

NOTICE OF EMERGENCY RULEMAKING

TITLE 15. REVENUE

CHAPTER 10. DEPARTMENT OF REVENUE

ARTICLE 7. TAX RECOVERY PROGRAM

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 7

New Article

R15-10-702

New Section

R15-10-703

New Section

R15-10-704

New Section

R15-10-705

New Section

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 42-1004

Implementing statute: Laws 2016, Second Regular Session, Chapter 125, Section 17

3. The effective date of the rules:

Although rules normally are effective sixty days after filing with the secretary of state, pursuant to A.R.S. § 41-1032(A), these rules are effective immediately upon filing with the secretary of state in order to comply with the deadlines set forth in Laws 2016, Second Regular Session, Chapter 125, Section 17 and the need for an immediate effective date is not created due to the agency's delay or inaction.

4. Is this rulemaking a renewal of a previous emergency rulemaking?

No

5. The name and address of agency personnel with whom persons may communicate regarding the rule:

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Phoenix, AZ 85007
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6. An explanation of the rule, including the agency's reasons for initiating the rule:

The rules provide guidance and direction for the administration of the Arizona Tax Recovery Program. Laws 2016, Second Regular Session, Chapter 125, Section 17, states that the Department of Revenue may make emergency rules as necessary 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 2016, Second Regular Session, Chapter 125, Section 17. Both individuals and businesses that owe back taxes may apply for the tax recovery program subject to certain conditions. The taxpayer must select one of the following options to pay the tax liability: (a) Payment in full during the recovery period. (b) Payment in full over three years. If the taxpayer elects to pay the tax liability in full during the recovery period, the taxpayer must pay the full tax liability on or before October 31, 2016. If the taxpayer elects to pay the tax liability in full over three years, the taxpayer must pay the full tax liability as follows:

1. At least thirty-three percent of the full tax liability on or before October 31, 2016.
2. At least sixty-six percent of the full tax liability on or before October 31, 2017.
3. One hundred percent of the full tax liability on or before October 31, 2018.

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

N/A

8. The summary of the economic, small business, and consumer impact:
N/A per A.R.S. §41-1055(D).

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
N/A

10. Incorporations by reference and their location in the rules:
None

11. An explanation of the situation justifying the rule's making as an emergency rule:

The Legislature has authorized the adoption of emergency rules in Laws 2016, Second Regular Session, Chapter 125, Section 17, paragraph M, subparagraph 2 by providing that the Director of the Department of Revenue may adopt emergency rules pursuant to section 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.

12. The date of the Attorney General's approval of the emergency rule:

13. The full text of the rules follows:

TITLE 15. REVENUE
CHAPTER 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION
ARTICLE 7. TAX RECOVERY PROGRAM

Section

Article 7	<u>Tax Recovery Program</u>
R15-10-702	<u>General</u>
R15-10-703	<u>Tax Periods Under Audit</u>
R15-10-704	<u>Gross Income Tax Return</u>
R15-10-705	<u>Application of Payments and Credits</u>

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, 2016 through October 31, 2016, as required under Laws 2016, Second Regular Session, Chapter 125, Section 17.
- 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 services 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 § 48-4234;
 13. Public health services district transaction privilege tax or property tax levied under § 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 October 31, 2016. The taxpayer must select one of the following options to pay the tax liability: (a) Payment in full during the recovery period. (b) Payment in full over three years. If the taxpayer elects to pay the tax liability in full during the recovery period, the taxpayer must pay the full tax liability on or before October 31, 2016. If the taxpayer elects to pay the tax liability in full over three years, the taxpayer must pay the full tax liability as follows:

1. At least thirty-three percent of the full tax liability on or before October 31, 2016.

2. At least sixty-six percent of the full tax liability on or before October 31, 2017.

3. One hundred percent of the full tax liability on or before October 31, 2018.

The taxpayer may make more frequent payments, but at a minimum must pay the full tax liability as provided above.

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 taxpayer does not qualify for recovery if the taxpayer's tax liability due is the subject of an audit being conducted by the Department.

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).

Tax Year	If The Gross Income Is:			
	\$0 Through-\$39,999	\$40,000 Through \$99,999	\$100,000 Through \$199,999	\$200,000 And Above
Multiply It By:				
For 2001 and all prior years	.0124	.0196	.0253	.0384
2002	.0120	.0193	.0251	.0383
2003	.0120	.0195	.0254	.0388
2004	.0121	.0195	.0255	.0399
2005	.0120	.0192	.0251	.0401
2006	.0114	.0179	.0234	.0374
2007	.0105	.0167	.0217	.0350
2008	.0102	.0167	.0216	.0336
2009	.0097	.0168	.0217	.0331
2010	.0098	.0171	.0221	.0336
2011	.0099	.0174	.0226	.0343
2012	.0101	.0177	.0228	.0347
2013	.0101	.0178	.0229	.0338

R15-10-705. Application of Payments and Credits

A. Payments received pursuant to a tax recovery application shall be applied to the tax periods on the application.

1. If a taxpayer elects to pay the tax liability in full during the recovery period, but fails to pay the tax liability in full on or before October 31, 2016, a 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 the partial payment will not entitle the taxpayer to the benefits under the Tax Recovery Program. The taxpayer will remain subject to the full penalty and interest.

2. If a taxpayer elects to pay the tax liability in full over three years, a payment for a tax period will be applied to the tax liability starting with the oldest tax period and progressing chronologically until all payments have been made. Failure to make payments in accordance with the schedule outlined in R15-10-702.C, will disqualify the taxpayer from 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, 2016 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.