

For information or help, call one of the numbers listed:

Phoenix (602) 255-3381
 From area codes 520 and 928, toll-free (800) 352-4090

Tax forms, instructions, and other tax information

If you need tax forms, instructions, and other tax information, go to the department's website at www.azdor.gov.

Income Tax Procedures and Rulings

These instructions may refer to the department's income tax procedures and rulings for more information. To view or print these, go to our website select *Reports, Statistics and Legal Research* from the main menu then click on *Legal Research* and select a *Document Type* and *Category* (tax type) from the drop down menus.

Publications

To view or print the department's publications, go to our website and click on *Reports, Statistics and Legal Research* from the main menu then click on *Publications* in the left hand column.

What is a Claim of Right?

Generally, a claim of right is when:

- A taxpayer received income during a prior tax year, and reported that income on the tax return filed for that prior tax year; *and*
- Then has to repay that income back in a future tax year.

Example: A taxpayer received pension payments during 2018. In 2021 the individual received a letter from the pension fund stating there was a mistake and the pension amount paid during 2018 was more than the taxpayer should have received. The taxpayer must now pay the overpaid amount back to the pension plan.

For information regarding which types of income qualifies or does not qualify for a claim of right, see federal Publication 525 at www.irs.gov.

How does the Claim of Right work?

For federal income tax purposes, you may take a deduction for the repayment of an amount included in income under a claim of right *or* claim a credit. When the amount repaid was \$3,000 or less, you may be able to deduct the amount repaid from your income for the year in which you repaid it. Or, if the amount you repaid is more than \$3,000, you may be able to claim a credit against your tax for the year in which you repaid it.

For Arizona income tax purposes, the Arizona claim of right provisions only apply in cases where the **total** amount repaid during the year was more than \$3,000. In this case, you cannot take a deduction, but must claim a "credit."

When you figure whether the amount you repaid was more or less than \$3,000, you must consider the **total** amount being repaid during the year. Each instance of re-payment is not considered separately. The total re-payment amount may

include income from just one prior tax year or multiple prior tax years.

Who Must Complete an Arizona Claim of Right Form?

If you figure your 2021 income tax under Arizona's claim of right provisions, complete an Arizona Claim of Right form and include it with your 2021 income tax return. You **must** complete and include a separate form for each prior tax year for which you figured a tax reduction (decrease).

For more information on Arizona's Claim of Right provisions and examples of how to compute the decrease in tax for a prior taxable year (or years), see the department's procedure, ITP 16-1, *Procedure for Individuals Who Restore Substantial Amounts Held Under a Claim of Right*.

Can the Claim of Right be used on my Small Business Income Tax Return?

If you elected to report your small business income on the Arizona Small Business Income tax return (140-SBI, 140NR-SBI, 140PY-SBI or Form 140X-SBI) *and* the amount of income you repaid was the type of income that would be reported on the Small Business Income tax return, you must report the Claim of Right amount on your Small Business Income tax return.

NOTE: *If the type of income you repaid would **not** be reported on your Small Business Income tax return or you did not elect to report your small business income on the Small Business Income tax return, report the Claim of Right amount on your regular income tax return (Form 140, 140NR, 140PY or Form 140X.*

If your Claim of Right credit was the result of **both types** of income (small business income and non-small business income), you must apportion the credit to determine how much to report on your regular tax return and how much to report on your Small Business Income tax return. See the example provided in Part 3 to compute the apportioned credit.

How to complete an Arizona Claim of Right Form

- If the total amount repaid during 2021 was from income that was reported in only **one prior tax year**, you must file one form, completing Parts 1, 2, and 3.
- If the total amount repaid during 2021 was from income that was reported in **more than one prior tax year**, **file a separate form for each tax year listed on line 3, and complete each form as follows:**
 - For the earliest tax year, complete Parts 1, 2, and 3.
 - For all other years, only complete Parts 2 and 3.

For example, if the total amount repaid was from income reported in tax years 2017, 2018, and 2019

complete Parts 1, 2, and 3 for tax year 2017. *Be sure to enter the **total income** that was repaid for **all prior tax years** when completing Part 1, line 1, for taxable year 2017.* For tax years 2018 and 2019, only complete Parts 2 and 3 on both of these separate claim of right forms.

Line-by-Line Instructions

Part 1 - General Information

Line 1 -

Enter the **total** amount of **all income** that you **repaid** during the 2021 tax year that was included in income under a claim of right.

CAUTION: *If the amount on line 1 is \$3,000 or less, **STOP**. You do not qualify to figure a credit for amounts paid back under a claim of right.*

Line 2 -

Check “Yes” if the total amount repaid in 2021 was from income that was reported in **more** than one prior tax year.

If you checked “Yes” you **must** complete and include with your 2021 tax return a separate Claim of Right form for **each** prior taxable year end. See the instructions under ***How to complete an Arizona Claim of Right Form*** for more than one tax year.

Line 3 -

Using the format, YYYY, list each prior taxable year end that included income that was repaid in 2021 and included in income under claim of right.

Line 4 -

If you took a deduction on your federal return instead of claiming a credit, check the box, “Yes.”

You cannot take both a deduction and claim a credit on your Arizona return for the amounts repaid and included in income under a claim of right. Because the deduction is included in the computation of your federal taxable income, you must add-back the amount of the income entered on line 1.

NOTE: *If you apportion your credit for small business income and non-small business income, add-back the amount of non-small business income on your regular tax return; and add-back the amount of small business income on your Small Business Income tax return.*

- Form 140, line 18 (Other Additions to Income); or
- Form 140PY, line 31 (Other Additions to Income); or
- Form 140NR, line 32 (Other Additions to Income); or
- Form 140X, line 23 (Additions to Income).
- Form 140-SBI, line 16; or
- Form 140PY-SBI, line 16; or
- Form 140NR-SBI, line 15; or
- Form 140X-SBI, line 16.

Part 2 - Decrease in Prior Year’s Tax

Line 5 -

Using the format, MM/DD/YYYY, enter the prior taxable year end for which you are completing this form. If you are completing more than one form for the current tax year, complete Part 2 for each separate tax year.

Line 6 -

Enter the amount of tax from the Arizona return filed for the tax year listed on line 5.

Line 7 -

For the tax year listed on line 5, refigure your tax for the tax year listed on line 5 without including the income that you repaid in 2021.

Line 8 -

Subtract line 7 from line 6 and enter the difference. This is your claim of right credit for the current tax year. Enter the amount shown on line 8 on your income tax return:

- Form 140, line 54, box 54b; or
- Form 140PY, line 64, box 64b; or
- Form 140NR, line 63, box 63b; or
- Form 140X, line 43, box 43b.

If you take this credit or a portion of the credit on your Small Business Income tax return, enter this amount on your Small Business Income Tax return:

- Form 140-SBI, line 55, box 55b; or
- Form 140PY-SBI, line 55, box 55b; or
- Form 140NR-SBI, line 53, box 53b; or
- Form 140X-SBI, line 54, box 54b.

If you are completing more than one Claim of Right form, add all amounts on line 8 and enter the total on your tax return.

Part 3 - Explanation

Complete Part 3 explaining your claim of right. Show how you figured the amounts in Part 2. If more space is needed, continue on page 2 of the form or provide your own schedule.

NOTE: *If you elected to file an Arizona Small Business Income Tax Return and your Claim of Right credit was the result of both small business income and non-small business income, you must apportion the credit to determine how much to claim on your regular tax return and how much to claim on your Small Business Income tax return. You must show your computation in Part 3.*

See the example on page 3 for computing your apportioned claim of right credit amounts.

Example:

If your total credit was determined to be \$1,000 and the credit was based on paying back a pension error of \$5,000 and a schedule C amount of \$15,000. The credit would be divided up as follows:

- **\$250** would be reported on your regular tax return.
 $\$5,000 / \$20,000 = .25$; $\$1,000 \times .25 = \250
- **\$750** would be reported on your Small Business Income Tax Return.
 $\$15,000 / \$20,000 = .75$; $\$1,000 \times .75 = \750

How Do I file a Claim of Right form?

Complete and include the Arizona Claim of Right form with your tax return, when filed.

If you fail to complete and include this form with your tax return, your claim may be denied. Keep a copy for your record.

If you are required to complete more than one Claim of Right form, include all forms with your tax return.

If you apportion the amount of your credit between your regular tax return and your small business tax return, you are not required to include a separate set of Claim of Right form(s) for each tax return.