

REFERENCE TITLE: **unemployment insurance; benefits; tax base**

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2805

Introduced by

Representatives Cook: Andrade, Barton, Bolding, Butler, Cano, Chávez,
Dalessandro, DeGrazia, Epstein, Espinoza, Fernandez, Fillmore, Finchem,
Friese, Hernandez A, Hernandez D, John, Lieberman, Longdon, Meza, Pawlik,
Payne, Pingerelli, Powers Hannley, Rodriguez, Schwiebert, Shah, Sierra,
Stahl Hamilton, Terán, Tsosie, Wilmeth

AN ACT

**AMENDING SECTIONS 23-622 AND 23-779, ARIZONA REVISED STATUTES; RELATING TO
EMPLOYMENT SECURITY.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 23-622, Arizona Revised Statutes, is amended to
3 read:

4 23-622. Wages

5 A. "Wages" means all remuneration for services from whatever
6 source, including commissions, bonuses and fringe benefits and the cash
7 value of all remuneration in any medium other than cash. The reasonable
8 cash value of remuneration in any medium other than cash shall be
9 estimated and determined in accordance with rules prescribed by the
10 department.

11 B. ~~"Wages" shall~~ DO not include:

12 1. For the purpose of sections 23-604, 23-726, ~~AND 23-728 and~~
13 ~~23-730.01~~, that part of the remuneration, ~~(other than remuneration~~
14 ~~referred to in succeeding paragraphs 2 THROUGH 15 of this subsection,)~~ in
15 excess of ~~seven thousand dollars~~ \$7,000 paid in 1983 or in a calendar year
16 thereafter to an individual by an employer or ~~his~~ THE EMPLOYER'S
17 predecessor with respect to employment during the calendar year, unless
18 that part of ~~the above specified~~ SUCH excess remuneration is subject to a
19 tax, under federal law, against which credit may be taken for
20 contributions required to be paid into a state unemployment fund by
21 employers subject to the federal law. BEGINNING JANUARY 1, 2022, THE
22 TAXABLE WAGE BASE PRESCRIBED IN THIS PARAGRAPH IS IN EXCESS OF
23 \$8,000. For the purposes of this paragraph, the remuneration paid to an
24 individual by an employer with respect to employment in another state or
25 states, ~~upon~~ ON which contributions were required of and paid by such
26 employer under an unemployment compensation law of such other state or
27 states, shall be included as part of remuneration equal to the ~~above~~
28 ~~specified~~ amounts IN THIS PARAGRAPH.

29 2. The amount of any payment, including monies paid by an employer
30 for insurance or annuities or into a fund to provide payments for
31 insurance or annuities, made to or on behalf of an employee or any of ~~his~~
32 THE EMPLOYEE'S dependents under a plan or system established by an
33 employer ~~which~~ THAT makes provision for ~~his~~ THE EMPLOYER'S employees
34 generally, for ~~his~~ THE EMPLOYER'S employees generally and their
35 dependents, for a class of ~~his~~ THE EMPLOYER'S employees or for a class of
36 ~~his~~ THE EMPLOYER'S employees and their dependents, on account of any of
37 the following:

38 (a) Sickness or accident disability, except that in the case of
39 payments made to an employee or any of ~~his~~ THE EMPLOYEE'S dependents, this
40 subdivision excludes from wages only payments ~~which~~ THAT are received
41 under a workers' compensation law.

42 (b) Medical or hospitalization expenses in connection with sickness
43 or accident disability.

44 (c) Death.

1 3. The payment by an employer, without deduction from the
2 remuneration of the employee, of the tax imposed ~~अपण~~ ON an employee under
3 section 3101 of the internal revenue code relating to federal insurance
4 contributions with respect to remuneration paid to an employee for
5 domestic service in a private home or for agricultural labor.

6 4. Any payment on account of sickness or accident disability, or
7 medical or hospitalization expenses in connection with sickness or
8 accident disability, made by an employing unit to, or on behalf of, an
9 employee after the expiration of six calendar months following the last
10 calendar month in which the employee worked for such employing unit.

11 5. Any payment made to, or on behalf of, an employee or ~~his~~ THE
12 EMPLOYEE'S beneficiary:

13 (a) From or to a trust described in section 401(a) of the internal
14 revenue code relating to qualified pension, profit sharing and stock bonus
15 plans which is exempt from tax under section 501(a) of the internal
16 revenue code at the time of the payment unless the payment is made to an
17 employee of the trust as remuneration for services rendered as an employee
18 and not as a beneficiary of the trust.

19 (b) Under or to an annuity plan ~~which~~ THAT, at the time of such
20 payment, is a plan described in section 403(a) of the internal revenue
21 code relating to taxability of beneficiaries under qualified annuity
22 plans.

23 (c) Under a simplified employee pension as defined in section
24 408(k)(1) of the internal revenue code other than contributions described
25 in section 408(k)(6) of the internal revenue code relating to employee
26 salary reduction arrangements.

27 (d) Under or to an annuity contract described in section 403(b) of
28 the internal revenue code relating to taxation of beneficiaries under
29 annuities purchased by certain tax exempt organizations, other than a
30 payment for the purchase of the contract ~~which~~ THAT is made by reason of a
31 salary reduction agreement whether evidenced by a written instrument or
32 otherwise.

33 (e) Under or to an exempt governmental deferred compensation plan
34 as defined in section 3121(v)(3) of the internal revenue code.

35 (f) To supplement pension benefits under a plan or trust described
36 in this paragraph to take into account some portion or all of the increase
37 in the cost of living since retirement as determined by the United States
38 secretary of labor, but only if the supplemental payments are under a plan
39 ~~which~~ THAT is treated as a welfare plan under section 3(2)(b)(ii) of the
40 employee retirement income security act of 1974.

41 (g) Under a cafeteria plan within the meaning of section 125 of the
42 internal revenue code if such payment would not be treated as wages
43 without regard to such plan and it is reasonable to believe that, if
44 section 125 of the internal revenue code applied for purposes of this

1 section, section 125 of the internal revenue code would not treat any
2 wages as constructively received.

3 6. Remuneration paid in any medium other than cash to an employee
4 for service not in the course of the employing unit's trade or business.

5 7. Remuneration paid for agricultural labor performed in any medium
6 other than cash.

7 8. Any tip, gratuity or service charge received by an employee
8 except:

9 (a) Before January 1, 1986, if either of the following applies:

10 (i) It is specified and collected by the employing unit.

11 (ii) It is used by the employing unit in order to conform to the
12 minimum wage requirements of federal or state law.

13 (b) From and after December 31, 1985, if it is reported by the
14 employee in writing to the employer on or before the tenth day of the
15 month following the month in which it was received.

16 9. Remuneration ~~which~~ THAT the individual receives for drill,
17 training or other national guard or reserve activity ~~which~~ THAT occurs on
18 not more than one weekend per month or in lieu of a weekend drill or the
19 equivalent.

20 10. Remuneration paid to or on behalf of an employee if and to the
21 extent that at the time of the payment of the remuneration it is
22 reasonable to believe that a corresponding deduction is allowable under
23 section 217 of the internal revenue code relating to moving expenses
24 determined without regard to section 274(n) of the internal revenue code
25 relating to the disallowance of certain meal and entertainment expenses.

26 11. Any contribution, payment or service provided by an employer
27 ~~which~~ THAT may be excluded from the gross income of any employee, ~~his~~ THE
28 EMPLOYEE'S spouse or ~~his~~ THE EMPLOYEE'S dependents under the provisions of
29 section 120 of the internal revenue code relating to amounts received
30 under qualified group legal services plans.

31 12. Any payment made or benefit furnished to or for the benefit of
32 an employee if at the time of the payment or furnishing it is reasonable
33 to believe that the employee will be able to exclude the payment or
34 benefit from income under section 127, relating to educational assistance,
35 or section 129, relating to dependent care assistance, of the internal
36 revenue code.

37 13. The value of any meals or lodging furnished by or on behalf of
38 the employer if at the time of the furnishing it is reasonable to believe
39 that the employee will be able to exclude these items from income under
40 section 119 of the internal revenue code.

41 14. Any payment made by an employer to a survivor or the estate of a
42 former employee after the calendar year in which the employee died.

43 15. Any benefit provided to or on behalf of an employee if at the
44 time the benefit is provided it is reasonable to believe that the employee
45 will be able to exclude the benefit from income under section 74(c)

1 relating to employee achievement awards, section 117 relating to qualified
2 scholarships or section 132 relating to certain fringe benefits of the
3 internal revenue code.

4 C. Subsection B, paragraphs 2 through 15 of this section do not
5 exclude from wages any of the following:

6 1. An employer contribution under a qualified cash or deferred
7 arrangement as defined in section 401(k) of the internal revenue code to
8 the extent the contribution is not included in gross income pursuant to
9 section 402(a)(8) of the internal revenue code relating to cash or
10 deferred arrangements.

11 2. An amount treated as an employer contribution under section
12 414(h)(2) of the internal revenue code, relating to tax treatment of
13 contributions by government units, if the employer picks up the
14 contribution pursuant to a written or unwritten salary reduction
15 agreement.

16 3. An amount deferred under any plan or other arrangement for
17 deferral of compensation other than a plan described in subsection B,
18 paragraph 5 of this section. An amount considered as wages pursuant to
19 this paragraph shall be taxed only once and after being taxed shall not be
20 considered wages for the purposes of this chapter.

21 D. In applying ~~the provisions of~~ subsection B of this section, any
22 remuneration excluded from the definition of wages under 26 United States
23 Code section 3306(b) shall not be wages.

24 Sec. 2. Section 23-779, Arizona Revised Statutes, is amended to
25 read:

26 23-779. Amount of benefits

27 A. The weekly benefit amount of an individual shall be an amount
28 equal to one twenty-fifth of the person's total wages for insured work
29 paid during that quarter of the person's base period in which such total
30 wages were highest, but if:

31 ~~1. From and after June 30, 1999 and before July 1, 2004, this~~
32 ~~amount is more than two hundred five dollars, the weekly benefit amount~~
33 ~~shall be two hundred five dollars.~~

34 ~~2.~~ 1. From and after June 30, 2004 AND BEFORE JANUARY 1, 2022,
35 this amount is more than ~~two hundred forty dollars~~ \$240, the weekly
36 benefit amount shall be ~~two hundred forty dollars~~ \$240.

37 2. FROM AND AFTER DECEMBER 31, 2021, THIS AMOUNT IS MORE THAN \$300,
38 THE WEEKLY BENEFIT AMOUNT SHALL BE \$300.

39 B. If the weekly benefit amount is less than the maximum weekly
40 benefit prescribed in subsection A OF THIS SECTION and is not a multiple
41 of ~~one dollar~~ \$1, the amount shall be rounded to the nearest dollar, with
42 an even one-half dollar being rounded to the next higher multiple of ~~one~~
43 ~~dollar~~ \$1. An individual's benefit amount shall not be redetermined
44 during the person's benefit year because of a new maximum or minimum
45 weekly benefit amount becoming effective during the person's benefit year.

1 C. Each eligible individual unemployed with respect to any week
2 shall be paid with respect to that week a benefit in an amount equal to
3 the person's weekly benefit amount less that part of the wages, if any,
4 payable to the person with respect to that week ~~which~~ THAT is in excess of
5 ~~thirty dollars~~ \$160. The benefit, if not a multiple of ~~one dollar~~ \$1,
6 shall be rounded to the nearest dollar, with an even one-half dollar being
7 rounded to the next higher multiple of ~~one dollar~~ \$1.