwithstanding section 42-1125, the
12 department shall not assess a penalty against an employer for failing to make
13 a timely monthly payment if the employer had filed and remitted all taxes due
14 on a quarterly basis and brings all filings and payments into current
15 compliance within thirty days after being notified by the department.

16 ~~F.~~ G. Each employee shall elect the amount authorized by subsection C
17 of this section to be withheld for application toward the employee's state
18 income tax liability. The election provided under this subsection shall be
19 exercised by each employee, in writing on a form prescribed by the
20 department. The election shall be made within five days of employment. Each
21 employer shall notify the employees of the election made available under this
22 subsection and shall have election forms available at all times. Each form
23 shall be completed in triplicate, with one copy each for the department, the
24 employer and the employee. The employer shall file a copy of each completed
25 form with the department. Any employee failing to complete an election form
26 as prescribed shall be deemed to have elected the smallest applicable
27 withholding percentage.

28 ~~G.~~ H. Before October 1, 2005 and before July 1 each year thereafter,
29 each employer who chooses to not withhold tax pursuant to subsection B of
30 this section shall notify each employee that:

31 1. State income taxes will not be withheld from compensation in
32 December.

33 2. The employee may elect to change the rate of withholding tax
34 prescribed by this section to compensate for the resulting change in annual
35 withholdings from the employee's compensation.

36 Sec. 4. Section 43-403, Arizona Revised Statutes, is amended to read:
37 43-403. Employment excluded from withholding

38 A. No amount shall be deducted or retained from:

39 1. Wages or salary paid to an employee of a common carrier when such
40 employee is a nonresident of this state as defined in section 43-104 and
41 regularly performs services both within and without this state.

42 2. Wages paid for domestic service in a private home.

43 3. Wages paid for casual labor not in the course of the employer's
44 trade or business.

1 4. Wages paid to part-time or seasonal employees whose services to the
2 employer consist solely of labor in connection with the planting,
3 cultivating, harvesting or field packing of seasonal agricultural crops,
4 except such employees whose principal duties are operating any
5 mechanically-driven device in such operations.

6 5. Wages or salary paid to a nonresident of this state who is:

7 (a) An employee of an individual, fiduciary, partnership, corporation
8 or limited liability company having property, payroll and sales in this
9 state, or of a related entity having more than fifty per cent direct or
10 indirect common ownership.

11 (b) Physically present in this state for less than sixty days in a
12 calendar year for the purpose of performing a service that will benefit the
13 employer or the related entity. For purposes of determining the number of
14 days of service in this state, days spent in the following activities are not
15 included:

16 (i) In transit.

17 (ii) Engaging in personal activities.

18 (iii) Participating in training or professional development activities
19 or attending meetings that are not directly connected to the Arizona
20 operations of the employer or the related entity.

21 B. In addition to the exemptions from the withholding provisions
22 contained in subsection A of this section, because of the temporary nature of
23 such employment, no amount shall be deducted or retained from wages paid to a
24 nonresident of this state engaged in any phase of motion picture production
25 when, prior to the time of payment of such wages, an application is made by
26 the employer to the department, on forms prescribed by the department, for an
27 exemption from the withholding provisions of this section and the department
28 determines that the nonresident would be allowed a credit under section
29 43-1096 against all of the taxes upon such wages imposed by this chapter.

30 C. Subsection A, paragraph 5 of this section does not apply to a
31 nonresident employee who is in this state solely for athletic or
32 entertainment purposes.

33 D. Notwithstanding subsection A, paragraph 5 of this section:

34 1. The nonresident employee may elect to have withholding deducted in
35 the manner prescribed by section 43-401, subsection F- G and the employer
36 shall withhold tax pursuant to that election.

37 2. The employer may elect to withhold tax from the nonresident
38 employee before the sixty day limitation has elapsed.

39 Sec. 5. Section 43-404, Arizona Revised Statutes, is amended to read:

40 43-404. Extension of withholding to military retirement
41 pensions and to other annuities; definition

42 A. For the purposes of this title, any payment of an amount as retired
43 or retainer pay for service in the military or naval forces of the United
44 States, or payments received under the United States civil service retirement
45 system from the United States government service retirement and disability

1 fund, if at the time the payment is made a request by the individual that
2 such pay be subject to withholding under this section is in effect, shall be
3 treated as if it were a payment of wages by an employer to an employee for a
4 payroll period. In addition, a payment of any other annuity to an
5 individual, if at the time the payment is made a request by the individual
6 that such annuity be subject to withholding under this section is in effect,
7 shall be treated as if it were a payment of wages by an employer to an
8 employee for a payroll period.

9 B. A request that retired or retainer pay or an annuity be subject to
10 withholding under this section shall be made by the payee in writing to the
11 person making the annuity payments and shall be accompanied by a form,
12 prescribed by the department, executed in accordance with section 43-401,
13 subsection F- G. Such a request may be terminated by furnishing to the
14 person making the payment a written statement of termination.

15 C. For THE purposes of this section, "annuity" means any amount paid
16 to an individual as a pension or annuity, but only to the extent that the
17 amount is includible in the Arizona gross income of such individual.

18 Sec. 6. Section 43-412, Arizona Revised Statutes, is amended to read:
19 43-412. Returns of withholding to be filed with department

20 A. Every employer at the time of filing a reconciliation pursuant to
21 section 43-401, subsection D- E shall deliver to the department a return in
22 the form prescribed by the department showing the total amount of wages,
23 salaries, bonuses or other emoluments paid to employees, the amount deducted
24 pursuant to this chapter and such other information as the department may
25 require. The employer shall advise the employee of the amount of monies
26 withheld, in accordance with such rules as the department may prescribe,
27 using printed forms furnished by the department for such purposes or, when
28 requested by the employer, upon forms approved by the department.

29 B. The employer shall make an annual return for the calendar year to
30 the department on forms provided by it summarizing the total compensation
31 paid and the tax withheld for each employee during the calendar year and
32 shall file such return with the department on or before February 28 of the
33 year following the year for which the report is made. The department may
34 extend the filing deadline on a showing of good cause by the employer. The
35 return required by this section shall contain or be verified by a written
36 declaration that it is made under the penalties of perjury.

37 Sec. 7. Emergency

38 This act is an emergency measure that is necessary to preserve the
39 public peace, health or safety and is operative immediately as provided by
40 law.

~~APPROVED BY THE GOVERNOR APRIL 9, 2009.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2009.~~

Passed the House April 2, 20 09,

by the following vote: 52 Ayes,

0 Nays, 8 Not Voting
with emergency

Steve B. Goddard
Speaker of the House
Pro Tempore

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 2, 20 09,

by the following vote: 22 Ayes,

4 Nays, 4 Not Voting
with Emergency

Rakut L. Bennett
President of the Senate

Charmain Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6th day of April, 2009,

at 1:23 o'clock P. M.

Susan K. Myers
Secretary to the Governor

Approved this 9th day of

April, 2009,

at 1:50 o'clock P. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 9 day of April, 2009,

at 2:26 o'clock P. M.

Kellie Blumett
Secretary of State

S.B. 1185