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REFERENCE TITLE: **DOR; administration; enforcement**

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HB 2060

Introduced by
Representative Huffman

AN ACT

AMENDING SECTIONS 41-1092.02, 42-1125, 42-1126, 42-2003, 42-5014, 42-5017 AND 43-321, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 43-401.01 AND 43-401.02; AMENDING SECTION 43-1122, 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 41-1092.02, Arizona Revised Statutes, is amended to
3 read:
4 41-1092.02. Appealable agency actions; application of
5 procedural rules; exemption from article
6 A. This article applies to all contested cases as defined in section
7 41-1001 and all appealable agency actions, except contested cases with or
8 appealable agency actions of:
9 1. The state department of corrections.
10 2. The board of executive clemency.
11 3. The industrial commission of Arizona.
12 4. The Arizona corporation commission.
13 5. The Arizona board of regents and institutions under its
14 jurisdiction.
15 6. The state personnel board.
16 7. The department of juvenile corrections.
17 8. The department of transportation.
18 9. The department of economic security except as provided in sections
19 8-506.01 and 8-811.
20 10. The department of revenue regarding:
21 (a) Income tax, withholding tax or estate tax. ~~or~~
22 (b) Any tax issue related to information associated with the reporting
23 of income tax, withholding tax or estate tax **UNLESS THE TAXPAYER REQUESTS IN**
24 **WRITING THAT THIS ARTICLE APPLY AND WAIVES CONFIDENTIALITY UNDER SECTION**
25 **42-2003.**
26 11. The board of tax appeals.
27 12. The state board of equalization.
28 13. The state board of education, but only in connection with contested
29 cases and appealable agency actions related to applications for issuance or
30 renewal of a certificate and discipline of certificate holders pursuant to
31 sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.
32 14. The board of fingerprinting.
33 B. Unless waived by all parties, an administrative law judge shall
34 conduct all hearings under this article, and the procedural rules set forth
35 in this article and rules made by the director apply.
36 C. Except as provided in subsection A of this section:
37 1. A contested case heard by the office of administrative hearings
38 regarding taxes administered under title 42 shall be subject to the
39 provisions under section 42-1251.
40 2. A final decision of the office of administrative hearings regarding
41 taxes administered under title 42 may be appealed by either party to the
42 director of the department of revenue, or a taxpayer may file and appeal
43 directly to the board of tax appeals pursuant to section 42-1253.
44 D. Except as provided in subsections A, B, E, F and G of this section
45 and notwithstanding any other administrative proceeding or judicial review

1 process established in statute or administrative rule, this article applies
2 to all appealable agency actions and to all contested cases.

3 E. Except for a contested case or an appealable agency action
4 regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09
5 do not apply to the department of revenue.

6 F. The board of appeals established by section 37-213 is exempt from:

7 1. The time frames for hearings and decisions provided in section
8 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

9 2. The requirement in section 41-1092.06, subsection A to hold an
10 informal settlement conference at the appellant's request if the sole subject
11 of an appeal pursuant to section 37-215 is the estimate of value reported in
12 an appraisal of lands or improvements.

13 G. Auction protest procedures pursuant to title 37, chapter 2, article
14 4.1 are exempt from this article.

15 Sec. 2. Section 42-1125, Arizona Revised Statutes, is amended to read:

16 42-1125. Civil penalties; definition

17 A. If a taxpayer fails to make and file a return for a tax
18 administered pursuant to this article on or before the due date of the return
19 or the due date as extended by the department, then, unless it is shown that
20 the failure is due to reasonable cause and not due to wilful neglect, four
21 and one-half per cent of the tax required to be shown on such return shall be
22 added to the tax for each month or fraction of a month elapsing between the
23 due date of the return and the date on which it is filed. The total penalty
24 shall not exceed twenty-five per cent of the tax found to be remaining
25 due. The penalty so added to the tax is due and payable on notice and demand
26 from the department. For the purpose of computing the penalty imposed under
27 this subsection, the amount required to be shown as tax on a return shall be
28 reduced by the amount of any part of the tax which is paid on or before the
29 beginning of such month and by the amount of any credit against the tax which
30 may be claimed on the return. If the amount required to be shown as tax on a
31 return is less than the amount shown as tax on such return the penalty
32 described in this subsection shall be applied by substituting such lower
33 amount.

34 B. If a taxpayer fails or refuses to file a return on notice and
35 demand by the department, the taxpayer shall pay a penalty of twenty-five per
36 cent of the tax, which is due and payable on notice and demand by the
37 department, in addition to any penalty prescribed by subsection A of this
38 section, unless it is shown that the failure is due to reasonable cause and
39 not due to wilful neglect. This penalty is payable on notice and demand from
40 the department.

41 C. If a taxpayer fails or refuses to furnish any information requested
42 in writing by the department, the department may add a penalty of twenty-five
43 per cent of the amount of any deficiency tax assessed by the department
44 concerning the assessment of which the information was required, unless it is
45 shown that the failure is due to reasonable cause and not due to wilful
46 neglect.

1 D. If a person fails to pay the amount shown as tax on any return
2 within the time prescribed, a penalty of one-half of one per cent, not to
3 exceed a total of ten per cent, shall be added to the amount shown as tax for
4 each month or fraction of a month during which the failure continues, unless
5 it is shown that the failure is due to reasonable cause and not due to wilful
6 neglect. If the department determines that the person's failure to pay was
7 due to reasonable cause and not due to wilful neglect and that a payment
8 agreement pursuant to section 42-2057 is appropriate, the department shall
9 not impose the penalty unless the taxpayer fails to comply with the payment
10 agreement. If the taxpayer is also subject to a penalty under subsection A
11 of this section for the same tax period, the total penalties under subsection
12 A of this section and this subsection shall not exceed twenty-five per
13 cent. For the purpose of computing the penalty imposed under this
14 subsection:

15 1. The amount shown as tax on a return shall be reduced by the amount
16 of any part of the tax that is paid on or before the beginning of that month
17 and by the amount of any credit against the tax that may be claimed on the
18 return.

19 2. If the amount shown as tax on a return is greater than the amount
20 required to be shown as tax on that return, the penalty shall be applied by
21 substituting the lower amount.

22 E. If a person fails to pay any amount required to be shown on any
23 return that is not so shown within twenty-one calendar days after the date of
24 notice and demand, a penalty of one-half of one per cent, not to exceed a
25 total of ten per cent, shall be added to the amount of tax for each month or
26 fraction of a month during which the failure continues, unless it is shown
27 that the failure is due to reasonable cause and not due to wilful
28 neglect. If the taxpayer is also subject to penalty under subsection A of
29 this section for the same tax period, the total penalties under subsection A
30 of this section and this subsection shall not exceed twenty-five per
31 cent. For the purpose of computing the penalty imposed under this
32 subsection, any amount required to be shown on any return shall be reduced by
33 the amount of any part of the tax that is paid on or before the beginning of
34 that month and by the amount of any credit against the tax that may be
35 claimed on the return.

36 F. In the case of a deficiency, for which a determination is made of
37 an additional amount due, which is due to negligence but without intent to
38 defraud, the person shall pay a penalty of ten per cent of the amount of the
39 deficiency.

40 G. If part of a deficiency is due to fraud with intent to evade tax,
41 fifty per cent of the total amount of the tax, in addition to the deficiency,
42 interest and other penalties provided in this section, shall be assessed,
43 collected and paid as if it were a deficiency.

44 H. If the amount, whether determined by the department or the
45 taxpayer, required to be withheld by the employer pursuant to title 43,
46 chapter 4 is not paid to the department on or before the date prescribed for

1 its remittance, the department may add a penalty of twenty-five per cent of
2 the amount required to be withheld and paid, unless it is shown that the
3 failure is due to reasonable cause and not due to wilful neglect.

4 I. A person who, with or without intent to evade any requirement of
5 this article or any lawful administrative rule of the department of revenue
6 under this article, fails to file a return or to supply information required
7 under this article or who, with or without such intent, makes, prepares,
8 renders, signs or verifies a false or fraudulent return or statement or
9 supplies false or fraudulent information shall pay a penalty of not more than
10 one thousand dollars. This penalty shall be recovered by the department of
11 law in the name of this state by an action in any court of competent
12 jurisdiction.

13 J. If the taxpayer files what purports to be a return of any tax
14 administered pursuant to this article but which is frivolous or which is made
15 with the intent to delay or impede the administration of the tax laws, that
16 person shall pay a penalty of five hundred dollars.

17 K. If a taxpayer who is required to file or provide an information
18 return under this title or title 43 fails to file the return at the
19 prescribed time or files a return which fails to show the information
20 required, that taxpayer shall pay a penalty of five hundred dollars unless it
21 is shown that the failure is due to reasonable cause and not due to wilful
22 neglect.

23 L. If it appears to the superior court that proceedings before it have
24 been instituted or maintained by a taxpayer primarily for delay or that the
25 taxpayer's position is frivolous or groundless, the court may award damages
26 in an amount not to exceed one thousand dollars to this state. Damages so
27 awarded shall be collected as a part of the tax.

28 M. A person who is required under section 43-413 to furnish a
29 statement to an employee and who wilfully furnishes a false or fraudulent
30 statement, or who wilfully fails to furnish a statement required by section
31 43-413, is for each such failure subject to a penalty of fifty dollars.

32 N. A person who is required to collect, truthfully account for and pay
33 a tax administered pursuant to this article and who wilfully fails to collect
34 the tax or truthfully account for and pay the tax, or wilfully attempts in
35 any manner to evade or defeat the tax or its payment, is, in addition to
36 other penalties provided by law, liable for a penalty equal to the total
37 amount of the tax evaded, not collected or not accounted for and paid. No
38 other penalty under this section relating to failure to pay tax may be
39 imposed for any offense to which this subsection applies.

40 O. Unless due to reasonable cause and not to wilful neglect:

41 1. A person who fails to provide his taxpayer identification number in
42 any return, statement or other document as required by section 42-1105,
43 subsection A shall pay a penalty of five dollars for each such failure.

44 2. A person, when filing any return, statement or other document for
45 compensation on behalf of a taxpayer, who fails to include that person's own

1 taxpayer identification number and the taxpayer's identification number shall
2 pay a penalty of fifty dollars for each such failure.

3 3. A person, when filing any return, statement or other document
4 without compensation on behalf of a taxpayer, who fails to include that
5 person's own taxpayer identification number and the taxpayer's identification
6 number is not subject to a penalty.

7 No other penalty under this section may be imposed if the only violation is
8 failure to provide taxpayer identification numbers.

9 P. If a taxpayer fails to pay the full amount of estimated tax
10 required by title 43, chapter 5, article 6, a penalty is assessed equal to
11 the amount of interest that would otherwise accrue under section 42-1123 on
12 the amount not paid for the period of nonpayment, not exceeding ten per cent
13 of the amount not paid. The penalty prescribed by this subsection is in lieu
14 of any other penalty otherwise prescribed by this section and in lieu of
15 interest prescribed by section 42-1123.

16 Q. The department of law ~~may~~, with the consent of the department of
17 revenue, ~~MAY~~ compromise any penalty for which it may bring an action under
18 this section.

19 R. Penalties shall not be assessed under subsection D of this section
20 on additional amounts of tax paid by a taxpayer at the time the taxpayer
21 voluntarily files an amended return. This subsection does not apply if:

22 1. The taxpayer is under audit by the department.

23 2. The amended return was filed on demand or request by the
24 department.

25 3. The total additional tax paid and due for the tax period represents
26 a substantial understatement of tax liability. For the purposes of this
27 paragraph, there is a substantial understatement of tax for any tax period if
28 the amount of the understatement for the tax period exceeds the greater of
29 ten per cent of the actual tax liability for the tax period or two thousand
30 dollars.

31 S. A PERSON WHO IS REQUIRED UNDER SECTION 42-1105 TO MAINTAIN AND
32 PROVIDE A LIST FOR ANY CALENDAR YEAR AND FAILS TO FURNISH THE LIST WITHIN
33 TWENTY DAYS AFTER A REQUEST IS LIABLE FOR:

34 1. IN THE CASE OF A REPORTABLE TRANSACTION, A PENALTY OF TEN THOUSAND
35 DOLLARS FOR EACH DAY AFTER THE TWENTIETH DAY THAT THE ORGANIZER OR MATERIAL
36 ADVISOR HAS FAILED TO MAKE THE LIST AVAILABLE TO THE DEPARTMENT AFTER THE
37 DEPARTMENT HAS MADE A WRITTEN REQUEST FOR THE LIST. FOR THE PURPOSES OF THIS
38 PARAGRAPH, "REPORTABLE TRANSACTION" HAS THE SAME MEANING PRESCRIBED IN
39 SECTION 43-321.

40 2. IN THE CASE OF A LISTED TRANSACTION, A PENALTY THAT IS THE GREATER
41 OF ONE HUNDRED THOUSAND DOLLARS OR FIFTY PER CENT OF THE GROSS INCOME THAT
42 THE ORGANIZER OR MATERIAL ADVISOR DERIVED FROM THE ACTIVITY. FOR THE
43 PURPOSES OF THIS PARAGRAPH, "LISTED TRANSACTION" HAS THE SAME MEANING
44 PRESCRIBED IN SECTION 43-321.

45 T. ANY PERSON WHO FAILS TO DISCLOSE A REPORTABLE TRANSACTION PURSUANT
46 TO SECTION 43-321 IS LIABLE FOR A PENALTY OF FIFTEEN THOUSAND DOLLARS.

1 ~~S.~~ U. For the purposes of this section, and only as applied to the
2 taxes imposed by chapter 5, articles 1 through 6 and chapter 6, articles 1, 2
3 and 3 of this title, "reasonable cause" means a reasonable basis for the
4 taxpayer to believe that the tax did not apply to the business activity or
5 the storage, use or consumption of the taxpayer's tangible personal property
6 in this state.

7 Sec. 3. Section 42-1126, Arizona Revised Statutes, is amended to read:
8 42-1126. Fee for bad checks

9 The department may charge and collect a fee of twenty-five dollars from
10 a taxpayer that offers a check, draft, negotiable order of withdrawal,
11 ELECTRONIC PAYMENT or similar instrument drawn on a bank or other depository
12 institution in full or partial payment of a tax administered pursuant to this
13 article if the instrument is not paid or is dishonored by the institution.

14 Sec. 4. Section 42-2003, Arizona Revised Statutes, is amended to read:
15 42-2003. Authorized disclosure of confidential information

16 A. Confidential information relating to:

17 1. A taxpayer may be disclosed to the taxpayer, its successor in
18 interest or a designee of the taxpayer who is authorized in writing by the
19 taxpayer. A principal corporate officer of a parent corporation may execute
20 a written authorization for a controlled subsidiary.

21 2. A corporate taxpayer may be disclosed to any principal officer, any
22 person designated by a principal officer or any person designated in a
23 resolution by the corporate board of directors or other similar governing
24 body.

25 3. A partnership may be disclosed to any partner of the partnership.
26 This exception does not include disclosure of confidential information of a
27 particular partner unless otherwise authorized.

28 4. An estate may be disclosed to the personal representative of the
29 estate and to any heir, next of kin or beneficiary under the will of the
30 decedent if the department finds that the heir, next of kin or beneficiary
31 has a material interest which will be affected by the confidential
32 information.

33 5. A trust may be disclosed to the trustee or trustees, jointly or
34 separately, and to the grantor or any beneficiary of the trust if the
35 department finds that the grantor or beneficiary has a material interest
36 which will be affected by the confidential information.

37 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
38 to confidentiality either in writing or on the record in any administrative
39 or judicial proceeding.

40 7. The name and taxpayer identification numbers of persons issued
41 direct payment permits may be publicly disclosed.

42 B. Confidential information may be disclosed to:

43 1. Any employee of the department whose official duties involve tax
44 administration.

45 2. The office of the attorney general solely for its use in
46 preparation for, or in an investigation which may result in, any proceeding

1 involving tax administration before the department or any other agency or
2 board of this state, or before any grand jury or any state or federal court.

3 3. The department of liquor licenses and control for its use in
4 determining whether a spirituous liquor licensee has paid all transaction
5 privilege taxes and affiliated excise taxes incurred as a result of the sale
6 of spirituous liquor, AS DEFINED IN SECTION 4-101, at the licensed
7 establishment and imposed on the licensed establishments by this state and
8 its political subdivisions.

9 4. Other state tax officials whose official duties require the
10 disclosure for proper tax administration purposes if the information is
11 sought in connection with an investigation or any other proceeding conducted
12 by the official. Any disclosure is limited to information of a taxpayer who
13 is being investigated or who is a party to a proceeding conducted by the
14 official.

15 5. The following agencies, officials and organizations, if they grant
16 substantially similar privileges to the department for the type of
17 information being sought, pursuant to statute and a written agreement between
18 the department and the foreign country, agency, state, Indian tribe or
19 organization:

20 (a) The United States internal revenue service, alcohol and tobacco
21 tax and trade bureau of the United States treasury, United States bureau of
22 alcohol, tobacco, firearms and explosives of the United States department of
23 justice, United States drug enforcement agency and federal bureau of
24 investigation.

25 (b) A state tax official of another state.

26 (c) An organization of ~~states~~ TAX ADMINISTRATORS OR TAX COMMISSIONS OR
27 ANY OTHER SIMILAR ORGANIZATION that operates an information exchange for tax
28 administration purposes, INCLUDING ANY STATE OR CITY THAT PARTICIPATES IN THE
29 EXCHANGE PROGRAM OF THE ORGANIZATION IF THE INFORMATION DISCLOSED IS USED FOR
30 TAX ADMINISTRATION PURPOSES.

31 (d) An agency, official or organization of a foreign country with
32 responsibilities that are comparable to those listed in subdivision (a), (b)
33 or (c) of this paragraph.

34 (e) An agency, official or organization of an Indian tribal government
35 with responsibilities comparable to the responsibilities of the agencies,
36 officials or organizations identified in subdivision (a), (b) or (c) of this
37 paragraph.

38 6. The auditor general, in connection with any audit of the department
39 subject to the restrictions in section 42-2002, subsection C.

40 7. Any person to the extent necessary for effective tax administration
41 in connection with:

42 (a) The processing, storage, transmission, destruction and
43 reproduction of the information.

44 (b) The programming, maintenance, repair, testing and procurement of
45 equipment for purposes of tax administration.

1 8. The office of administrative hearings relating to taxes
2 administered by the department pursuant to section 42-1101, but the
3 department shall not disclose any confidential information:

4 (a) Regarding income tax, withholding tax or estate tax.

5 (b) On any tax issue relating to information associated with the
6 reporting of income tax, withholding tax or estate tax.

7 9. The United States treasury inspector general for tax administration
8 for the purpose of reporting a violation of internal revenue code section
9 7213A (26 United States Code section 7213A), unauthorized inspection of
10 returns or return information.

11 10. The financial management service of the United States treasury
12 department for use in the treasury offset program.

13 11. THE UNITED STATES TREASURY DEPARTMENT OR ITS AUTHORIZED AGENT FOR
14 USE IN THE STATE INCOME TAX LEVY PROGRAM AND IN THE ELECTRONIC FEDERAL TAX
15 PAYMENT SYSTEM.

16 12. THE REGISTRAR OF CONTRACTORS FOR THE REGISTRAR'S USE:

17 (a) RELATING TO TAXES THAT ARE DUE OR THAT HAVE NOT BEEN PAID WHEN
18 GRANTING OR DENYING LICENSES.

19 (b) IN DETERMINING WHETHER A LICENSEE HAS PAID ALL TRANSACTION
20 PRIVILEGE TAXES AND AFFILIATED TAXES INCURRED AS A RESULT OF ENGAGING IN THE
21 BUSINESS OF PRIME CONTRACTING PURSUANT TO SECTION 42-5075.

22 (c) IN DISCIPLINING LICENSEES WHO FAIL TO COMPLY WITH ANY TAX LAW OF
23 THIS STATE.

24 C. Confidential information may be disclosed in any state or federal
25 judicial or administrative proceeding pertaining to tax administration if the
26 taxpayer is a party to the proceeding.

27 D. Identity information may be disclosed for purposes of notifying
28 persons entitled to tax refunds if the department is unable to locate the
29 persons after reasonable effort.

30 E. The department, upon the request of any person, shall provide the
31 names and addresses of bingo licensees as defined in section 5-401 or verify
32 whether or not a person has a privilege license and number, DISTRIBUTOR'S
33 LICENSE AND NUMBER or withholding license and number.

34 F. A department employee, in connection with the official duties
35 relating to any audit, collection activity or civil or criminal
36 investigation, may disclose return information to the extent that disclosure
37 is necessary to obtain information which is not otherwise reasonably
38 available. These official duties include the correct determination of and
39 liability for tax, the amount to be collected or the enforcement of other
40 state tax revenue laws.

41 G. If an organization is exempt from this state's income tax as
42 provided in section 43-1201 for any taxable year, the name and address of the
43 organization and the application filed by the organization upon which the
44 department made its determination for exemption together with any papers
45 submitted in support of the application and any letter or document issued by
46 the department concerning the application are open to public inspection.

1 H. Confidential information relating to transaction privilege tax, use
2 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
3 be disclosed to any county, city or town tax official if the information
4 relates to a taxpayer who is or may be taxable by the county, city or town.
5 Any taxpayer information released by the department to the county, city or
6 town:

7 1. May only be used for internal purposes.

8 2. May not be disclosed to the public in any manner that does not
9 comply with confidentiality standards established by the department. The
10 county, city or town shall agree in writing with the department that any
11 release of confidential information that violates the confidentiality
12 standards adopted by the department will result in the immediate suspension
13 of any rights of the county, city or town to receive taxpayer information
14 under this subsection.

15 I. The department may disclose statistical information gathered from
16 confidential information if it does not disclose confidential information
17 attributable to any one taxpayer. In order to comply with the requirements
18 of section 42-5029, subsection A, paragraph 3, the department may disclose to
19 the state treasurer statistical information gathered from confidential
20 information, even if it discloses confidential information attributable to a
21 taxpayer.

22 J. The department may disclose the aggregate amounts of any tax
23 credit, tax deduction or tax exemption enacted after January 1, 1994.
24 Information subject to disclosure under this subsection shall not be
25 disclosed if a taxpayer demonstrates to the department that such information
26 would give an unfair advantage to competitors.

27 K. Except as provided in section 42-2002, subsection B, confidential
28 information, described in section 42-2001, paragraph 2, subdivision (a), item
29 (iii), may be disclosed to law enforcement agencies for law enforcement
30 purposes.

31 L. The department may provide transaction privilege tax license
32 information to property tax officials in a county for the purpose of
33 identification and verification of the tax status of commercial property.

34 M. The department may provide transaction privilege tax, luxury tax,
35 use tax, property tax and severance tax information to the ombudsman-citizens
36 aide pursuant to title 41, chapter 8, article 5.

37 N. Except as provided in section 42-2002, subsection C, a court may
38 order the department to disclose confidential information pertaining to a
39 party to an action. An order shall be made only upon a showing of good cause
40 and that the party seeking the information has made demand upon the taxpayer
41 for the information.

42 O. This section does not prohibit the disclosure by the department of
43 any information or documents submitted to the department by a bingo licensee.
44 Before disclosing the information the department shall obtain the name and
45 address of the person requesting the information.

1 P. If the department is required or permitted to disclose confidential
2 information, it may charge the person or agency requesting the information
3 for the reasonable cost of its services.

4 Q. Except as provided in section 42-2002, subsection C, the department
5 of revenue shall release confidential information as requested by the
6 department of economic security pursuant to section 42-1122 or 46-291.
7 Information disclosed under this subsection is limited to the same type of
8 information that the United States internal revenue service is authorized to
9 disclose under section 6103(1)(6) of the internal revenue code.

10 R. Except as provided in section 42-2002, subsection C, the department
11 of revenue shall release confidential information as requested by the courts
12 and clerks of the court pursuant to section 42-1122.

13 S. To comply with the requirements of section 42-5031, the department
14 may disclose to the state treasurer, to the county stadium district board of
15 directors and to any city or town tax official that is part of the county
16 stadium district confidential information attributable to a taxpayer's
17 business activity conducted in the county stadium district.

18 T. The department shall release confidential information as requested
19 by the attorney general for purposes of determining compliance with and
20 enforcing section 44-7101, the master settlement agreement referred to
21 therein and subsequent agreements to which the state is a party that amend or
22 implement the master settlement agreement. Information disclosed under this
23 subsection is limited to luxury tax information relating to tobacco
24 manufacturers, distributors, wholesalers and retailers and information
25 collected by the department pursuant to section 44-7101(2)(j).

26 U. For proceedings before the department, the office of administrative
27 hearings, the board of tax appeals or any state or federal court involving
28 penalties that were assessed against a return preparer or electronic return
29 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
30 information may be disclosed only before the judge or administrative law
31 judge adjudicating the proceeding, the parties to the proceeding and the
32 parties' representatives in the proceeding prior to its introduction into
33 evidence in the proceeding. The confidential information may be introduced
34 as evidence in the proceeding only if the taxpayer's name, the names of any
35 dependents listed on the return, all social security numbers, the taxpayer's
36 address, the taxpayer's signature and any attachments containing any of the
37 foregoing information are redacted and if either:

38 1. The treatment of an item reflected on such return is or may be
39 related to the resolution of an issue in the proceeding.

40 2. Such return or return information relates or may relate to a
41 transactional relationship between a person who is a party to the proceeding
42 and the taxpayer which directly affects the resolution of an issue in the
43 proceeding.

44 V. The department may disclose to the attorney general confidential
45 information received under section 44-7111 and requested by the attorney
46 general for purposes of determining compliance with and enforcing section

1 44-7111. The department and attorney general shall share with each other the
2 information received under section 44-7111, and may share the information
3 with other federal, state or local agencies only for the purposes of
4 enforcement of section 44-7101, section 44-7111 or corresponding laws of
5 other states.

6 W. IN A REPORT THAT LISTS THE TRANSACTION PRIVILEGE TAX LICENSES
7 ISSUED IN THE PRECEDING MONTH AND FOR THE SOLE PURPOSE OF ENSURING COMPLIANCE
8 WITH REGULATORY REQUIREMENTS, THE DEPARTMENT OF REVENUE MAY DISCLOSE TO THE
9 DEPARTMENT OF WEIGHTS AND MEASURES AND TO THE ENVIRONMENTAL AND PUBLIC HEALTH
10 AGENCIES OF A COUNTY, CITY OR TOWN THE NAMES, TYPES OF BUSINESSES AND
11 BUSINESS ADDRESSES OF BUSINESS LICENSEES.

12 Sec. 5. Section 42-5014, Arizona Revised Statutes, is amended to read:
13 42-5014. Return and payment of tax; estimated tax; extensions;
14 abatements

15 A. Except as provided in subsection B, C or D of this section, the
16 taxes levied under this article are due and payable monthly in the form
17 required by section 42-5018 for the amount of the tax, to the department, on
18 or before the twentieth day of the month next succeeding the month in which
19 the tax accrues and are delinquent:

20 1. If not postmarked on or before the twenty-fifth day of that month.

21 2. If not received by the department on or before the business day
22 preceding the last business day of that month for those taxpayers electing to
23 file by mail.

24 3. If not received by the department on the business day preceding the
25 last business day of that month for those taxpayers electing to file in
26 person.

27 4. If not received by the department on or before the ~~twenty-fifth~~
28 BUSINESS DAY PRECEDING THE LAST BUSINESS day of that month for those
29 taxpayers required or electing to pay in immediately available monies
30 pursuant to section 42-1129.

31 B. For tax reporting periods that begin from and after December 31,
32 1998, the department ~~may~~, for any taxpayer whose estimated annual liability
33 for taxes imposed by this article is between five hundred dollars and one
34 thousand two hundred fifty dollars, MAY authorize such taxpayer to pay such
35 taxes on a quarterly basis. For tax reporting periods that begin from and
36 after December 31, 1998, the department ~~may~~, for any taxpayer whose estimated
37 annual liability for taxes imposed by this article is five hundred dollars or
38 less, MAY authorize such taxpayer to pay such taxes on an annual basis.

39 C. The department may require a taxpayer whose business is of a
40 transient character to file the return and remit the taxes imposed by this
41 article on a daily, a weekly or a transaction by transaction basis, and those
42 returns and payments are due and payable on the date fixed by the department
43 without a grace period otherwise allowed by this section. For THE purposes
44 of this subsection, "business of a transient character" means sales activity
45 by a taxpayer not regularly engaged in selling within the state conducted
46 from vehicles, portable stands, rented spaces, structures or booths, or

1 concessions at fairs, carnivals, circuses, festivals or similar activities
2 for not more than thirty consecutive days.

3 D. If the business entity under which a taxpayer reports and pays
4 income tax under title 43 has an annual total tax liability under this
5 article, article 6 of this chapter and chapter 6, article 3 of this title of
6 one hundred thousand dollars or more, based on the actual tax liability in
7 the preceding calendar year, regardless of the number of offices at which the
8 taxes imposed by this article, article 6 of this chapter or chapter 6,
9 article 3 of this title are collected, or if the taxpayer can reasonably
10 anticipate such liability in the current year, the taxpayer shall report on a
11 form prescribed by the department and pay an estimated tax payment each
12 June. Any other taxpayer may voluntarily elect to pay the estimated tax
13 payment pursuant to this subsection. The payment shall be made on or before
14 June 20 and is delinquent if not postmarked on or before that date or if not
15 received by the department on or before the business day preceding the last
16 business day of June for those taxpayers electing to file by mail, or
17 delinquent if not received by the department on the business day preceding
18 the last business day of June for those taxpayers electing to file in person.
19 A taxpayer paying by using the method prescribed in subsection A, paragraph 4
20 of this section shall make the estimated tax payments on or before June 25,
21 and the payment is delinquent if not transferred by the last day to make the
22 estimated payment. The estimated tax paid shall be credited against the
23 taxpayer's tax liability under this article, article 6 of this chapter and
24 chapter 6, article 3 of this title for the month of June for the current
25 calendar year. The estimated tax payment shall equal either:

26 1. One-half of the actual tax liability under this article plus
27 one-half of any tax liability under article 6 of this chapter and chapter 6,
28 article 3 of this title for May of the current calendar year.

29 2. The actual tax liability under this article plus any tax liability
30 under article 6 of this chapter and chapter 6, article 3 of this title for
31 the first fifteen days of June of the current calendar year.

32 E. The taxpayer shall prepare a return showing the amount of the tax
33 for which the taxpayer is liable for the preceding month, and shall mail or
34 deliver the return to the department in the same manner and time as
35 prescribed for the payment of taxes in subsection A of this section. The
36 return shall be verified by the oath of the taxpayer or an authorized agent
37 or as prescribed by the department pursuant to section 42-1105, subsection B.

38 F. Any person WHO IS taxable under this article making AND WHO MAKES
39 cash and credit sales shall report such cash and credit sales separately and
40 upon making application may obtain from the department an extension of time
41 for payment of taxes due on the credit sales. The extension shall be granted
42 by the department under such rules as the department prescribes. When the
43 extension is granted, the taxpayer shall thereafter include in each monthly
44 report all collections made on such credit sales during the month next
45 preceding, and shall pay the taxes due at the time of filing such report.

1 G. The returns required under this article shall be made upon forms
2 prescribed by the department.

3 H. The department, for good cause, may extend the time for making any
4 return required by this article, ~~and~~ and may grant such reasonable additional
5 time within which to make the return as it deems proper, but the time for
6 filing the return shall not be extended beyond the first day of the third
7 month next succeeding the regular due date of the return.

8 I. The department, with the approval of the attorney general, may
9 abate small tax balances if the administration costs exceed the amount of tax
10 due.

11 J. For the purposes of subsection D of this section, "taxpayer" means
12 the business entity under which the business reports and pays state income
13 taxes regardless of the number of offices at which the taxes imposed by this
14 article, article 6 of this chapter or chapter 6, article 3 of this title are
15 collected.

16 Sec. 6. Section 42-5017, Arizona Revised Statutes, is amended to read:

17 42-5017. Credit for accounting and reporting expenses;
18 definition

19 A. A credit is allowed against the taxes imposed by this article and
20 article 5 of this chapter for expenses incurred by the taxpayer in accounting
21 and reporting those taxes. The credit is equal to one per cent of the amount
22 of tax due but not to exceed a total of ten thousand dollars in any calendar
23 year for the combined total of all business premises of a
24 taxpayer. Estimated taxes under section 42-5014, subsection D are not
25 considered a separate reporting period.

26 B. A taxpayer shall claim the credit for each tax period on forms
27 prescribed and furnished by the department, which may be incorporated in the
28 return form prescribed pursuant to section 42-5014. A claim for credit is
29 not allowed if the taxpayer fails to **FILE A RETURN AND** pay the tax due, plus
30 any estimated tax liability, before the payment becomes delinquent.

31 C. ~~As used in~~ **FOR THE PURPOSES OF** this section, "taxpayer" means the
32 business entity under which the business reports for state income tax
33 purposes or an entity that is exempt from state income tax.

34 Sec. 7. Section 43-321, Arizona Revised Statutes, is amended to read:

35 43-321. Information required in returns; definitions

36 A. Each return required to be filed under this title shall contain the
37 following:

38 1. It shall contain or be verified by a declaration that it is made
39 under penalties of perjury. The declaration shall be written or in a form
40 prescribed by the department pursuant to section 42-1105, subsection B.

41 2. A specific statement of the items of the taxpayer's gross income
42 and the adjustments, deductions and credits allowed by this title.

43 3. **IF THE TAXPAYER HAS PARTICIPATED IN A REPORTABLE TRANSACTION OR**
44 **LISTED TRANSACTION, A DISCLOSURE STATEMENT ON A FORM PRESCRIBED BY THE**
45 **DEPARTMENT.**

1 ~~3.~~ 4. Such other information as the department may by rule prescribe
2 for the purpose of carrying out the provisions of this title.

3 B. FOR THE PURPOSES OF THIS SECTION:

4 1. "LISTED TRANSACTION" MEANS A REPORTABLE TRANSACTION AND INCLUDES
5 ANY TRANSACTION THAT HAS A TAX AVOIDANCE PURPOSE FOR:

6 (a) FEDERAL INCOME TAX PURPOSES AND IS THE SAME OR SUBSTANTIALLY
7 SIMILAR TO A TRANSACTION THAT IS SPECIFICALLY IDENTIFIED UNDER SECTION 6011
8 OF THE INTERNAL REVENUE CODE AND IS IDENTIFIED BY NOTICE, REGULATION OR
9 OTHER FORM OF PUBLISHED GUIDANCE BY THE INTERNAL REVENUE SERVICE.

10 (b) ARIZONA INCOME TAX PURPOSES AND IS IDENTIFIED AND PUBLISHED BY THE
11 DEPARTMENT.

12 2. "REPORTABLE TRANSACTION" MEANS ANY TRANSACTION IDENTIFIED UNDER
13 SECTION 6011 OF THE INTERNAL REVENUE CODE OR ANY TRANSACTION THAT THE
14 DEPARTMENT DETERMINES AS HAVING A TAX AVOIDANCE OR TAX EVASION PURPOSE.

15 Sec. 8. Title 43, chapter 4, article 1, Arizona Revised Statutes, is
16 amended by adding sections 43-401.01 and 43-401.02, to read:

17 43-401.01. Withholding requirements; pass-through entities;
18 nonresidents; definitions

19 A. A PASS-THROUGH ENTITY THAT HAS A NONRESIDENT MEMBER SHALL WITHHOLD
20 INCOME TAX AT THE HIGHEST TAX RATE UNDER SECTION 43-1011 FOR A MEMBER THAT IS
21 EITHER AN INDIVIDUAL OR AN ENTITY THAT IS NOT TAXED AS A CORPORATION FOR
22 FEDERAL INCOME TAX PURPOSES FOR THE TAXABLE YEAR. IF THE NONRESIDENT MEMBER
23 IS A CORPORATION OR OTHER ENTITY THAT IS TAXED AS A CORPORATION FOR THE
24 TAXABLE YEAR, THE CORPORATION OR ENTITY SHALL WITHHOLD INCOME TAX AT THE
25 HIGHEST RATE IMPOSED UNDER SECTION 43-1111 ON THE DISTRIBUTIVE SHARE OF
26 INCOME OF EACH NONRESIDENT MEMBER. THE NONRESIDENT MEMBER SHALL PAY THE
27 AMOUNT THAT IS WITHHELD IN THE MANNER THAT IS PRESCRIBED BY THE DEPARTMENT ON
28 THE DISTRIBUTIVE SHARE OF INCOME OF EACH NONRESIDENT MEMBER. A LOWER-TIER
29 PASS-THROUGH ENTITY IS SUBJECT TO THIS SECTION AND SHALL WITHHOLD INCOME TAX
30 ON THE DISTRIBUTIVE SHARE OF INCOME OF ITS NONRESIDENT MEMBERS. THE
31 DEPARTMENT SHALL APPLY ANY TAX THAT IS WITHHELD AND PAID BY A PASS-THROUGH
32 ENTITY ON ANY DISTRIBUTIONS TO A LOWER-TIER PASS-THROUGH ENTITY TO THE
33 WITHHOLDING THAT IS REQUIRED FOR THE LOWER-TIER PASS-THROUGH ENTITY.

34 B. AT THE TIME PAYMENT IS MADE PURSUANT TO THIS SECTION, THE
35 PASS-THROUGH ENTITY SHALL FILE WITH THE DEPARTMENT, ON A FORM PRESCRIBED BY
36 THE DEPARTMENT, A RETURN THAT SETS FORTH THE TOTAL AMOUNT PAID OR CREDITED TO
37 THE ENTITY'S NONRESIDENT MEMBERS, THE AMOUNT WITHHELD UNDER THIS SECTION AND
38 ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES. ON A FORM PRESCRIBED BY
39 THE DEPARTMENT, THE PASS-THROUGH ENTITY SHALL ANNUALLY PROVIDE ITS
40 NONRESIDENT MEMBER ON OR BEFORE THE DUE DATE OF THE ENTITY'S ORIGINAL RETURN
41 A RECORD OF THE AMOUNT OF TAX WITHHELD ON BEHALF OF THE MEMBER.

42 C. A PASS-THROUGH ENTITY IS NOT REQUIRED TO WITHHOLD TAX UNDER THIS
43 SECTION FOR A NONRESIDENT MEMBER IF ANY OF THE FOLLOWING APPLY:

44 1. THE MEMBER HAS A PRO RATA OR DISTRIBUTIVE SHARE OF INCOME FROM THE
45 PASS-THROUGH ENTITY FOR BUSINESS IN, OR DERIVING INCOME FROM SOURCES WITHIN,
46 THIS STATE THAT IS LESS THAN ONE THOUSAND DOLLARS PER TAXABLE YEAR.

1 2. THE DEPARTMENT HAS DETERMINED BY RULE, RULING OR INSTRUCTION THAT
2 THE MEMBER'S INCOME IS NOT SUBJECT TO WITHHOLDING.

3 3. THE ENTITY IS A PUBLICLY TRADED PARTNERSHIP AS DEFINED IN SECTION
4 7704(b) OF THE INTERNAL REVENUE CODE, IS TREATED AS A PARTNERSHIP FOR
5 PURPOSES OF THE INTERNAL REVENUE CODE AND AGREES TO FILE AN ANNUAL
6 INFORMATION RETURN REPORTING THE NAME, ADDRESS, TAXPAYER IDENTIFICATION
7 NUMBER AND ANY OTHER INFORMATION REQUESTED BY THE DEPARTMENT FOR EACH UNIT
8 HOLDER WITH AN INCOME IN THIS STATE THAT EXCEEDS FIVE HUNDRED DOLLARS.

9 4. THE MEMBER ELECTS TO HAVE THE TAX AMOUNT THAT IS DUE INCLUDED IN
10 THE PAYMENT OF A COMPOSITE RETURN FILED BY THE PASS-THROUGH ENTITY ACCORDING
11 TO THE RULES, RULINGS AND INSTRUCTIONS OF THE DEPARTMENT.

12 D. EXCLUDING ANY EXTENSIONS, A PASS-THROUGH ENTITY SHALL PAY TO THE
13 DEPARTMENT THE AMOUNT REQUIRED TO BE WITHHELD UNDER THIS SECTION ON A DATE
14 THAT IS NO LATER THAN THE DATE WHEN THE PASS-THROUGH ENTITY'S ORIGINAL RETURN
15 COVERING THE TAX IS REQUIRED TO BE FILED WITH THE DEPARTMENT. AN EXTENSION
16 OF TIME FOR FILING THE PASS-THROUGH ENTITY'S RETURN DOES NOT EXTEND THE TIME
17 FOR PAYING THE AMOUNT OF WITHHOLDING TAX THAT IS DUE UNDER THIS SECTION.

18 E. A PASS-THROUGH ENTITY THAT IS REQUIRED TO WITHHOLD TAX UNDER THIS
19 SECTION SHALL BE LIABLE TO THE STATE FOR THE PAYMENT OF THE TAX, INCLUDING
20 ANY PENALTY AND INTEREST THAT IS REQUIRED UNDER TITLE 42. THE PASS-THROUGH
21 ENTITY IS NOT LIABLE TO ANY NONRESIDENT MEMBER FOR ANY AMOUNT DEDUCTED OR
22 CREDITED FROM A MEMBER WHEN COMPLYING WITH THIS SECTION.

23 F. WITHHOLDING UNDER THIS SECTION IS REQUIRED ONLY ONCE ON ANY INCOME.
24 NOTHING IN THIS SECTION REQUIRES A LOWER-TIER PASS-THROUGH ENTITY TO WITHHOLD
25 INCOME TAX UNDER SUBSECTION A OF THIS SECTION ON ANY INCOME FOR WHICH THE
26 PASS-THROUGH ENTITY HAS ALREADY WITHHELD INCOME.

27 G. EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE OR UNLESS THE CONTEXT
28 OTHERWISE REQUIRES, THE DISTRIBUTIVE SHARES OF INCOME INCLUDES ALL ITEMS OF
29 INCOME THAT ARE APPORTIONED AND ALLOCATED UNDER CHAPTER 11, ARTICLE 4 OF THIS
30 TITLE, WHETHER DISTRIBUTED TO EACH NONRESIDENT MEMBER OR SEPARATELY STATED.

31 H. THE DEPARTMENT MAY ADOPT RULES FOR THE ADMINISTRATION OF THIS
32 SECTION.

33 I. FOR THE PURPOSES OF THIS SECTION:

34 1. "LOWER-TIER PASS-THROUGH ENTITY" MEANS A MEMBER OF A PASS-THROUGH
35 ENTITY THAT IS ITSELF A PASS-THROUGH ENTITY.

36 2. "MEMBER" MEANS A SHAREHOLDER OF AN S CORPORATION, A PARTNER IN A
37 GENERAL PARTNERSHIP, A LIMITED PARTNERSHIP OR A LIMITED LIABILITY
38 PARTNERSHIP, A MEMBER OF A LIMITED LIABILITY COMPANY OR A BENEFICIARY OF A
39 TRUST OR ESTATE.

40 3. "NONRESIDENT" MEANS ANY OF THE FOLLOWING:

41 (a) AN INDIVIDUAL WHO IS NOT A RESIDENT OF OR DOMICILED IN THIS STATE.

42 (b) ANY BUSINESS ENTITY OR FOREIGN BUSINESS ENTITY THAT DOES NOT HAVE
43 ITS COMMERCIAL DOMICILE IN THIS STATE.

44 (c) A NONRESIDENT ESTATE OR TRUST, AS DEFINED IN SECTION 43-1301,
45 INCLUDING ANY FOREIGN ESTATE OR TRUST.

46 4. "PASS-THROUGH ENTITY" MEANS ANY OF THE FOLLOWING:

1 (a) A SMALL BUSINESS CORPORATION THAT MAKES A VALID ELECTION FOR A
2 TAXABLE YEAR PURSUANT TO SUBTITLE A, CHAPTER 1, SUBCHAPTER S OF THE INTERNAL
3 REVENUE CODE.

4 (b) A GENERAL PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY
5 PARTNERSHIP, A TRUST OR AN ESTATE.

6 (c) A LIMITED LIABILITY COMPANY THAT IS NOT TAXED AS A CORPORATION FOR
7 FEDERAL INCOME TAX PURPOSES FOR THE APPLICABLE TAXABLE YEAR.

8 43-401.02. Withholding requirements; real estate and associated
9 properties; nonresidents

10 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IF A NONRESIDENT
11 SELLS REAL PROPERTY THAT IS LOCATED IN THIS STATE FOR AN AMOUNT THAT EXCEEDS
12 ONE HUNDRED THOUSAND DOLLARS, THE BUYER OR TRANSFEREE SHALL WITHHOLD AND
13 REMIT TO THE DEPARTMENT WITHIN THIRTY DAYS OF THE SALE TWO PER CENT OF THE
14 SALES PRICE. IF THE AMOUNT THAT IS REQUIRED TO BE WITHHELD UNDER THIS
15 SECTION EXCEEDS THE CASH PROCEEDS THAT ARE PAYABLE TO THE SELLER OR
16 TRANSFEROR, THE BUYER OR TRANSFEREE SHALL WITHHOLD AND REMIT TO THE
17 DEPARTMENT TEN PER CENT OF THE CASH PROCEEDS THAT ARE OTHERWISE PAYABLE TO
18 THE SELLER OR TRANSFEROR. ON A FORM PRESCRIBED BY THE DEPARTMENT, THE BUYER
19 OR TRANSFEREE SHALL REMIT THE AMOUNT REQUIRED UNDER THIS SECTION TO THE
20 DEPARTMENT.

21 B. SUBSECTION A DOES NOT APPLY IF THE NONRESIDENT SELLER WHO RECEIVES
22 PAYMENT FROM THE TRANSFER OF TITLE IN REAL PROPERTY IN THIS STATE REGISTERS,
23 ON A FORM PRESCRIBED BY THE DEPARTMENT, WITH THE DEPARTMENT ON OR BEFORE THE
24 DATE THAT THE TITLED IS TRANSFERRED.

25 C. A BUYER OR TRANSFEREE WHO FAILS TO WITHHOLD THE AMOUNT REQUIRED
26 UNDER THIS SECTION SHALL BE PERSONALLY LIABLE FOR THE AMOUNT, INCLUDING ANY
27 PENALTY AND INTEREST THAT IS REQUIRED UNDER TITLE 42. UNTIL THE AMOUNT IS
28 REMITTED TO THE DEPARTMENT, THE AMOUNT REQUIRED TO BE WITHHELD UNDER THIS
29 SECTION SHALL CONSTITUTE A LIEN ON THE PROPERTY OF THE OWNER FOR A PERIOD NOT
30 TO EXCEED TEN YEARS AFTER THE SALE OF THE REAL PROPERTY.

31 D. IF THE SALE IS AN INSTALLMENT SALE, THE SELLER OR TRANSFEROR MAY
32 ELECT TO REPORT THE ENTIRE GAIN IN THE YEAR OF THE SALE. IF THE SELLER OR
33 TRANSFEROR DOES NOT MAKE THIS ELECTION, THE DEPARTMENT SHALL RETAIN THE
34 WITHHOLDING AND APPLY THE AMOUNT AS A CREDIT AGAINST THE SELLER'S OR
35 TRANSFEROR'S INCOME TAX LIABILITY IN EACH YEAR THAT AN INSTALLMENT PAYMENT IS
36 MADE.

37 E. THIS SECTION DOES NOT APPLY TO THE FOLLOWING:

38 1. A TRANSACTION WHEN THE SELLER OR TRANSFEROR IS A MORTGAGOR
39 CONVEYING THE MORTGAGED PROPERTY TO A MORTGAGEE IN FORECLOSURE OR IN A
40 TRANSFER IN LIEU OF FORECLOSURE WITH NO ADDITIONAL CONSIDERATION.

41 2. A TRANSACTION WHEN THE SELLER, TRANSFEROR OR TRANSFEREE IS AN
42 AGENCY OR AUTHORITY OF THE UNITED STATES OF AMERICA.

43 Sec. 9. Section 43-1122, Arizona Revised Statutes, is amended to read:
44 43-1122. Subtractions from Arizona gross income; corporations

45 In computing Arizona taxable income for a corporation, the following
46 amounts shall be subtracted from Arizona gross income:

- 1 1. The amounts computed pursuant to section 43-1022, paragraphs 8
2 through 15, 28, 29 and 30. For THE purposes of this paragraph, "federal
3 adjusted gross income" as used in section 43-1022 means "federal taxable
4 income".
- 5 2. The amount of Arizona capital loss carryover as defined in section
6 43-1124 in an amount not to exceed one thousand dollars.
- 7 3. With respect to a financial institution as defined in section
8 6-101, expenses and interest relating to tax-exempt income disallowed
9 pursuant to section 265 of the internal revenue code.
- 10 4. Dividends received from another corporation owned or controlled
11 directly or indirectly by a recipient corporation. ~~"Control"~~ For THE
12 purposes of this paragraph, "CONTROL" means direct or indirect ownership or
13 control of fifty per cent or more of the voting stock of the payor
14 corporation by the recipient corporation. Dividends shall have the meaning
15 provided in section 316 of the internal revenue code. This subtraction shall
16 apply without regard to the provisions of section 43-961, paragraph 2 and
17 article 4 of this chapter. THIS SUBTRACTION DOES NOT APPLY TO A DIVIDEND
18 RECEIVED FROM A BUSINESS TRUST THAT QUALIFIES AS A REAL ESTATE INVESTMENT
19 TRUST UNDER SECTIONS 856, 857 AND 858 OF THE INTERNAL REVENUE CODE AND THAT
20 IS ENTITLED TO A DEDUCTION UNDER SECTION 857(b) OF THE INTERNAL REVENUE CODE.
21 A corporation that has its commercial domicile, as defined in section
22 43-1131, in this state may subtract the full amount of the dividends. A
23 corporation that does not have its commercial domicile in this state may
24 subtract:
 - 25 (a) For its taxable year beginning in 1990, an amount equal to
26 one-half of the dividends.
 - 27 (b) For taxable years beginning in 1991 and thereafter, the full
28 amount of the dividends.
- 29 5. Interest income received on obligations of the United States.
- 30 6. The amount of dividend income from foreign corporations.
- 31 7. The amount of net operating loss allowed by section 43-1123.
- 32 8. The amount of any state income tax refunds received which were
33 included as income in computing federal taxable income.
- 34 9. The amount of expense recapture included in income pursuant to
35 section 617 of the internal revenue code for mine exploration expenses.
- 36 10. The amount of deferred exploration expenses allowed by section
37 43-1127.
- 38 11. The amount of exploration expenses related to the exploration of
39 oil, gas or geothermal resources, computed in the same manner and on the same
40 basis as a deduction for mine exploration pursuant to section 617 of the
41 internal revenue code. This computation is subject to the adjustments
42 contained in section 43-1121, paragraph 8 and paragraphs 9 and 10 of this
43 section relating to exploration expenses.
- 44 12. The amortization of pollution control devices allowed by section
45 43-1129.

- 1 13. The amount of amortization of the cost of child care facilities
2 pursuant to section 43-1130.
- 3 14. The amount of income from a domestic international sales
4 corporation required to be included in the income of its shareholders
5 pursuant to section 995 of the internal revenue code.
- 6 15. The income of an insurance company that is exempt under section
7 43-1201 to the extent that it is included in computing Arizona gross income
8 on a consolidated return pursuant to section 43-947.
- 9 16. The amount of contributions by the taxpayer during the taxable year
10 to medical savings accounts established on behalf of the taxpayer's employees
11 as provided by section 43-1028, to the extent that the contributions are not
12 deductible under the internal revenue code.
- 13 17. The amount by which a capital loss carryover allowable pursuant to
14 section 43-1130.01, subsection F exceeds the capital loss carryover allowable
15 pursuant to section 1341(b)(5) of the internal revenue code.