

# DISASTER RECOVERY TAX RELIEF

This publication is designed to provide general information with respect to Arizona disaster recovery tax relief allowed to qualified out-of-state businesses and out-of-state employees working temporarily in Arizona solely on disaster recovery. For complete details, refer to the Arizona Revised Statutes. In case of inconsistency or omission in this publication, the Arizona Revised Statutes will prevail.

## OVERVIEW

After natural disasters, recovery work can be substantial and the demand for resources to complete that work may exceed local supply. To help fill this gap, companies often need to temporarily bring in out-of-state resources, such as materials, equipment and disaster workers.

Often, when out-of-state companies and out-of-state employees come into a state to help with disaster relief, complying with the different state tax laws can place an additional burden on these companies and workers. To help ease this burden, the Arizona legislature enacted laws to provide tax relief for out-of-state disaster relief companies and out-of-state disaster relief employees.

Starting January 1, 2015, an out-of-state business and an out-of-state employee that are in Arizona on a temporary basis solely for performing disaster recovery from a declared disaster during a disaster period, are exempt from certain Arizona taxes.

The following questions concerning how disaster recovery tax relief apply for Arizona tax purposes have arisen. This brochure is meant to provide guidance with respect to those questions.

### Q1. What qualifies as a declared disaster?

- A1. A declared disaster is any of the following:
- A state of emergency declared by the Arizona governor.
  - A presidential declaration of a federal major disaster or emergency in Arizona.
  - A disaster or emergency event in Arizona that is designated by the division of emergency management and that requires disaster recovery.

### Q2. Where can I find a list of qualifying Arizona disasters?

- A2. To view a list of Arizona qualifying disaster areas visit one of the following websites:

Federal Emergency Management Agency (FEMA) at: [www.fema.gov/states/arizona](http://www.fema.gov/states/arizona)

Arizona Department of Emergency Management (ADEM) at:

[www.dem.azdema.gov/recovery/pastpresent.html](http://www.dem.azdema.gov/recovery/pastpresent.html)

### Q3. What is a disaster period?

- A3. A disaster period is the period that starts within 10 calendar days of the date that disaster is declared and ends 60 calendar days after the end of the declared disaster. The disaster period may run for a longer period of time if the Arizona governor approves the longer period.

### Q4. What is disaster recovery?

- A4. Disaster recovery means repairing, renovating, installing, building, rendering services or other business activities that relate to infrastructure that has been damaged, impaired or destroyed by a declared disaster.

### Q5. What does infrastructure mean for the purpose of Arizona disaster recovery tax relief?

- A5. Infrastructure means property and equipment owned or used by communications networks, electric generation, transmission and distribution systems and gas distribution systems, water pipelines, public roads and bridges and related support facilities that service multiple customers or citizens of Arizona. Infrastructure includes buildings, offices, lines, poles, pipes, structures and equipment owned or used by such entities.

### Q6. What is an out-of-state business for the purpose of Arizona disaster recovery tax relief?

- A6. An out-of-state business is a business entity that existed as an operating entity before the declared disaster, including an affiliate solely by common ownership of a registered business, whose services are requested by a registered business in Arizona or by the Arizona or a local government for the purpose of performing disaster recovery in Arizona and that meets all of the following conditions:

- (a) Is not present in Arizona (except for the disaster recovery).
- (b) Does not conduct business in Arizona.
- (c) Does not have or maintain any state or local registrations, licenses or certifications in Arizona.
- (d) Does not make any tax filings in Arizona.

### Q7. What is a registered business?

- A7. A registered business is a business entity that is currently registered to do business in Arizona and that was a registered business before the declared disaster.

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## INDIVIDUAL INCOME TAX

### Individual Income Tax - Out-of-State Employees

**Q8. What is an out-of-state employee for the purpose of Arizona disaster recovery tax relief?**

A8. An out-of-state employee is an Arizona nonresident individual who is temporarily in Arizona to solely perform disaster recovery work during a disaster period. Therefore, for individual income tax purposes, the disaster recovery tax exemption applies to only nonresident individuals.

**Q9. If I am a qualifying out-of-state employee, is my income earned for performing disaster recovery work during a disaster period subject to Arizona income tax?**

A9. No. As a qualifying out-of-state employee, the income you earn for performing disaster recovery work during a disaster period is exempt from Arizona income tax.

**Q10. If I am a qualifying out-of-state employee, do I have to file an Arizona income tax return?**

A10. As a qualifying out-of-state employee, if your only Arizona source income is compensation received from performing disaster recovery work during a disaster period, then you do not have to file an Arizona income tax return to report that income to Arizona. However, if you have any other Arizona source income and you meet the Arizona filing requirements, then you would be required to file an Arizona income tax return using Form 140NR.

**Q11. If I am a qualifying out-of-state employee, does my employer have to withhold Arizona income taxes from my wages?**

A11. No, your wages paid for performing disaster recovery work as a qualifying out-of-state employee are not subject to Arizona income tax withholding.

**Q12. If my employer withheld Arizona tax from my wages received for disaster recovery work performed as an out-of-state employee, how do I get that money back?**

A12. If your employer withheld Arizona taxes from your wages paid to you for disaster recovery work performed as a qualifying out-of-state employee, you must file an Arizona Nonresident Personal Income Tax Return (Arizona Form 140NR) to claim any refund you may be due from that withholding.

**Q13. If my spouse, who is an Arizona nonresident, comes with me temporarily to Arizona, and finds a job while staying in Arizona, is the**

**income my spouse earns from that job subject to Arizona income tax?**

A13. Yes. The income your spouse earns while working in Arizona would be Arizona source income and would be subject to Arizona income tax. If you meet the Arizona filing requirements for that year, you must file a nonresident Arizona income tax return using Form 140NR. You would exclude your wages earned for performing disaster recovery work as a qualified out-of-state employee, but you would include your spouse's wages earned while working in Arizona. You must also include any other Arizona source income earned during the tax year on that nonresident income tax return.

**Q14. If I was a qualified out-of-state employee when I came to Arizona, but during the tax year, decide to stay and become an Arizona resident, does that make my wages earned while I was a qualifying out-of-state employee subject to Arizona income tax for the tax year in which I became an Arizona resident?**

A14. No. The wages you earned for performing disaster recovery work as a qualified out-of-state employee will not be subject to Arizona income tax for the year in which you became an Arizona resident. However, once you become an Arizona resident, you are no longer a qualified out-of-state employee and any wages earned after you became an Arizona resident will be subject to Arizona withholding and Arizona income tax. If you meet the Arizona filing requirements for the year you became an Arizona resident, you must file a part-year Arizona income tax return using Form 140PY. You would exclude your wages earned for performing disaster recovery work as a qualified out-of-state employee (while a nonresident), but you would include all other income from Arizona sources earned during the year while an Arizona nonresident and all income earned after becoming an Arizona resident.

**Q15. What are the Arizona filing requirements?**

A15. With the exception noted in the answer to question number ten, an individual is required to file an Arizona income tax return if he or she has for the taxable year:

- An Arizona adjusted gross income of \$5,500 or more if single, unmarried head of household or married filing a separate return.
- An Arizona adjusted gross income of \$11,000 or more if married filing a joint return.
- Gross income of \$15,000 or over, regardless of the amount of taxable income.

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## Individual Income Tax - Out-of-State Business

**Q16. If I am a nonresident who is the sole owner of a qualifying out-of-state business, is the income I earn from that business from qualified disaster recovery work in Arizona subject to Arizona income tax?**

A16. No, as a qualifying out-of-state business, the income you earn in Arizona from qualified disaster recovery work is not subject to Arizona income tax.

**Q17. If I am a nonresident who is the sole owner of a qualifying out-of-state business, do I have to file an Arizona income tax return to report income earned from qualified disaster recovery work performed in Arizona from that business?**

A17. No, that income is exempt from Arizona income tax. However, if you have any other income from Arizona sources and you meet the filing requirements, you must file an Arizona income tax return using Form 140NR. In this case, you would exclude the qualifying exempt income from that return.

## WITHHOLDING TAX

**Q18. As a qualifying out-of-state business, do I have to withhold Arizona income tax from the wages I pay to qualified out-of-state employees who are temporarily in Arizona for the sole purpose of performing disaster recovery during a disaster period?**

A18. No. A qualifying out-of-state business, regardless of how it is organized, is not required to withhold Arizona income tax from wages it paid to any qualified out-of-state employee for performing qualified disaster recovery work in Arizona from a declared disaster during a disaster period.

**Q19. As a qualifying out-of-state business, do I have to withhold Arizona income tax from the wages I pay to Arizona residents that I hire to perform disaster recovery work in Arizona?**

A19. Yes. A qualifying out-of-state business that hires Arizona resident individuals to perform disaster recovery work during a disaster period would be required to withhold Arizona income tax from the wages paid to those Arizona resident employees.

## PARTNERSHIPS

**Q20. Does an out-of-state partnership that is temporarily in Arizona and whose only income in Arizona is from performing disaster recovery from a declared disaster during a disaster period have to file an Arizona partnership return?**

A20. No. An out-of-state partnership that is temporarily in Arizona and whose only income in Arizona is from performing disaster recovery from a declared disaster during a disaster period is not required to file a partnership return in Arizona.

## CORPORATIONS

**Q21. Does an out-of-state corporation that is temporarily in Arizona and whose only income in Arizona is from performing disaster recovery from a declared disaster during a disaster period have to file an Arizona corporate income tax return?**

A21. No. An out-of-state corporation that is temporarily in Arizona and whose only income in Arizona is from performing disaster recovery from a declared disaster during a disaster period is not required to file a corporation return in Arizona. However, this does not preclude the corporation from being included in a combined or consolidated return.

**Q22. Is an out-of-state corporation that is temporarily in Arizona and whose only income in Arizona is from performing disaster recovery from a declared disaster during a disaster period precluded from being included in a consolidated or combined group return filed to Arizona?**

A22. No. An out-of-state corporation that is temporarily in Arizona and whose only income in Arizona is from performing disaster recovery from a declared disaster during a disaster period may be included in a consolidated or combined group return filed to Arizona.

**Q23. If the qualified out-of-state corporation (described in question number 22) is part of a unitary group that files a combined return to Arizona will the disaster recovery income be subject to corporate income tax?**

A23. Disaster recovery income of members of the group that operated in Arizona before the disaster will be subject to corporate income tax.

However, any disaster recovery income earned by the qualified out-of-state corporation is not allowed to increase the amount of income apportioned to Arizona by the combined group. This is accomplished by removing the net income from disaster recovery of the qualified out-of-state corporation as an "other subtraction" on the Arizona Corporation Income Tax Return (Arizona Form 120). The apportionment ratio should not include any of the property, payroll or sales relating to the income being excluded.

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**Q24. If the qualified out-of-state corporation is part of an Arizona affiliated group that made an election under A.R.S. § 43-947 to file a consolidated return, is any of the disaster recovery income excluded from corporate income tax?**

A24. No. For purposes of allocation and apportionment, the Arizona affiliated group is treated as a single taxpayer. As such, the consolidated return of the Arizona affiliated group would not be considered a return by a qualified out-of-state corporation.

## USE TAX AND TRANSACTION PRIVILEGE TAX

**Q25. Is an out-of-state business that is in this state on a temporary basis solely for the purpose of performing disaster recovery from a declared disaster during a disaster period required to file and remit use tax?**

A25. An out-of-state business that is in this state on a temporary basis solely for the purpose of performing disaster recovery from a declared disaster during a disaster period is not required to file or pay state or local use tax on any infrastructure brought temporarily into this state for or during the disaster period.

**Q26. Is an out-of-state business that is in this state on a temporary basis solely for the purpose of performing disaster recovery from a declared disaster during a disaster period required to file and remit transaction privilege tax on its gross receipts or gross income?**

A26. The gross receipts or gross income of an out-of-state business that is in this state on a temporary basis solely for the purpose of performing disaster recovery during a disaster period are subject to transaction privilege tax unless otherwise statutorily exempt. The out-of-state business may be required to obtain a transaction privilege tax license and file and remit the tax.

**Q27. Is an out-of-state business that is in this state on a temporary basis solely for the purpose of performing disaster recovery from a declared disaster during a disaster period required to pay tax on goods or services purchased in Arizona?**

A27. Disaster recovery relief does not extend to goods or services purchased in Arizona. Unless otherwise exempted, the vendor that sells the goods or services is subject to transaction privilege tax on the sale and may pass that cost on to the out-of-state business. Unless otherwise statutorily exempt, an out-of-state business or out-of-state employee must pay transaction privilege tax on purchases of goods and services including:

- Temporary lodging such as hotels or motels
- Car rental
- Fuel
- Materials or services for use or consumption during the disaster period

## PERSONAL PROPERTY TAX

**Q28. As a qualifying out-of-state business, do I have to report business personal property brought to Arizona temporarily for the sole purpose of performing disaster recovery during a disaster period?**

A28. No. A qualified out-of-state business is not required to report business personal property that is brought into the state for a qualified disaster recovery effort. Communication with the county assessor's office in which the disaster recovery is taking place, should be held if there are any questions regarding personal property that should be reported.

## FOR ADDITIONAL INFORMATION:

~ Call ~

Phoenix ..... (602) 255-3381  
Toll free from area codes  
520 & 928 ..... (800) 352-4090

~ Write ~

Arizona Department of Revenue  
Taxpayer Information & Assistance  
PO Box 29086  
Phoenix AZ 85038-9086

~ Browse ~

[www.azdor.gov](http://www.azdor.gov)

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