

LESKO FLOOR AMENDMENT  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2046  
(Reference to printed bill)

1 Page 1, line 29, after "ENTITY" insert "THAT EXISTED AS AN OPERATING ENTITY BEFORE  
2 THE DECLARED DISASTER"

3 Page 2, line 40, strike "OR COMBINED"

4 Line 41, after the first "GROUP" insert "FILING A COMBINED RETURN"; strike "OR  
5 COMBINED"; after the second "GROUP" insert "FILING A COMBINED RETURN"

6 Page 3, line 30, after "ENTITY" insert "THAT EXISTED AS AN OPERATING ENTITY BEFORE  
7 THE DECLARED DISASTER"

8 After line 44, insert:

9 "Sec. 3. Section 43-306, Arizona Revised Statutes, is amended to read:  
10 43-306. Partnership returns

11 A. Every partnership shall make a return for each taxable year,  
12 stating the taxable income computed in accordance with subtitle A, chapter 1,  
13 subchapter K of the internal revenue code and any adjustments required  
14 pursuant to chapter 14 of this title. The return shall include the names and  
15 addresses of the individuals, whether residents or nonresidents, who would be  
16 entitled to share in the taxable income if distributed and the amount of the  
17 distributive share of each individual. The allocation and apportionment of  
18 income of a partnership which has nonresident partners shall be made pursuant  
19 to chapter 11, article 4 of this title. The return shall contain or be  
20 verified by a written declaration that it is made under the penalties of  
21 perjury and signed by one of the partners.

22 B. AN OUT-OF-STATE PARTNERSHIP THAT IS TEMPORARILY IN THIS STATE AND  
23 WHOSE ONLY INCOME IN THIS STATE IS FROM PERFORMING DISASTER RECOVERY FROM A

1 DECLARED DISASTER DURING A DISASTER PERIOD AS DEFINED IN SECTION 42-1130 IS  
2 NOT REQUIRED TO FILE A PARTNERSHIP RETURN IN THIS STATE.

3 Sec. 4. Section 43-307, Arizona Revised Statutes, is amended to read:

4 43-307. Corporation returns

5 A. Every corporation subject to the tax imposed by this title shall  
6 make a return to the department. Every corporation return required by this  
7 title to be filed with the department shall be signed by one or more of the  
8 following officers:

9 1. The president.

10 2. The treasurer.

11 3. Any other principal officer of the taxpayer.

12 B. If receivers, trustees in bankruptcy or assignees are operating the  
13 property or business of a corporation, such receivers, trustees or assignees  
14 shall make returns for such corporation in the same manner and form as such a  
15 corporation is required to make a return. Any tax due on the basis of  
16 returns made by receivers, trustees or assignees shall be collected in the  
17 same manner as if collected from the corporation of whose business or  
18 property they have custody and control.

19 C. This section applies regardless of whether a corporation is  
20 required to file a return under the internal revenue code or whether the  
21 corporation has any federal taxable income for the taxable year.

22 D. AN OUT-OF-STATE CORPORATION THAT IS TEMPORARILY IN THIS STATE AND  
23 WHOSE ONLY INCOME IN THIS STATE IS FROM PERFORMING DISASTER RECOVERY FROM A  
24 DECLARED DISASTER DURING A DISASTER PERIOD AS DEFINED IN SECTION 42-1130 IS  
25 NOT REQUIRED TO FILE A CORPORATION RETURN IN THIS STATE. THIS SUBSECTION  
26 DOES NOT PRECLUDE THE CORPORATION FROM BEING INCLUDED IN A CONSOLIDATED OR  
27 COMBINED GROUP RETURN SUBJECT TO SECTION 42-1130, SUBSECTION C.

28 Sec. 5. Section 43-401, Arizona Revised Statutes, is amended to read:

29 43-401. Withholding tax; rates; election by employee

30 A. Except as provided by ~~subsection~~ SUBSECTIONS B AND H of this  
31 section, every employer at the time of the payment of wages, salary, bonus or  
32 other emolument to any employee whose compensation is for services performed

1        within this state shall deduct and retain from the compensation an amount  
2        prescribed by tables adopted by the department.

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

5            1. The department on a form prescribed by the department.

6            2. The employer's employees in writing in a manner prescribed by the  
7        department.

8            C. If the amount collected and payable by the employer to the  
9        department in each of the preceding four calendar quarters did not exceed an  
10       average of one thousand five hundred dollars, the amount collected shall be  
11       paid to the department on or before April 30, July 31, October 31 and January  
12       31 for the preceding calendar quarter. If such amount exceeded one thousand  
13       five hundred dollars in each of the preceding four calendar quarters, the  
14       employer shall pay to the department the amount the employer deducts and  
15       retains pursuant to this section at the same time as the employer is required  
16       to make deposits of federal tax pursuant to section 6302 of the internal  
17       revenue code. On or before April 30, July 31, October 31 and January 31 each  
18       year, the employer shall reconcile the amounts payable during the preceding  
19       calendar quarter in a manner prescribed by the department, except that if the  
20       full amount collected and payable is paid timely to the department under this  
21       subsection, the employer may reconcile the amounts on or before May 10,  
22       August 10, November 10 and February 10 each year. The department by rule may  
23       allow and determine which employers qualify for annual payments of  
24       withholding taxes, with an annual report by the employer pursuant to section  
25       43-412, subsection B, if the qualifying employer has established sufficient  
26       payment history to indicate that the employer is current and in good standing  
27       pursuant to standards established by rule. For any business which has not  
28       had a withholding certificate for the four preceding consecutive quarters,  
29       the quarterly average shall be computed in a manner prescribed by the  
30       department.

31            D. If an employer fails to make a timely monthly payment because prior  
32        to that reporting period it reported on a quarterly basis instead of on a

1       monthly basis, the department shall notify the employer that it is out of  
2       compliance with this section. Notwithstanding section 42-1125, the  
3       department shall not assess a penalty against an employer for failing to make  
4       a timely monthly payment if the employer had filed and remitted all taxes due  
5       on a quarterly basis and brings all filings and payments into current  
6       compliance within thirty days after being notified by the department.

7               E. Each employee shall elect the amount authorized by subsection A of  
8       this section to be withheld for application toward the employee's state  
9       income tax liability. The election provided under this subsection shall be  
10      exercised by each employee, in writing on a form prescribed by the  
11      department. The election shall be made within five days of employment. Each  
12      employer shall notify the employees of the election made available under this  
13      subsection and shall have election forms available at all times. Each form  
14      shall be completed in triplicate, with one copy each for the department, the  
15      employer and the employee. The employer shall file a copy of each completed  
16      form with the department. Any employee failing to complete an election form  
17      as prescribed shall be deemed to have elected the withholding percentage  
18      prescribed by the department.

19              F. Before July 1 of each year, each employer who chooses to not  
20      withhold tax pursuant to subsection B of this section shall notify each  
21      employee that:

22              1. State income taxes will not be withheld from compensation in  
23      December.

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

27              G. At an employee's written request, the employer may agree to reduce  
28      the amount withheld under this section by the amount of credit that the  
29      employee represents to the employer that the employee will qualify for and be  
30      entitled to under sections 43-1088, 43-1089, 43-1089.01 and 43-1089.03. The  
31      employee's request must include the name and address of the qualifying  
32      charitable organization, qualified school tuition organization or public

1 school. Within thirty days after agreeing to the employee's request, the  
2 employer shall reduce the withholding amount by the amount of the credit, but  
3 not below zero, prorated for the number of pay periods remaining in the  
4 employee's taxable year after the employee makes the request. If an employer  
5 agrees to reduce the withholding amount pursuant to this subsection, the  
6 following apply:

7 1. Within fifteen days after the end of each calendar quarter, the  
8 employer must pay the entire amount of the reduction in withholding tax for  
9 that quarter to the designated charitable organization, school tuition  
10 organization or public school. These payments are considered to be on the  
11 employee's behalf, and not the employer's, for the purposes of qualifying for  
12 the income tax credits under sections 43-1088, 43-1089, 43-1089.01 and  
13 43-1089.03.

14 2. The employee is responsible and accountable for the accuracy and  
15 the amount of reduction in withholding tax and the payments to the charitable  
16 organization, school tuition organization or public school.

17 3. The employer is responsible and accountable to the charitable  
18 organization, school tuition organization or public school, to the employee  
19 and to the department for actually making the required payments.

20 4. Within thirty days after the end of each calendar year, or within  
21 fifteen days after the termination of employment, the employer must furnish  
22 to each electing employee and to the department a statement of the amount  
23 withheld and paid on behalf of the employee during that year.

24 H. AN EMPLOYER SHALL NOT WITHHOLD TAX ON THE WAGES OF THE EMPLOYER'S  
25 NONRESIDENT EMPLOYEES WHO ARE IN THIS STATE ON A TEMPORARY BASIS FOR THE  
26 PURPOSE OF PERFORMING DISASTER RECOVERY FROM A DECLARED DISASTER DURING A  
27 DISASTER PERIOD AS DEFINED IN SECTION 42-1130.

28 Sec. 6. Section 43-403, Arizona Revised Statutes, is amended to read:

29 43-403. Employment excluded from withholding

30 A. No amount shall be deducted or retained from:

1           1. Wages or salary paid to an employee of a common carrier when such  
2 employee is a nonresident of this state as defined in section 43-104 and  
3 regularly performs services both within and without this state.

4           2. Wages paid for domestic service in a private home.

5           3. Wages paid for casual labor not in the course of the employer's  
6 trade or business.

7           4. Wages paid to part-time or seasonal employees whose services to the  
8 employer consist solely of labor in connection with the planting,  
9 cultivating, harvesting or field packing of seasonal agricultural crops,  
10 except such employees whose principal duties are operating any  
11 mechanically-driven device in such operations.

12           5. Wages or salary paid to a nonresident of this state who is:

13           (a) An employee of an individual, fiduciary, partnership, corporation  
14 or limited liability company having property, payroll and sales in this  
15 state, or of a related entity having more than fifty per cent direct or  
16 indirect common ownership.

17           (b) Physically present in this state for less than sixty days in a  
18 calendar year for the purpose of performing a service that will benefit the  
19 employer or the related entity. For purposes of determining the number of  
20 days of service in this state, days spent in the following activities are not  
21 included:

22           (i) In transit.

23           (ii) Engaging in personal activities.

24           (iii) Participating in training or professional development activities  
25 or attending meetings that are not directly connected to the Arizona  
26 operations of the employer or the related entity.

27           6. WAGES OR SALARY PAID TO A NONRESIDENT WHO IS IN THIS STATE ON A  
28 TEMPORARY BASIS FOR THE PURPOSE OF PERFORMING DISASTER RECOVERY FROM A  
29 DECLARED DISASTER DURING A DISASTER PERIOD AS DEFINED IN SECTION 42-1130.

30           B. In addition to the exemptions from the withholding provisions  
31 contained in subsection A of this section, because of the temporary nature of  
32 such employment, no amount shall be deducted or retained from wages paid to a

1 nonresident of this state engaged in any phase of motion picture production  
2 when, prior to the time of payment of such wages, an application is made by  
3 the employer to the department, on forms prescribed by the department, for an  
4 exemption from the withholding provisions of this section and the department  
5 determines that the nonresident would be allowed a credit under section  
6 43-1096 against all of the taxes upon such wages imposed by this chapter.

7 C. Subsection A, paragraph 5 of this section does not apply to a  
8 nonresident employee who is in this state solely for athletic or  
9 entertainment purposes.

10 D. Notwithstanding subsection A, paragraph 5 of this section:

11 1. The nonresident employee may elect to have withholding deducted in  
12 the manner prescribed by section 43-401, subsection E and the employer shall  
13 withhold tax pursuant to that election.

14 2. The employer may elect to withhold tax from the nonresident  
15 employee before the sixty-day limitation has elapsed.

16 Sec. 7. Section 43-1091, Arizona Revised Statutes, is amended to read:

17 43-1091. Gross income of a nonresident

18 A. In the case of nonresidents, Arizona gross income includes only  
19 that portion of federal adjusted gross income which represents income from  
20 sources within this state.

21 B. INCOME OF A NONRESIDENT FROM THE WAGES OR SALARY RECEIVED BY THE  
22 NONRESIDENT EMPLOYEE WHO IS IN THIS STATE ON A TEMPORARY BASIS FOR THE  
23 PURPOSE OF PERFORMING DISASTER RECOVERY FROM A DECLARED DISASTER DURING A  
24 DISASTER PERIOD AS DEFINED IN SECTION 42-1130 IS NOT CONSIDERED INCOME FROM  
25 SOURCES WITHIN THIS STATE.

26 Sec. 8. Section 43-1097, Arizona Revised Statutes, is amended to read:

27 43-1097. Change of residency status

28 A. During the tax year in which a taxpayer changes from a resident to  
29 a nonresident, Arizona taxable income shall include all of the following:

30 1. All income and deductions realized or recognized, or both,  
31 depending on the taxpayer's method of accounting, during the period the

1 individual was a resident, and any income accrued by a cash basis taxpayer  
2 prior to the time the taxpayer became a nonresident of this state.

3 2. All income and deductions earned in Arizona or derived from Arizona  
4 sources after the time the taxpayer became a nonresident of this state.

5 B. During the tax year in which a taxpayer changes from a nonresident  
6 to a resident, Arizona taxable income shall include all of the following:

7 1. All income and deductions realized or recognized, or both,  
8 depending on the taxpayer's method of accounting, during the period the  
9 individual was a resident, except any income accrued by a cash basis taxpayer  
10 prior to the time the taxpayer became a resident of this state.

11 2. All income and deductions earned in Arizona or derived from Arizona  
12 sources prior to the time the taxpayer became a resident of this state.

13 C. INCOME RECEIVED WHILE A NONRESIDENT FROM THE WAGES OR SALARY  
14 RECEIVED BY AN EMPLOYEE WHO IS IN THIS STATE ON A TEMPORARY BASIS FOR THE  
15 PURPOSE OF PERFORMING DISASTER RECOVERY FROM A DECLARED DISASTER DURING A  
16 DISASTER PERIOD AS DEFINED IN SECTION 42-1130 IS NOT CONSIDERED INCOME  
17 DERIVED FROM SOURCES WITHIN THIS STATE.

18 Sec. 9. Effective date

19 This act is effective from and after December 31, 2014."

20 Amend title to conform

---

DEBBIE LESKO

2046d1  
02/20/2014  
09:43 AM  
C: lrh