

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

# HOUSE BILL 2086

AN ACT

AMENDING SECTIONS 42-1126, 42-5014, 42-5017, 42-5018 AND 43-401, ARIZONA  
REVISED STATUTES; RELATING TO TAX RETURNS AND PAYMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-1126, Arizona Revised Statutes, is amended to  
3 read:

4 42-1126. Fee for bad checks

5 The department may charge and collect a fee of twenty-five dollars from  
6 a taxpayer that offers a check, draft, negotiable order of withdrawal or  
7 similar instrument, **OR AN ELECTRONIC FUNDS TRANSFER, AUTOMATED CLEARING HOUSE**  
8 **DEBIT OR AUTOMATED CLEARING HOUSE CREDIT** drawn on a bank or other depository  
9 institution in full or partial payment of a tax administered pursuant to this  
10 article if the instrument, **TRANSFER, DEBIT OR CREDIT** is not paid or is  
11 dishonored by the institution.

12 Sec. 2. 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:

17 1. Are due and payable monthly in the form required by section 42-5018  
18 for the amount of the tax, to the department, on or before the twentieth day  
19 of the month next succeeding the month in which the tax accrues. ~~and~~

20 2. Are delinquent **AS FOLLOWS:**

21 ~~1-~~ (a) **FOR TAXPAYERS ELECTING TO FILE BY MAIL**, if not postmarked on  
22 or before the twenty-fifth day of that month **OR IF NOT RECEIVED BY THE**  
23 **DEPARTMENT ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF**  
24 **THE MONTH.**

25 (b) **FOR ALL OTHER TAXPAYERS, IF NOT RECEIVED BY THE DEPARTMENT ON OR**  
26 **BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF THE MONTH.**

27 ~~2. If not received by the department on or before the business day~~  
28 ~~preceding the last business day of that month for those taxpayers electing to~~  
29 ~~file by mail.~~

30 ~~3. If not received by the department on the business day preceding the~~  
31 ~~last business day of that month for those taxpayers electing to file in~~  
32 ~~person.~~

33 ~~4. If not received by the department on or before the twenty fifth day~~  
34 ~~of that month for those taxpayers required or electing to pay in immediately~~  
35 ~~available monies pursuant to section 42-1129.~~

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

44 C. The department may require a taxpayer whose business is of a  
45 transient character to file the return and remit the taxes imposed by this

1 article on a daily, a weekly or a transaction by transaction basis, and those  
2 returns and payments are due and payable on the date fixed by the department  
3 without a grace period otherwise allowed by this section. For THE purposes  
4 of this subsection, "business of a transient character" means sales activity  
5 by a taxpayer not regularly engaged in selling within the state conducted  
6 from vehicles, portable stands, rented spaces, structures or booths, or  
7 concessions at fairs, carnivals, circuses, festivals or similar activities  
8 for not more than thirty consecutive days.

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

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

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

38 E. The taxpayer shall prepare a return showing the amount of the tax  
39 for which the taxpayer is liable for the preceding month, and shall mail or  
40 deliver the return to the department in the same manner and time as  
41 prescribed for the payment of taxes in subsection A of this section. IF THE  
42 TAXPAYER FAILS TO FILE THE RETURN IN THE MANNER AND TIME AS PRESCRIBED FOR  
43 THE PAYMENT OF TAXES IN SUBSECTION A OF THIS SECTION, THE AMOUNT OF THE TAX  
44 REQUIRED TO BE SHOWN ON THE RETURN IS SUBJECT TO PENALTIES IMPOSED PURSUANT  
45 TO SECTION 42-1125, SUBSECTION A. The return shall be verified by the oath

1 of the taxpayer or an authorized agent or as prescribed by the department  
2 pursuant to section 42-1105, subsection B.

3 F. Any person WHO IS taxable under this article making AND WHO MAKES  
4 cash and credit sales shall report such cash and credit sales separately and  
5 upon making application may obtain from the department an extension of time  
6 for payment of taxes due on the credit sales. The extension shall be granted  
7 by the department under such rules as the department prescribes. When the  
8 extension is granted, the taxpayer shall thereafter include in each monthly  
9 report all collections made on such credit sales during the month next  
10 preceding, and shall pay the taxes due at the time of filing such report.

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

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

18 I. The department, with the approval of the attorney general, may  
19 abate small tax balances if the administration costs exceed the amount of tax  
20 due.

21 J. For the purposes of subsection D of this section, "taxpayer" means  
22 the business entity under which the business reports and pays state income  
23 taxes regardless of the number of offices at which the taxes imposed by this  
24 article, article 6 of this chapter or chapter 6, article 3 of this title are  
25 collected.

26 Sec. 3. Section 42-5017, Arizona Revised Statutes, is amended to read:  
27 42-5017. Credit for accounting and reporting expenses:  
28 definition

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

36 B. A taxpayer shall claim the credit for each tax period on forms  
37 prescribed and furnished by the department, which may be incorporated in the  
38 return form prescribed pursuant to section 42-5014. A claim for credit is  
39 not allowed if the taxpayer fails to TIMELY FILE THE RETURN AND TO pay the  
40 tax due, plus any estimated tax liability, before the payment becomes  
41 delinquent, ALL AS PRESCRIBED IN SECTION 42-5014.

42 C. As used in this section, "taxpayer" means the business entity under  
43 which the business reports for state income tax purposes or an entity that is  
44 exempt from state income tax.

1           Sec. 4. Section 42-5018, Arizona Revised Statutes, is amended to read:  
2           42-5018. Method of payment

3           All remittances of taxes imposed by this article shall be made by bank  
4 draft, check, cashier's check, money order, ~~or money~~ CASH OR ELECTRONIC FUNDS  
5 TRANSFER to the department, which shall issue receipts therefor to the  
6 taxpayers, but no remittance other than cash shall be final discharge of  
7 liability for the tax levied by this article until it has been paid in cash  
8 to the department.

9           Sec. 5. Section 43-401, Arizona Revised Statutes, is amended to read:  
10          43-401. Withholding tax; rates; election by employee

11          A. Except as provided by subsection B of this section, every employer  
12 at the time of the payment of wages, salary, bonus or other emolument to any  
13 employee whose compensation is for services performed within this state shall  
14 deduct and retain from the compensation an amount equal to a percentage,  
15 determined pursuant to subsection C of this section, of the total amount of  
16 the federal income tax deducted and withheld by an employer from the total  
17 value of such wages, bonus or other emolument of an employee under the  
18 provisions of the United States internal revenue code computed without  
19 deductions for any amount withheld.

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

- 22           1. The department on a form prescribed by the department.  
23           2. The employer's employees in writing in a manner prescribed by the  
24 department.

25          C. The percentage deducted and retained under subsection A of this  
26 section shall be:

27           1. If the employee's annual compensation is less than fifteen thousand  
28 dollars, ten per cent, nineteen per cent, twenty-three per cent, twenty-five  
29 per cent, thirty-one per cent or thirty-seven per cent, at the employee's  
30 election pursuant to subsection F of this section.

31           2. If the employee's annual compensation is fifteen thousand dollars  
32 or more, nineteen per cent, twenty-three per cent, twenty-five per cent,  
33 thirty-one per cent or thirty-seven per cent, at the employee's election  
34 pursuant to subsection F of this section.

35           3. 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.

38          D. If the amount collected and payable by the employer to the  
39 department in each of the preceding four calendar quarters did not exceed an  
40 average of one thousand five hundred dollars, the amount collected shall be  
41 paid to the department on or before April 30, July 31, October 31 and January  
42 31 for the preceding calendar quarter. If such amount exceeded one thousand  
43 five hundred dollars in each of the preceding four calendar quarters, the  
44 employer shall pay to the department the amount the employer deducts and  
45 retains pursuant to this section at the same time as the employer is required

1 to make deposits of federal tax pursuant to section 6302 of the internal  
2 revenue code. On or before April 30, July 31, October 31 and January 31 each  
3 year the employer shall reconcile the amounts payable during the preceding  
4 calendar quarter in a manner prescribed by the department, EXCEPT THAT IF THE  
5 FULL AMOUNT COLLECTED AND PAYABLE IS PAID TIMELY TO THE DEPARTMENT UNDER THIS  
6 SUBSECTION, THE EMPLOYER MAY RECONCILE THE AMOUNTS ON OR BEFORE MAY 10,  
7 AUGUST 10, NOVEMBER 10 AND FEBRUARY 10 EACH YEAR. ~~For taxable years or~~  
8 ~~reporting periods that begin from and after December 31, 1997,~~ The department  
9 by rule may allow and determine which employers qualify for annual payments  
10 of withholding taxes, with an annual report by the employer pursuant to  
11 section 43-412, subsection B, if the qualifying employer has established  
12 sufficient payment history to indicate that the employer is current and in  
13 good standing pursuant to standards established by rule. For any business  
14 which has not had a withholding certificate for the four preceding  
15 consecutive quarters, the quarterly average shall be computed in a manner  
16 prescribed by the department.

17 E. If an employer fails to make a timely monthly payment because prior  
18 to that reporting period it reported on a quarterly basis instead of on a  
19 monthly basis, the department shall notify the employer that it is out of  
20 compliance with this section. Notwithstanding section 42-1125, the  
21 department shall not assess a penalty against an employer for failing to make  
22 a timely monthly payment if the employer had filed and remitted all taxes due  
23 on a quarterly basis and brings all filings and payments into current  
24 compliance within thirty days after being notified by the department.

25 F. Each employee shall elect the amount authorized by subsection C of  
26 this section to be withheld for application toward the employee's state  
27 income tax liability. The election provided under this subsection shall be  
28 exercised by each employee, in writing on a form prescribed by the  
29 department. The election shall be made within five days of employment. Each  
30 employer shall notify the employees of the election made available under this  
31 subsection and shall have election forms available at all times. Each form  
32 shall be completed in triplicate, with one copy each for the department, the  
33 employer and the employee. The employer shall file a copy of each completed  
34 form with the department. Any employee failing to complete an election form  
35 as prescribed shall be deemed to have elected the smallest applicable  
36 withholding percentage.

37 G. Before October 1, 2005 and before July 1 each year thereafter, each  
38 employer who chooses to not withhold tax pursuant to subsection B of this  
39 section shall notify each employee that:

40 1. State income taxes will not be withheld from compensation in  
41 December.

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