

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-9-130 | Amend |

- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statutes: A.R.S. §§ 32-1104(5) and 32-1104(6)
Implementing statutes: A.R.S. §§ 32-1122 and 32-1126

- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 7 A.A.R. 842, February 9, 2001

- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Alan Felber
Chief of Licensing

Address: Registrar of Contractors
800 West Washington, 6th Floor
Phoenix, Arizona 85007

Telephone: (602) 542-1525
Fax: (602) 542-7852

- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
This rule contains a fee schedule for all contractor license applications, renewals, change of qualifying party, and name changes.

The purpose of the rule change is to increase the fund balance of the Registrar of Contractors Fund to meet future agency funding requirements.

The agency is in the process of deciding whether to completely eliminate the current 30% discount on license renewal fees or simply reduce the discount. The fees in this proposed rule are based on elimination of the current 30% discount. If the discount is reduced rather than eliminated, fees in the rule package will be modified according to the reduction.

- 6. A reference to any study that the agency relied on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
None

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7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Registrar of Contractors package contains one rule, R4-9-130, the agency's fee rule, which is amended to modify license renewal fees.

License renewal fees were reduced by 50% in May 1998 causing contractors who had paid into the fund to benefit from the reduction. The discount was reduced to 30% in May, 2000. The fund has now been reduced by more than 50% and the agency feels it is prudent to restore renewal fees to their original level to bring the fund back to an eight-month funding level. In addition, the agency appropriation has increased due to additional personnel and technological changes.

A probable effect on agency revenues will be an increase to the ROC and General Funds of approximately 35%.

Cost impacts for the agency will be favorable as the rule change will eliminate or reduce the 30% discount initiated in May 2000 and bring fees back to the original schedule in effect before May 1998.

The agency has attempted to limit the cost impacts for licensed contractors who renew their licenses to an average increase of \$135 for single class biennial renewal fees and an average increase of \$270 for dual class biennial renewal fees. Applicants for a new dual license will continue to receive a 25% discount on initial first-year application fees.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Alan Felber
Chief of Licensing

Address: Registrar of Contractors
800 West Washington, 6th Floor
Phoenix, Arizona 85007

Telephone: (602) 542-1525

Fax: (602) 542-7852

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The agency will accept written comments submitted not later than 5:00 p.m. April 16, 2001 to the person listed in paragraphs #4 and #9.

Oral proceedings at which members of the public may appear and make comments regarding the rules or the economic, small business, and consumer impact statement will occur as follows:

Date: April 16, 2001

Time: 9:00 a.m.

Location: Industrial Commission of Arizona
First Floor Auditorium
800 West Washington
Phoenix, AZ 85007

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

ARTICLE 1. GENERAL PROVISIONS

Section
R4-9-130. Schedule of Fees

ARTICLE 1. GENERAL PROVISIONS

R4-9-130. Schedule of Fees

An applicant shall submit a separate application for each classification of license. The following biennial license application fees, biennial license renewal fees and fees for other services shall be applicable in accordance with the provisions of A.R.S. § 32-1123.01 and § 32-1126:

<i>Classification of License</i>	<i><u>Fee for Each License</u></i>	<i><u>Fee for Each License Renewal</u></i>	<i><u>Fee for each License Application</u></i>	<i><u>Fee for Each License Renewal</u></i>	<i><u>Fee for Each License Application After May 1, 2000</u></i>	<i><u>Fee for Each License Renewal After May 1, 2000</u></i>
1. COMMERCIAL CONTRACTING						
a. General Commercial Contracting (Includes all A and B classifications)	<u>\$ 920</u>	<u>\$640</u>	\$760	\$320	\$820	\$440
b. Specialty Commercial Contracting (Includes all L classifications)	<u>\$ 670</u>	<u>\$540</u>	\$540	\$270	\$590	\$380
2. RESIDENTIAL CONTRACTING						
a. General Residential Contracting (Includes all B classifications)	<u>\$ 460</u>	<u>\$320</u>	\$380	\$160	\$400	\$220
b. Specialty Residential Contracting (Includes all C classifications)	<u>\$ 335</u>	<u>\$270</u>	\$270	\$140	\$300	\$190
3. GENERAL DUAL LICENSED CONTRACTING						
a. General Dual Licensed Contracting (Includes all KA, KB, KE and KO classifications)	<u>\$1,155</u>	<u>\$960</u>	\$940	\$480	\$1000	\$670

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b. General Dual Licensed Contracting if the applicant holds valid equivalent licenses for General Commercial and Residential Contracting	<u>\$ 960</u>	<u>\$960</u>	<u>\$360</u>	<u>\$480</u>	<u>\$-500</u>	<u>\$670</u>
c. Class KA Dual Engineering if the applicant holds a valid license in the A-General Commercial Engineering classification	<u>\$1,025</u>	<u>\$960</u>	<u>\$630</u>	<u>\$480</u>	<u>\$780</u>	<u>\$670</u>
d. Class KA Dual Engineering license if the applicant Engineering holds a valid license in the B-4 General Residential Engineering Contractor classification	<u>\$1,090</u>	<u>\$960</u>	<u>\$770</u>	<u>\$480</u>	<u>\$900</u>	<u>\$670</u>
e. Class KB-1 Dual Building Contractor if the applicant holds a valid license in the B-1 General Commercial Contractor classification	<u>\$1,025</u>	<u>\$960</u>	<u>\$630</u>	<u>\$480</u>	<u>\$780</u>	<u>\$670</u>
f. Class KB-1 Dual Building Contractor if the applicant holds a valid license in the B-General Residential Contractor classification	<u>\$1,090</u>	<u>\$960</u>	<u>\$770</u>	<u>\$480</u>	<u>\$900</u>	<u>\$670</u>

4. SPECIALTY DUAL LICENSE CONTRACTING

a. Class K	<u>\$ 855</u>	<u>\$810</u>	<u>\$650</u>	<u>\$400</u>	<u>\$730</u>	<u>\$570</u>
b. Class K if the applicant holds both a valid commercial and residential license in the equivalent classifications	<u>\$ 810</u>	<u>\$810</u>	<u>\$300</u>	<u>\$400</u>	<u>\$430</u>	<u>\$570</u>
c. Class K if the applicant holds a valid commercial license in the equivalent classification	<u>\$ 825</u>	<u>\$810</u>	<u>\$490</u>	<u>\$400</u>	<u>\$620</u>	<u>\$570</u>
d. Class K if the applicant holds a valid residential license in the equivalent classification	<u>\$ 840</u>	<u>\$810</u>	<u>\$570</u>	<u>\$400</u>	<u>\$670</u>	<u>\$570</u>

5. FEES FOR OTHER SERVICES

- | | |
|-------------------------------------------|-------|
| a. Application to change qualifying party | \$100 |
| b. Application to change name of licensee | \$ 30 |

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

PREAMBLE

1. Sections Affected

R4-30-202.01
R4-30-203
R4-30-208
R4-30-209
R4-30-210
R4-30-211
R4-30-301

Rulemaking Action

New Section
Amend
Amend
Amend
Amend
Amend
Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 32-106(A)(1), (5), (6), (9), and 32-106(F)
Implementing statute: A.R.S. § 32-131

3. List of all previous notices appearing in the register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 6. A.A.R. 2596, July 7, 2000
Notice of Rulemaking Docket Opening: 6. A.A.R. 4610, December 8, 2000

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: La Vern Douglas
Address: 1990 West Camelback Road, #406
Phoenix, AZ 85015
Telephone: (602) 255-4053, Ext. 209
Fax: (602) 255-4051

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The agency is complying with statutory enactment of provisions to regulate the certification of remediation specialists. This process includes updating other rules to make them consistent with the recent statutory changes, agency practice, and current rulewriting standards.

6. A reference to any study that the agency proposes to rely on its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

None

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8. The preliminary summary of the economic, small business, and consumer impact:

The rules will impose a minimal administrative burden on the agency because it is anticipated that the rules will require processing of only four additional certificate renewals per year. The agency monitors licensing of six other professions that must also comply with statutory time-frames, so the additional time-frame rules will also have a minimal economic impact on the agency. It is anticipated that there will also be minimal economic impact on other state agencies, such as the Secretary of State and the Governor's Regulatory Review Council. The rules impose no burden on small businesses or consumers other than the minor fees required from registrants. It is anticipated that both consumers and the Arizona Department of Environmental Quality will benefit from the rules. Remediation projects conducted under the supervision of a certified remediation specialist may be brought to a speedier conclusion, to the benefit of the consumer, by not being subjected to the requirements of Arizona Department of Environmental Quality audits. The Arizona Department of Environmental Quality, pursuant to their agency rules, is only required to audit 25% of remediation projects completed under the supervision of a certified remediation specialist, reducing their workload.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Allen Malanowski
Address: 1400 West Washington Street, Suite 270
Phoenix, AZ 85007
Telephone: (602) 542-2017
Fax: (602) 542-1486

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No oral proceeding is currently scheduled. Under A.R.S. § 41-1023(C), an oral proceeding will be scheduled if a written request is submitted to the person identified in item 4 within 30 days after publication of this notice. Oral and written comments about the proposed rule may be submitted to the person identified in item 4.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

ARTICLE 2. REGISTRATION PROVISIONS

Section

R4-30-202.01. Remediation Specialist Certification
R4-30-203. Waiver of Examination
R4-30-208. Education and Work Experience Requirements
R4-30-209. ~~Timeframes~~ Time-frames For Professional Registration, Certification, or In-training Designation
R4-30-210. ~~Timeframes~~ Time-frames for Approval to Sit for the Professional, Certification, or In-training Examination
R4-30-211. ~~Timeframes~~ Time-frames for Waiver of the Professional, Certification, or In-Training Examination

ARTICLE 3. REGULATORY PROVISIONS

Section

R4-30-301. Rules of Professional Conduct

ARTICLE 2. REGISTRATION PROVISIONS

R4-30-202.01. Remediation Specialist Certification

A. A candidate for certification as a remediation specialist shall submit the following application package to the Board:

- 1. An original and 1 copy of a completed application;**

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2. Evidence of successful completion of the approved remediation specialist examination. Candidates shall arrange to have their examination results sent directly to the Board from the applicable testing agency holding the examination results;
 3. The information set forth in subsections (B)(1) through (13);
 4. A completed finger print card; and
 5. The applicable fee.
- B.** A candidate who wishes to sit for the remediation specialist examination shall submit to the Board an original and 1 copy of a completed application for the remediation specialist examination, and provide the following information:
1. Name, residence address, residence telephone number, and residence facsimile number of the candidate, if applicable;
 2. Date of birth and social security number of the candidate;
 3. Citizenship or legal residence;
 4. A detailed explanatory statement regarding:
 - a. Any disciplinary action, including suspension and revocation, taken by any other state or jurisdiction on any license held by the candidate in any other state or jurisdiction;
 - b. Refusal of any license by any other state or jurisdiction;
 - c. Any pending disciplinary action in any other state or jurisdiction on any license held by the candidate;
 - d. Any alias or other name used by the candidate; and
 - e. Any conviction for a felony or misdemeanor, other than a minor traffic violation.
 5. Jurisdiction in which any other license is held; type of license, license number, year license granted, how license was granted (that is, by examination, education, experience or reciprocity), and the number of examination hours taken by the candidate;
 6. Name of the state or jurisdiction, type of license the candidate is seeking, and the current status of any application for license pending in any other state or jurisdiction;
 7. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university or educational institution that the candidate attended;
 8. Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution that the candidate attended;
 9. Name, current address, telephone number, and facsimile number of the candidate's current and former employers in the area of remediation; dates of employment, candidate's title; description of the work performed; and number of hours worked per week;
 10. Names and addresses of immediate supervisors in past and present employment in the area of remediation. Candidates who have been working in remediation for 10 or more years shall provide the names and addresses of all immediate supervisors during the most recent ten-year period. If a candidate cannot supply the names and addresses of supervisors for at least 3 engagements, the candidate shall provide to the Board a written, sworn statement explaining the inability to provide this information.
 11. A release authorizing the Board to investigate the candidate's education, experience, moral character, and repute.
 12. Certificate of Experience Record and Reference forms from the candidate's present and past immediate supervisors. The candidate shall also provide Certificate of Experience Record and Reference forms to additional references as required by the Board. The candidate shall provide the name, address, and telephone numbers of all references. The candidate shall ensure that completed reference forms are provided to the Board; and,
 13. An affidavit that the information provided to the Board is accurate, true, and complete.
- C.** The Board staff shall review all applications and, if necessary, refer completed applications to an advisory committee for evaluation. If the application is complete and in the proper form and the Board staff or committee is satisfied that all statements on the application are true and that the candidate is eligible in all other aspects to be certified as a remediation specialist, the Board staff or committee shall recommend that the Board certify the candidate as eligible to take the examination. If for any reason the Board staff or committee is not satisfied that all of the statements on the application are true or that the candidate is eligible in all respects for examination registration, the Board staff shall make a further investigation of the candidate. The Board staff and committee shall submit recommendations to the Board for approval. The Board may also require a candidate to submit additional oral or written information if the candidate has not furnished satisfactory evidence of qualifications for examination or certification.

R4-30-203. Waiver of Examination

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.

G. The Board shall waive the remediation specialist examination if the candidate has successfully completed a remediation specialist examination in another jurisdiction that is substantially equivalent to the remediation specialist examination provided in Arizona.

R4-30-208. Education and Work Experience Requirements

A. Educational Education credit.

1. The Board shall grant credit according to the following:
 - a. No change.
 - b. No change.
 - c. No change.
 - d. No change.
 - e. No change.
 - f. No change.
 - g. No change.
 - h. No change.
 - i. No change.
 - j. No change.
 - k. Remediation specialist applicants with an undergraduate degree as specified in subsection (A), or up to five years of education directly relating to remediation.
2. The Board shall grant all other ~~educational~~ education credit according to the following:
 - a. No change.
 - b. No change.
 - c. No change.
 - d. No change.
 - e. No change.
 - f. No change.

B. The Board shall credit work experience as follows:

1. No change.
2. No change.
3. No change.
4. No change.
5. Remediation specialist applicants shall have at least three years of experience supervising remediations and up to five years of other professional experience in remediation.

R4-30-209. ~~Timeframes~~ Time-frames for Professional Registration, Certification, or In-training Designation

A. Within 60 days of receiving the initial application package for professional registration, certification, or in-training designation, the Board shall finish an administrative completeness review.

1. No change.
2. If the application package is incomplete, the Board shall notify the candidate that the package is deficient and specify the information or documentation that is missing. All ~~timeframes~~ time-frames are suspended from the date the notice is mailed to the candidate until the Board receives all missing information or documentation.
3. A candidate with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the candidate fails to supply the missing information or documentation, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration, certification, or in-training designation shall submit a new application package and pay the applicable fee.
4. If a candidate requests to sit for the professional, certification, or in-training examination, the ~~timeframes~~ time-frames in R4-30-210 apply until the Board grants or denies the candidate's request to sit for the examination.
5. If a candidate requests a waiver of examination under R4-30-203, the ~~timeframes~~ time-frames in R4-30-211 apply until the Board grants or denies the waiver of examination.

B. The Board shall complete its substantive review of the application package and render a decision no later than 60 days after the date the Board mails the notice of administrative completeness to the candidate.

1. If the Board finds that the candidate meets all requirements in statute and rule, the Board shall approve the candidate for professional registration, certification, or in-training designation.

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2. If the Board finds that the candidate does not meet all requirements in statute and rule, the Board shall deny the candidate professional registration, certification, or in-training designation. The Board shall provide written notice of the denial. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the candidate's right to appeal, including the number of days the candidate has to file an appeal, and the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
 3. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information and documentation to be submitted and the deadline for submission. The ~~timeframe~~ time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is served until the date that all missing information or documentation is received.
 4. When the Board and candidate mutually agree in writing, the Board or its designee shall grant extensions of the substantive review ~~timeframe~~ time-frame totaling no more than 30 days.
 5. If the candidate fails to supply the missing information or documentation by the deadline date, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration, certification, or in-training designation shall submit a new application package and pay the applicable fee.
- C. No change.
- D. For the purposes of A.R.S. § 41-1073, the Board establishes the following ~~timeframes~~ time-frames for a candidate applying for professional registration, certification, or in-training designation:
1. Administrative completeness review ~~timeframe~~ time-frame: 60 days;
 2. Substantive review ~~timeframe~~ time-frame: 60 days; and
 3. Overall ~~timeframe~~ time-frame: 120 days.

R4-30-210. ~~Timeframes~~ Time-frames for Approval to Sit for the Professional, Certification, or In-training Examination

- A. Within 60 days of receiving the initial application package to sit for the professional, certification, or in-training examination, the Board shall finish an administrative completeness review.
1. No change.
 2. If the application package is incomplete, the Board shall notify the candidate that the package is deficient and specify the information or documentation that is missing. All ~~timeframes~~ time-frames are suspended from the date the notice is mailed to the candidate until the Board receives all missing information or documentation.
 3. A candidate with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the candidate fails to supply the missing information or documentation, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to sit for the in-training, certification, or professional examination shall submit a new application package and pay the applicable fee.
- B. The Board shall complete its substantive review of the application package and render a decision no later than 120 days after the date the Board mails the notice of administrative completeness to the candidate.
1. If the Board finds that the candidate meets all requirements in statute and rule, the Board shall approve the candidate to sit for the next available in-training, certification, or professional examination.
 2. If the Board finds that the candidate does not meet all requirements in statute and rule, the Board shall not allow the candidate to sit for the in-training, certification, or professional examination. The Board shall provide written notice of its refusal to allow the candidate to sit for the examination. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the candidate's right to appeal, including the number of days the candidate has to file an appeal, and the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
 3. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information or documentation to be submitted and the deadline for submission. The ~~timeframe~~ time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is served until the date that all missing information or documentation is received.
 4. When the Board and candidate mutually agree in writing, the Board or its designee shall grant extensions of the substantive review ~~timeframe~~ time-frame totaling no more than 45 days.
 5. If the candidate fails to supply the missing information or documentation by the deadline date, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to sit for the in-training, certification, or professional examination shall submit a new application package and pay the applicable fee.
- C. No change.

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D. For the purposes of A.R.S. § 41-1073, the Board establishes the following ~~timeframes~~ time-frames for a candidate wishing to sit for either the in-training, certification, or professional examination:

1. Administrative completeness review ~~timeframe~~ time-frame: 60 days;
2. Substantive review ~~timeframe~~ time-frame: 120 days; and
3. Overall ~~timeframe~~ time-frame: 180 days.

R4-30-211. ~~Timeframes~~ Time-frames for Waiver of the Professional, Certification or In-training Examination

A. Within 60 days of receiving the initial application package for a waiver of the professional, certification, or in-training examination, the Board shall finish an administrative completeness review.

1. No change.
2. If the application package is incomplete, the Board shall notify the candidate that the package is deficient and specify the information or documentation that is missing. All ~~timeframes~~ time-frames are suspended from the date the notice is mailed to the candidate, until the Board receives all missing information or documentation.
3. A candidate with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the candidate fails to supply the missing information or documentation, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration, certification, or in-training designation shall submit a new application package and pay the applicable fee.

B. The Board shall complete its substantive review of the application package and render a decision no later than 120 days after the date the Board mails the notice of administrative completeness to the candidate.

1. If the Board finds that the candidate meets all requirements in statute and rule, the Board shall waive the professional, certification, or in-training examination requirement for the candidate.
2. If the Board finds that the candidate does not meet all requirements in statute and rule, the Board shall deny the waiver. The Board may allow the candidate to sit for the professional, certification, or in-training examination, or the Board may require the candidate to submit an application to sit for the professional, certification, or in-training examination. The Board shall provide written notice of the denial. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the candidate's right to appeal, including the number of days the candidate has to file an appeal, and the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
3. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information or documentation to be submitted and the deadline for submission. The ~~timeframe~~ time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is served until the date that all missing information or documentation is received.
4. When the Board and candidate mutually agree in writing, the Board or its designee shall grant extensions of the substantive review ~~timeframe~~ time-frame totaling no more than 45 days.
5. If the candidate fails to supply the missing information or documentation by the deadline date, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration, certification, or in-training designation shall submit a new application package and pay the applicable fee.

C. No change.

D. For the purposes of A.R.S. § 41-1073, the Board establishes the following ~~timeframes~~ time-frames for a candidate requesting waiver of the professional, certification, or in-training examination:

1. Administrative completeness review ~~timeframe~~ time-frame: 60 days;
2. Substantive review ~~timeframe~~ time-frame: 120 days; and
3. Overall ~~timeframe~~ time-frame: 180 days.

ARTICLE 3. REGULATORY PROVISIONS

R4-30-301. Rules of Professional Conduct

A. All registrants and certified remediation specialists shall comply with the following standards of professional conduct:

1. A registrant or certified remediation specialist shall not submit any materially false statements or fail to disclose any material facts requested in connection with an application for registration or subpoena.
2. A registrant or certified remediation specialist shall not engage in fraud, deceit, misrepresentation or concealment of material facts in advertising, soliciting or providing ~~professional~~ services to members of the public.
3. ~~A registrant shall not sign, stamp or seal any professional plans, drawings, prints, land surveys, reports, specifications or other documents not prepared by the registrant or a bona fide employee.~~
4. ~~3.~~ A registrant or certified remediation specialist shall not knowingly commit bribery of a public servant as proscribed in A.R.S. § 31-2602, knowingly commit commercial bribery as proscribed in A.R.S. § 13-2605 or violate any federal statute concerning bribery.

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- ~~5-4.~~ A registrant or certified remediation specialist shall comply with state, municipal and county laws, codes, ordinances, and regulations pertaining to the registrant's or certified remediation specialist's ~~professional~~ practice.
- ~~6-5.~~ A registrant or certified remediation specialist shall not violate any state or federal criminal statute involving dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury, bribery or breach of fiduciary duty, if the violation is reasonably related to the registrant's or certified remediation specialist's area of practice.
- ~~7-6.~~ A registrant or certified remediation specialist shall apply the technical knowledge and skill ~~which that~~ would be applied by other qualified registrants or certified remediation specialists who practice the same profession in the same area and at the same time.
- ~~8-7.~~ A registrant or certified remediation specialist shall not accept an assignment ~~where~~ if the duty to a client or the public would conflict with the registrant's or certified remediation specialist's personal interest or the interest of another client without full disclosure of all material facts of the conflict to each person who might be related to or affected by the project or engagement in question.
- ~~9-8.~~ A registrant or certified remediation specialist shall not accept compensation for services related to the same project or professional engagement from more than one party without making full disclosure to all ~~such~~ parties and obtaining the express written consent of all parties involved.
- ~~10-9.~~ A certified remediation specialist ~~Except as provided in Subsections (11) and (12) of this Section, a registrant shall not accept any remediation professional engagement or assignment outside the specialist's area of certification, registrant's professional registration category unless:~~
- ~~a.~~ The registrant is qualified by education, technical knowledge or experience to perform such work; and
 - ~~b.~~ Such work is exempt under A.R.S. § 32-143.
- ~~11.~~ A registered professional engineer may accept professional engagements or assignments in branches of engineering other than that branch in which the registrant has demonstrated proficiency by registration but only if the registrant has the education, technical knowledge or experience to perform such engagements or assignments.
- ~~12.~~ Except as otherwise provided by law, code, ordinance or regulation, a registrant may act as the prime professional for a given project and select collaborating professionals; however, the registrant shall perform only those professional services for which the registrant is qualified by registration to perform and shall seal and sign only the work prepared by the registrant or by the registrant's bona fide employee.
- ~~13-10.~~ A registrant or certified remediation specialist shall make full disclosure to all parties concerning:
- ~~a.~~ Any transaction involving payments to any person for the purpose of securing a contract, assignment, or engagement, except for actual and substantial technical assistance in preparing the proposal; or
 - ~~b.~~ Any monetary, financial, or beneficial interest the registrant or certified remediation specialist may hold in a contracting firm or other entity providing goods or services, other than the registrant's or certified remediation specialist's professional services, to a project or engagement.
- ~~14-11.~~ A registrant or certified remediation specialist shall not solicit, receive or accept compensation from material, equipment or other product or service suppliers for specifying or endorsing their products, goods or services to any client or other person without full written disclosure to all parties.
- ~~15-12.~~ If a registrant's or certified remediation specialist's professional judgment is overruled or not adhered to under circumstances where a serious threat to the public health, safety or welfare may result, the registrant or certified remediation specialist shall immediately notify the responsible party, appropriate building official, or agency, and the Board of the specific nature of the public threat.
- ~~16-13.~~ If called upon or employed as an arbitrator to interpret contracts or to judge contract performance, or to perform any other arbitration duties, the registrant or certified remediation specialist shall render decisions impartially and without bias to any party.
- ~~17.~~ ~~To the extent applicable to the professional engagement, a registrant shall conduct a land survey engagement in accordance with the Minimum Standards for Arizona Land Boundary Surveys as adopted by the Board August 19, 1994, the provisions of which are incorporated herein by reference and on file with the Office of the Secretary of State.~~
- ~~18.~~ A registrant who is designated as a responsible registrant shall be responsible for the firm or corporation's compliance with the Board statutes and rules, and shall be responsible for non-registrant employee's compliance with the Board statutes and rules in the performance of the non-registrant employees' duties for the firm or corporation. ~~the Board may impose disciplinary action on the responsible registrant for any violation of Board statutes and rules that are committed by the non-registrant employee, or firm or corporation.~~
- ~~19-14.~~ A registrant or certified remediation specialist shall comply with any subpoena issued by the Board or its designated administrative law judge.
- ~~15.~~ A registrant or certified remediation specialist shall update their address, phone number, and facsimile number of record with the Board within 30 days of the date of any change.
- B.** All registrants shall comply with the following rules of professional conduct:
- 1. A registrant shall not sign, stamp, or seal any professional documents not prepared by the registrant or a bona fide employee.

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2. Except as provided in subsections (B)(3) and (B)(4), a registrant shall not accept any professional engagement or assignment outside the registrant's professional registration category unless:
 - a. The registrant is qualified by education, technical knowledge, or experience to perform the work; and
 - b. The work is exempt under A.R.S. § 32-143.
3. A registered professional engineer may accept professional engagements or assignments in branches of engineering other than that branch in which the registrant has demonstrated proficiency by registration but only if the registrant has the education, technical knowledge, or experience to perform such engagements or assignments.
4. Except as otherwise provided by law, a registrant may act as the prime professional for a given project and select collaborating professionals; however, the registrant shall perform only those professional services for which the registrant is qualified by registration to perform and shall seal and sign only the work prepared by the registrant or by the registrant's bona fide employee.
5. A registrant who is designated as a responsible registrant shall be responsible for the firm or corporation. The Board may impose disciplinary action on the responsible registrant for any violation of Board statutes or rules that is committed by a non-registrant employee, firm, or corporation.

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

CHAPTER 2. DEPARTMENT OF REVENUE

INCOME AND WITHHOLDING TAX SECTION

SUBCHAPTER C. INDIVIDUALS

PREAMBLE

1. Sections Affected

R15-2C-201
R15-2C-202
R15-2C-204
R15-2C-205
R15-2C-206
R15-2C-207
R15-2C-208
R15-2C-209
R15-2C-210
R15-2C-211
R15-2C-302
R15-2C-303
R15-2C-304
R15-2C-305
R15-2C-306
R15-2C-307
R15-2C-308
R15-2C-309

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Repeal
Repeal
Amend
Amend
Repeal
Repeal
Amend
Amend
Amend
Amend
Repeal
Repeal

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 42-1005

Implementing statutes: A.R.S. §§ 43-1021, 43-1022, and 43-1023

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 1808, May 19, 2000

Notice of Rulemaking Docket Opening: 6 A.A.R. 1918, May 26, 2000

Notice of Recodification: 6 A.A.R. 2308, June 23, 2000

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4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Patricia Trent
Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, AZ 85007
Telephone: (602) 542-4672
Fax: (602) 542-4680
E-mail: TrentP@revenue.state.az.us

5. An explanation of the rule, including the agency's reasons for initiating the rule:

R15-2C-201, R15-2C-202, R15-2C-205, R15-2C-206, R15-2C-207, R15-2C-210, R15-2C-304, and R15-2C-305 are amended to comply with the rulewriting guidelines of the Secretary of State's Office.

R15-2C-204 is amended to combine the addition and subtraction related to pre-1979 annuities into one rule.

R15-2C-208, R15-2C-209, and R15-2C-302 are repealed because the rules are unnecessary. The rules merely repeat the underlying statute or session law.

R15-2C-211 and R15-2C-306 are amended to clarify that taxpayers shall not deduct or include an item more than once in computing Arizona taxable income.

R15-2C-303 is repealed because the provisions of the rule are included in the proposed R15-2C-204.

R15-2C-307 is amended to change the requirement for attaching statements to the tax return.

R15-2C-308 and R15-2C-309 are repealed because the rules are obsolete due to statute changes.

6. Reference to any study that the agency relied on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

It is expected that the benefits of the rules will be greater than the costs. The amendment of these rules will benefit the public by making the rules conform to current statute, removing language that is obsolete or that is repetitive of statute, and conforming to current rulemaking guidelines. The Department of Revenue, the Governor's Regulatory Review Council, and the Secretary of State's Office will incur the costs associated with the rulemaking process. Taxpayers are not expected to incur any expense in the amendment of these rules.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Patricia Trent
Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, AZ 85007
Telephone: (602) 542-4672
Fax: (602) 542-4680
E-mail: TrentP@revenue.state.az.us

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10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: April 18, 2001
Time: 10:00 a.m.
Location: Arizona Department of Revenue
Floor B1, Large Conference Room
1600 West Monroe, Phoenix, Arizona
Nature: Public hearing on the proposed rulemaking.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 15. REVENUE

**CHAPTER 2. DEPARTMENT OF REVENUE
INCOME AND WITHHOLDING TAX SECTION
SUBCHAPTER C. INDIVIDUALS**

ARTICLE 2. ADDITIONS TO ARIZONA GROSS INCOME

Section

R15-2C-201. Additions and Subtractions to Arizona Gross Income
R15-2C-202. Beneficiary's Share of Trust or Estate Income
R15-2C-204. Annuities Where 1st Payment Was Received Prior to December 31, 1978
R15-2C-205. Credit for Dependent Care Facilities
R15-2C-206. Partnership Income or Loss
R15-2C-207. ~~Income-producing~~ Income-Producing Property - Different Basis
R15-2C-208. ~~Pollution Control Devices~~ Repealed
R15-2C-209. ~~Child Care Facilities~~ Repealed
R15-2C-210. Individual Net Operating Losses
R15-2C-211. Amounts Already Deducted

ARTICLE 3. SUBTRACTIONS FROM ARIZONA GROSS INCOME

Section

R15-2C-302. ~~IRA or IR-10 Distributions~~ Repealed
R15-2C-303. ~~Annuities Where 1st Payment Was Received Prior to December 31, 1978~~ Repealed
R15-2C-304. Lottery Winnings
R15-2C-305. Social Security and Railroad Retirement Benefits
R15-2C-306. Income Previously Recognized
R15-2C-307. Exemptions for Blind Persons
R15-2C-308. ~~Exemption for Persons over 65 years of Age~~ Repealed
R15-2C-309. ~~Exemption for Dependents~~ Repealed

ARTICLE 2. ADDITIONS TO ARIZONA GROSS INCOME

R15-2C-201. Additions and Subtractions to Arizona Gross Income

~~Federal adjusted gross income, computed according to the Internal Revenue Code, is The the starting point in calculating Arizona adjusted gross income is federal adjusted gross income computed under the Internal Revenue Code. In order to arrive at Arizona adjusted gross income, The taxpayer shall make additions or subtractions shall be made to Arizona gross income pursuant to under A.R.S. §§ 43-1021 and 43-1022 to calculate Arizona adjusted gross income.~~

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R15-2C-202. Beneficiary's Share of Trust or Estate Income

- ~~A.~~ The beneficiary of an estate or trust shall make the following adjustments to federal adjusted gross income in calculating Arizona adjusted gross income:
- ~~1. Add~~ ~~Shall add to federal adjusted gross income~~ the beneficiary's share of trust or estate income as calculated under pursuant to Arizona statutory provisions in A.R.S. Title 43, Chapter 13; and
 - ~~2. Subtract~~ ~~To prevent a double inclusion of trust or estate income, shall subtract from federal adjusted gross income~~ the beneficiary's share of federal trust or estate income, ~~as calculated under pursuant to the Internal Revenue Code;~~
 - ~~B.~~ ~~3. Add the~~ ~~The beneficiary's share of deductions allowed under pursuant to the Internal Revenue Code shall be added back to federal adjusted gross income to the extent the beneficiary included the deductions are included in calculating the calculation of Arizona taxable income;~~ and
 - ~~C.~~ ~~4. Excess deductions and loss carryovers, allowed pursuant to the Internal Revenue Code as deductions to the beneficiary on termination of an estate or trust, shall not be allowed for Arizona purposes. The~~ Add the beneficiary's share of excess deductions on termination and loss carryovers shall be added back to federal adjusted gross income to the extent the beneficiary included the such deductions are included in calculating the calculation of Arizona taxable income. Excess deductions and loss carryovers, allowed under the Internal Revenue Code as deductions to the beneficiary on termination of an estate or trust, are not allowable for Arizona purposes.

R15-2C-204. Annuities Where 1st Payment Was Received Prior to December 31, 1978

- ~~A.~~ ~~An addition to federal adjusted gross income shall be made to the extent that the amount of annuity payments received during the taxable year is excluded from federal adjusted gross income if the 1st payment from such an annuity was received prior to December 31, 1978, the taxpayer was an Arizona resident at that time, and the recovered cost of the annuity is more for Arizona purposes than the cost recovered for federal purposes.~~
- ~~1. The amount of the addition shall be calculated by first determining the balance of the original cost of the annuity which is remaining after subtracting the amount of accumulated distributions from the original cost of the annuity.~~
 - ~~2. The balance of the original cost of the annuity is then subtracted from the total amount of distributions received in the current taxable year.~~
 - ~~3. After subtracting the amount of current distributions from the balance of the cost of the original annuity, the amount remaining, which is more than the amount includible in federal adjusted gross income, shall be shown as an addition to Arizona gross income.~~
- ~~B.~~ ~~For purposes of the statutory provision, annuity tables contained in federal treasury regulations are used to compute the amount includible in federal adjusted gross income.~~
- ~~A.~~ A taxpayer shall make an adjustment to Arizona gross income, as computed under subsection (B), for an annuity payment received during the taxable year if all of the following apply:
1. A portion of the annuity payment is excluded from federal taxable income for the taxable year using the exclusion ratio method under Internal Revenue Code § 72;
 2. The first payment of the annuity was received prior to December 31, 1978; and
 3. The taxpayer was a resident of Arizona at the time the first payment of the annuity was received.
- ~~B.~~ A taxpayer shall determine the adjustment required under this Section by comparing the amount of the annuity payment included in federal taxable income to the amount of the annuity payment required to be included in Arizona taxable income, as computed under subsection (C). If the amount of the annuity payment taxable federally is less than the amount taxable for Arizona purposes, the difference is an addition to Arizona gross income. If the amount of the annuity payment taxable federally is greater than the amount taxable for Arizona purposes, the difference is a subtraction from Arizona gross income.
- ~~C.~~ A taxpayer shall include in Arizona taxable income an annuity payment received in the taxable year to the extent that the sum of the proceeds received from the annuity in the current and prior taxable years exceeds the taxpayer's cost of the annuity. The "taxpayer's cost of the annuity" means premiums or other amounts paid by the taxpayer for the annuity.

R15-2C-205. Credit for Dependent Care Facilities

For tax years beginning on or after January 1, 1991, and ending before January 1, 1995, ~~if the a taxpayer claimed~~ takes the Arizona credit for dependent care facilities, the taxpayer shall add to Arizona gross income ~~then~~ the amount of any depreciation on the facilities that the taxpayer deducted in calculating included in federal adjusted gross income ~~which has been taken on such property for the taxable year, shall be added back to federal adjusted gross income.~~

R15-2C-206. Partnership Income or Loss

The partnership shall calculate Arizona partnership income or loss is calculated under pursuant to A.R.S. Title 43, Chapter 14. Where the amount calculated for Arizona purposes differs from the amount calculated under pursuant to Internal Revenue Code § 702(a)(8), the partner shall report the partner's share of the difference between the Arizona and federal amounts as follows:

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1. If the partner's share of partnership income computed according to Arizona Revised Statutes is greater than the amount calculated according to the Internal Revenue Code, the partner shall add the difference ~~shall be added to federal adjusted Arizona gross income.~~
2. If the partner's share of partnership loss computed according to the Internal Revenue Code is greater than that computed according to Arizona Revised Statutes, the partner shall add the difference ~~shall be added to federal adjusted Arizona gross income.~~
3. If the partner's share of partnership income computed according to the Internal Revenue Code is greater than that computed according to Arizona Revised Statutes, the partner shall subtract the difference ~~shall be subtracted from federal adjusted Arizona gross income.~~
4. If the partner's share of partnership losses computed according to Arizona Revised Statutes is greater than that computed according to the Internal Revenue Code, the partner shall subtract the difference ~~shall be subtracted from federal adjusted Arizona gross income.~~

R15-2C-207. Income-producing ~~Income-Producing~~ Property – Different Basis

- A. The taxpayer shall make an adjustment to federal adjusted gross income for the taxable year in which the taxpayer sells or otherwise disposes of ~~income-producing assets having a different basis for Arizona purposes than for federal purposes are sold or otherwise disposed of.~~
1. ~~There shall be an addition to income if the Arizona basis of such property is smaller than the federal basis.~~
 2. ~~There shall be a subtraction from income if the Arizona basis of such property is larger than the federal basis.~~
- B. The taxpayer shall determine the basis of the property as of ~~Basis determination is calculated pursuant to the effective date of the Arizona Income Tax Act of 1978.~~
1. If the Arizona basis for the property is less than its federal basis, the taxpayer shall add the difference to Arizona gross income.
 2. If the Arizona basis of the property is greater than its federal basis, the taxpayer shall subtract the difference from Arizona gross income.
- C. ~~This provision~~ Section does not apply ~~is not applicable to depreciable property used in a trade or business.~~

R15-2C-208. ~~Pollution Control Devices Repealed~~

- ~~A. The taxpayer shall continue to amortize the cost of a pollution control device if an election was made pursuant to A.R.S. § 43-1030 for tax years ending on or before December 31, 1989.~~
- ~~B. Due to differences in federal and Arizona treatment of the amortization of pollution control devices, a taxpayer subject to the provision in subsection (A) shall add back the amortization related to the pollution control device which was deducted in arriving at federal adjusted gross income and shall subtract the amortization allowable for Arizona purposes.~~

R15-2C-209. ~~Child Care Facilities Repealed~~

- ~~A. If a taxpayer who operates a child care facility for the purposes of making a profit elected to amortize the cost associated with the purchase, construction, renovation or remodeling of a child care facility or equipment pursuant to A.R.S. § 43-1032, for tax years ending on or before December 31, 1989, the taxpayer shall continue to amortize the cost of such a facility or equipment in the same manner.~~
- ~~B. If such an election was made, the taxpayer shall add back the amortization related to the child care facility or equipment which was deducted in arriving at federal adjusted gross income and shall subtract the amortization allowable for Arizona purposes.~~

R15-2C-210. Individual Net Operating Losses

- A. For tax years beginning after December 31, 1989 ~~12/31/89~~, a taxpayer deduction for a net operating loss for Arizona purposes:
1. May take a net operating loss deduction for Arizona purposes ~~Is permitted only to the extent that a net operating loss is included in the federal adjusted gross income includes the net operating loss deduction.~~
 2. Shall not be adjust adjusted the net operating loss deduction ~~except as delineated in subsection (B);~~ and;
 3. Shall follow federal carryback or carryforward treatment of a net operating loss ~~except as delineated in subsection (C).~~
- B. A taxpayer shall add back a net operating loss deduction, which that is included in current federal adjusted gross income, ~~shall be added back in arriving at Arizona adjusted gross income if the taxpayer took the deduction for Arizona purposes was taken in a prior year for Arizona purposes.~~
- C. A taxpayer shall not ~~For Arizona purposes, no carryback of a net operating loss deduction shall be allowed to any tax year ending on or before 12/31/89~~ January 1, 1990.

R15-2C-211. Amounts Already Deducted

A taxpayer shall not deduct the same expense twice in computing Arizona taxable income.

1. If a taxpayer includes an expense item in determining the current year's federal adjusted gross income or federal taxable income, the taxpayer shall not include that expense item a second time in determining Arizona taxable income.

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2. If a taxpayer has deducted an expense item on a previous Arizona individual income tax return and the expense item is ~~once more being included~~ again in computing either federal adjusted gross income or Arizona taxable income in a subsequent return, the taxpayer shall add back the expense item ~~previously deducted to determine~~ shall now be added back for purposes of determining Arizona adjusted gross income.

ARTICLE 3. SUBTRACTIONS FROM ARIZONA GROSS INCOME

R15-2C-302. ~~IRA or HR-10 Distributions~~ Repealed

A subtraction is allowed from federal adjusted gross income for the portion of a distribution from a Self-Employed Retirement Plan (HR-10) or an Individual Retirement Account (IRA) which is comprised of contributions to such plans made prior to 12/31/75, and which was previously included in Arizona adjusted gross income.

R15-2C-303. ~~Annuities Where 1st Payment Was Received Prior to December 31, 1978~~ Repealed

~~A. A subtraction from federal adjusted gross income shall be made to the extent that the amount of annuity payments received during the taxable year is included in federal adjusted gross income, if the 1st payment from such an annuity was received prior to December 31, 1978, the taxpayer was an Arizona resident at that time, and the recovered cost of the annuity is less for Arizona purposes than the cost recovered for federal purposes.~~

1. ~~The amount of the subtraction shall be calculated by 1st determining the balance of the original cost of the annuity which is remaining after subtracting the amount of accumulated distributions from the original cost of the annuity.~~
2. ~~The balance of the original cost of the annuity is then subtracted from the total amount of distributions received in the current taxable year.~~
3. ~~After subtracting the amount of current distributions from the balance of the cost of the original annuity, the amount remaining, which is less than the amount includible in federal adjusted gross income, shall be shown as a subtraction from Arizona gross income.~~

~~B. For purposes of the statutory provision, annuity tables contained in federal treasury regulations are used to compute the amount includible in federal adjusted gross income.~~

R15-2C-304. Lottery Winnings

A. A taxpayer who won ~~an a~~ a State of Arizona lottery prize before March 22, 1983, ~~which and receives was subject to payment in installments~~ installment payments may subtract all amounts ~~which are included in federal adjusted~~ Arizona gross income.

B. A taxpayer may subtract from Arizona gross income an amount not to exceed ~~\$5,000.00~~ \$5,000 per taxable year from aggregate State of Arizona lottery winnings won and collected during taxable periods after March 21, 1983. The combined subtraction from lump sum and installment winnings won and collected after March 31, 1983, shall not exceed \$5,000 for a taxable year.

1. ~~The combined allowable subtraction from lump sum and installment winnings won and collected after March 21, 1983, shall not exceed \$5,000.00 for a taxable year.~~

~~C.2-~~ A taxpayer, collecting amounts won both before March 22, 1983, and amounts won after March 21, 1983, ~~may is allowed to~~ subtract the total winnings collected in the taxable year that the taxpayer ~~which were~~ won before March 22, 1983, plus an amount of winnings not to exceed ~~\$5,000.00~~ \$5,000 won after March 21, 1983, and collected in the taxable year.

R15-2C-305. Social Security and Railroad Retirement Benefits

~~A taxpayer shall subtract Social security~~ Security and ~~railroad retirement~~ Railroad Retirement benefits paid by the Railroad Retirement Board ~~may be subtracted to determine~~ arrive at Arizona adjusted gross income if the taxpayer included these ~~such benefits are included in computing~~ federal adjusted gross income. ~~Pursuant to 45 U.S.C. 231(m), railroad retirement benefits may not be taxed other than under the provisions of the Internal Revenue Code. Therefore, a taxpayer shall subtract: benefits taxable as pension income, Tier II Railroad retirement benefits and benefits taxable pursuant to Internal Revenue Code § 86, Social Security and Tier I Railroad retirement benefits are allowed as a subtraction in arriving at Arizona adjusted gross income if such amounts are included in federal adjusted gross income.~~

1. Social Security and Tier 1 Railroad Retirement benefits taxable under Internal Revenue Code § 86 that are included in federal adjusted gross income, and
2. Tier 2 Railroad Retirement benefits included in federal adjusted gross income.

R15-2C-306. Income Previously Recognized

A taxpayer shall not include the same income item twice in computing Arizona taxable income.

1. If a taxpayer includes an income item in determining the current year's federal adjusted gross income or federal taxable income, the taxpayer shall not include that income a second time in determining Arizona taxable income.
2. If a taxpayer ~~has~~ included an income item on a previous Arizona income tax return and includes the same income item ~~again is once more being included~~ in the computation of either federal adjusted gross income or Arizona taxable income, the taxpayer shall subtract the such income previously being included for the second time shall be subtracted for purposes of to determining determine Arizona adjusted gross income.

R15-2C-307. Exemptions for Blind Persons

A. Exemption for the blind

1. Section 43-1023 provides an additional exemption of \$500 for the taxpayer if he is blind at the close of the taxable year. An additional exemption also is allowed to the taxpayer who files separately for his spouse if the spouse is blind and for the calendar year in which the taxable year of the taxpayer begins does not have any gross income and is not the dependent of another taxpayer. In the event that the husband and the wife are both blind and file a joint return, 2 blind exemptions of \$500 each or a total of \$1,000 are allowed. The determination of whether the spouse is blind shall be made at the close of the taxable year of the taxpayer unless the spouse dies during such taxable year in which case such determination shall be made as of the time of such death.
2. If the individual for whom the exemption is claimed is not totally blind as of the last day of the taxable year of the taxpayer or, in the case of a spouse who dies during such taxable year, as of the time of such death, a taxpayer claiming an exemption allowed by Section 43-1023 for a blind taxpayer or a blind spouse shall attach to his return a certificate from a registered optometrist or a physician skilled in the diseases of the eye stating that as of the applicable status determination date in the opinion of such physician or such optometrist:
 - a. the central visual acuity of the individual for whom the exemption is claimed did not exceed 20/200 in the better eye with correcting lenses, or
 - b. such individual's visual acuity was accomplished by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.If such individual is totally blind as of the status determination date, there shall be attached to the return a statement by the person/s making the return setting forth such fact.

B. The amounts stated herein are subject to inflation indexing pursuant to Sections 43-251 and 43-252.

A. If a husband and wife are both blind or partially blind and they elect to file a joint return, they may claim a total of 2 exemptions under A.R.S. § 43-1023(A).

B. If a taxpayer or the taxpayer's spouse dies during the taxable year and the decedent was blind or partially blind at the date of death, the decedent is eligible for the exemption under A.R.S. § 43-1023(A).

C. If a taxpayer or the taxpayer's spouse for whom the taxpayer is claiming an exemption under A.R.S. § 43-1023(A)(2) is partially blind on the last day of the taxable year, the taxpayer shall get a statement from a registered optometrist or a physician skilled in diseases of the eye. The taxpayer shall keep the statement in the taxpayer's records for the taxable year. The statement shall certify that the person claiming the exemption:

1. Cannot see better than 20/200 in the better eye with correcting lenses, or
2. Has a field of vision of 20 degrees or less.

D. If the taxpayer's eye condition is not likely to improve beyond the conditions listed in subsection (C), the taxpayer may get a statement certified by a registered optometrist or a physician skilled in diseases of the eye to this effect instead of the statement required under subsection (C). The taxpayer shall keep the statement for the taxpayer's records.

R15-2C-308. Exemption for Persons over 65 years of Age Repealed

Exemption for persons over 65 years of age

1. There shall be allowed an exemption of \$1000 for a taxpayer who has attained the age of 65 years before the close of his taxable year.
2. There shall be allowed an exemption of \$1000 for the spouse of a taxpayer if the spouse has attained the age of 65 years before the close of the taxable year and is not the dependent of another taxpayer.

R15-2C-309. Exemption for Dependents Repealed

Exemption for dependents

1. Section 43-1023 allows to a taxpayer an exemption of \$600 for each dependent (Sections 43-1001 and 43-1002) who receives more than 1/2 of his support from the taxpayer for such calendar year. A dependent for the purposes of this credit is a person who is related to the taxpayer within 1 of the following relationships: child, the descendants of each child, stepchild, brother, sister, brother or sister by the half blood, stepbrother or stepsister, parent, the ancestors of such parent, stepfather or stepmother, son or daughter of the taxpayer's brother or sister, brother or sister of the taxpayer's father or mother, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

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2. In the case of a joint return, it is not necessary that the prescribed relationship exist between the person claimed as a dependent and the spouse who furnished the support. It is sufficient if the prescribed relationship exists with respect to either spouse. Thus, a husband and wife making a joint return may claim as a dependent, a daughter of the wife's brother (wife's niece) even though the husband is the one who furnished the chief support. The relationship of affinity once existing will not terminate by divorce or the death of a spouse. A legally adopted child of a person shall be considered a child of such person by blood. A child shall be deemed legally adopted when placed in the custody of a taxpayer for adoption by the latter or his spouse. A citizen or subject of a foreign country may not be claimed as a dependent unless he is a resident of the United States, Canada, or Mexico at some time during the calendar year in which the taxable year of the taxpayer begins. Whether or not over 1/2 of a person's support for the calendar year in which the taxable year of the taxpayer begins was received from the taxpayer shall be determined by reference to the amount of expense incurred by the taxpayer for such support including the value of housing supplied by the taxpayer for such dependent. A payment to a wife that is includible in the gross income of such wife shall not be considered a payment by her husband for the support of any dependent. It is not necessary that the dependent be living on any particular day during the taxable year so long as the taxpayer provides more than 50% of his support and the relationship requirements provided for above are met.
3. The only exemption allowed for a dependent of a taxpayer is that provided by Section 43-1023. The blind and over 65 exemptions are allowed only for the taxpayer or the spouse of the taxpayer. Thus, if a taxpayer provides the entire support of his father who is blind, the taxpayer is entitled to only 1 exemption under Section 43-1023 of \$600 for his father as a dependent and is not entitled to any additional exemption because of his father's blindness.

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

**CHAPTER 2. DEPARTMENT OF REVENUE
INCOME AND WITHHOLDING TAX SECTION**

SUBCHAPTER G. PARTNERSHIPS

PREAMBLE

1. **Sections Affected**

R15-2G-101	<u>Rulemaking Action</u>
R15-2G-102	Amend
	Repeal
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 42-1005

Implementing statutes: A.R.S. §§ 43-306, 43-1401, 43-1411, and 43-1412
3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 4048, October 20, 2000
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Jim Bilski
Address:	Tax Research & Analysis Section Arizona Department of Revenue 1600 West Monroe Phoenix, AZ 85007
Telephone:	(602) 542-4672
Fax:	(602) 542-4680
E-mail:	BilskiJ@revenue.state.az.us
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

R15-2G-101 is amended to clarify the tax treatment of resident and nonresident partners of a partnership.

R15-2G-102 is repealed because subsection (A) of the rule is repetitive of statute and subsection (B) merely reiterates community property law.

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6. Reference to any study that the agency relied on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

It is expected that the benefits of the rules will be greater than the costs. The amendment of these rules will benefit the public by clarifying the tax treatment for resident and nonresident partners of a partnership and removing language that is obsolete or that is repetitive of statute. The Department of Revenue, the Governor's Regulatory Review Council, and the Secretary of State's Office will incur the costs associated with the rulemaking process. Taxpayers are not expected to incur any expense in the amendment of these rules.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Jim Bilski
Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, AZ 85007
Telephone: (602) 542-4672
Fax: (602) 542-4680
E-mail: BilskiJ@revenue.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: April 19, 2001
Time: 10:00 a.m.
Location: Arizona Department of Revenue
Floor B1, Large Conference Room
1600 West Monroe, Phoenix, Arizona
Nature: Public hearing on the proposed rulemaking.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 15. REVENUE

**CHAPTER 2. DEPARTMENT OF REVENUE
INCOME AND WITHHOLDING TAX SECTION
SUBCHAPTER G. PARTNERSHIPS**

ARTICLE 1. TAXATION OF PARTNERSHIPS

Section
R15-2G-101. Partnerships
R15-2G-102. ~~Distributive Shares of Partners~~ Repealed

ARTICLE 1. TAXATION OF PARTNERSHIPS

R15-2G-101. Partnerships

- A.** Partnerships as such are not subject to the income tax imposed by the Act but are required to make returns of income for information purposes.
- B.** A resident partner shall include the partner's distributive share of the partnership when computing the partner's taxable income. A nonresident partner shall include the partner's Arizona distributive share of the partnership when computing the partner's taxable income. For purposes of this Section:
1. "Distributive share of the partnership" means the partner's share, as determined pursuant to the partnership agreement, of the items enumerated in A.R.S. § 43-1412.
 2. "Arizona distributive share of the partnership" means the amount computed in subsection (B)(1), subject to the allocation and apportionment provisions of A.R.S. §§ 43-1131 through 43-1148.

R15-2G-102. ~~Distributive Shares of Partners~~ Repealed

- A.** ~~Each partner is required to include in his return for his taxable year within which or with which the taxable year of the partnership ends, whether or not distributed, the items specifically set forth in Section 43-1412.~~
- B.** ~~If separate returns are made by a husband and wife, and only 1 spouse is a member of a partnership, the part of the distributive share of the gains and losses of the partnership from sales or exchanges of capital assets or the part of their distributive share of ordinary net income or ordinary net loss derived from community property should be reported by the husband and by the wife in equal proportions.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

**CHAPTER 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION**

PREAMBLE

1. Sections Affected

	<u>Rulemaking Action</u>
R15-10-102	Amend
R15-10-105	Amend
R15-10-106	Amend
R15-10-108	Amend
R15-10-110	Amend
R15-10-115	Amend
R15-10-116	Amend
R15-10-119	Amend
R15-10-120	Amend
R15-10-122	Amend
R15-10-201	Amend
R15-10-307	Amend
R15-10-401	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 42-1005

Implementing statutes: A.R.S. §§ 42-1106, 42-1113, 42-1118, 42-1125, 42-1129, 42-1251, 42-2056, and 42-2064

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 1808, May 19, 2000

Arizona Administrative Register
Notices of Proposed Rulemaking

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Patricia Trent
Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, AZ 85007
Telephone: (602) 542-4672
Fax: (602) 542-4680
E-mail: TrentP@revenue.state.az.us

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The rules relate to the Department of Revenue's administrative hearing procedures, reimbursement of costs related to administrative proceedings, closing agreements, and electronic funds transfer payments.

R15-10-102, R15-10-307, and R15-10-401 are amended to correct statute references.

R15-10-105 is amended to rearrange the subsections, delete the requirement that a petitioner submit a copy of the petition, and delete the requirement that the petition specify whether an oral hearing is requested.

R15-10-106 is amended to delete the 30-day limitation for additional time to complete a timely filed petition.

R15-10-108 is amended to clarify when a petitioner may amend or supplement a petition.

R15-10-110 is amended to clarify the withdrawal of a petition.

R15-10-115 is amended to put the rule in the active voice, allow the Hearing Officer the option of scheduling a hearing if neither party requests one, and delete the reference to a default order.

R15-10-116 is amended to clarify the types of hearings allowed and the manner in which hearings are conducted.

R15-10-119 is amended to put the items required for a stipulation of facts in list format.

R15-10-120 is amended to make minor grammatical changes.

R15-10-122 is amended to put the rule in the active voice and require that the party citing a transcript submit a copy of the transcript to the Department of Revenue's Hearing Officer.

R15-10-201 is amended to correct a statute reference and to make a minor grammatical change.

6. Reference to any study that the agency relied on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

It is expected that the benefits of the rules will be greater than the costs. Amending the rules will benefit the public by correcting statute references, making clarifying changes, and conforming the rules to current rulemaking guidelines. The Department of Revenue, the Governor's Regulatory Review Council, and the Secretary of State's Office will incur the costs associated with the rulemaking process.

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9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Patricia Trent
Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, AZ 85007
Telephone: (602) 542-4672
Fax: (602) 542-4680
E-mail: TrentP@revenue.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: April 18, 2001
Time: 2:00 p.m.
Location: Arizona Department of Revenue
Floor B1, Large Conference Room
1600 West Monroe, Phoenix, Arizona
Nature: Public hearing on the proposed rulemaking.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 15. REVENUE

**CHAPTER 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION**

ARTICLE 1. HEARING PROCEDURES

Section
R15-10-102. Scope of Article 1
R15-10-105. Petition
R15-10-106. Incomplete Petition
R15-10-108. Amendments and Supplements
R15-10-110. Withdrawal of Petition
R15-10-115. Request for Hearings; Waiver
R15-10-116. Hearing Procedure
R15-10-119. Stipulation of Facts
R15-10-120. Official Notice
R15-10-122. Transcripts and Records

ARTICLE 2. ADMINISTRATION

Section
R15-10-201. Closing Agreements Relating to Tax Liability

ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS

Section
R15-10-307. Timely Payment

**ARTICLE 4. REIMBURSEMENT OF FEES AND OTHER COSTS RELATED TO AN
ADMINISTRATIVE PROCEEDING**

Section

R15-10-401. Application for Reimbursement of Fees and Other Costs Related to an Administrative Proceeding

ARTICLE 1. HEARING PROCEDURES

R15-10-102. Scope of Article 1

A Department hearing officer shall conduct all hearings regarding taxes administered by the Department under A.R.S. § ~~42-441~~ 42-1101, unless A.R.S. § 41-1092.02 requires that an ALJ hear the matter.

R15-10-105. Petition

~~A.~~ The petitioner shall mail the petition to the applicable section at the Department of Revenue headquarters in Phoenix, Arizona or hand-deliver the petition to the License and Registration Section in any Department of Revenue office. A petitioner that hand-delivers a petition shall clearly mark the envelope to indicate that it is a petition. The License and Registration Section shall provide a receipt to a petitioner that hand-delivers a petition. The Department shall not charge a fee for filing a petition or any supporting documents.

- ~~1. The petitioner shall sign the petition.~~
- ~~2. The petitioner shall file the original and 1 copy of the petition.~~

~~B.~~ A petition regarding a tax assessment or a refund denial shall include the following:

1. The taxpayer's name, address, federal identification number, and all applicable state identification numbers. If there is a difference between the taxpayer's name in the notice and the taxpayer's name in the petition, the petition shall contain an explanation of the difference. A petition that concerns a married-filing-joint return shall include the last known name and address of both individuals;
2. A copy of the notice or a statement that references the tax type and tax period involved and contains the amount of the tax assessment or refund claimed including tax, penalties, interest, and refundable credits;
3. A statement of the amount of the tax assessment or refund denial that is protested;
4. A statement of errors alleged to have been committed by the Department in the determination of the tax assessment or refund denial that is protested;
5. A statement of facts and legal arguments upon which the taxpayer relies to support the statement of errors;
6. The relief sought;
7. ~~Whether an oral hearing is requested; and~~
8. The payment for all unprotested amounts of tax, interest, and penalties; and
8. The signature of the petitioner.

~~C.~~ B. A petition regarding matters other than a tax assessment or a refund denial shall include the following:

1. The taxpayer's name, address, federal identification number, and all applicable state identification numbers. If there is a difference between the taxpayer's name in the notice and the taxpayer's name in the petition, the petition shall contain an explanation of the difference;
2. A copy of the notice or a statement describing the action, proposed action, or determination for which a hearing is sought;
3. A statement of errors alleged to have been committed by the Department in its action;
4. A statement of facts and legal arguments upon which the taxpayer relies to support the statement of errors;
5. The relief sought; and
6. ~~Whether an oral hearing is requested.~~ The signature of the petitioner.

C. The petitioner shall mail the petition to the applicable section at the Department of Revenue headquarters in Phoenix, Arizona or hand-deliver the petition to the License and Registration Section in any Department of Revenue office. A petitioner that hand-delivers a petition shall clearly mark the envelope to indicate that it is a petition. The License and Registration Section shall provide a receipt to a petitioner that hand-delivers a petition.

D. The Department shall not charge a fee for filing a petition or any supporting documents.

R15-10-106. Incomplete Petition

The Hearing Officer may dismiss a petition for a ~~formal~~ hearing ~~which that~~ does not contain all of the required information, unless the ~~petition is made complete~~ petitioner completes the petition within the time allowed to file a petition, including any extension. The Hearing Officer may, at the discretion of the Hearing Officer, grant An extension of additional time to complete a timely filed the petition, not to exceed 30 days from the date notification is made, may be granted at the discretion of the Hearing Officer or on stipulation of the parties.

R15-10-108. Amendments and Supplements

A. A petition may be supplemented or amended The petitioner may supplement or amend a petition at any time before the conclusion of the hearing.

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- B. The Hearing Officer may require amendments to the petition to be in writing.
- C. The Department shall consider an amendment that is made within the statute of limitations and that creates or increases a refund to be a refund request. The request shall contain all the information required by A.R.S. § 42-1118.
- D. An amendment to a petition that is made outside the statute of limitations may reduce the taxpayer's liability under an assessment for the same tax period to 0, but shall not generate a refund.
- E. An amendment to a refund request that is made outside the statute of limitations shall not increase the amount of the refund timely requested.
- ~~C.F.~~ The Hearing Officer shall grant reasonable time for any party to submit supplements or amendments and to enable the opposing party to respond.

R15-10-110. Withdrawal of Petition

- A. The taxpayer may submit a written request to withdraw a ~~A~~ petition may be withdrawn, at the written request of the taxpayer, at any time prior to the issuance of a decision by the Hearing Officer issuing a decision.
- B. If the Department and the petitioner resolve the matters protested prior to a hearing, the parties shall submit a written agreement or stipulation shall be submitted to the Hearing Officer and the Hearing Officer shall deem the protest shall be deemed withdrawn.
- C. The Hearing Officer shall issue an order that the petition is withdrawn and that the matter is closed at the Hearing Office. ~~determination of the Department is final.~~

R15-10-115. Request for Hearings; Waiver

- A. The Hearing Officer shall schedule an ~~An~~ oral hearing shall be set if requested by the petitioner or the Department requests an oral hearing. If neither the petitioner nor the Department requests an oral hearing, no request is submitted, the petition shall be considered submitted to the Hearing Officer shall:
 - 1. Consider the petition submitted for decision based on the petition and any memoranda filed, or
 - 2. Schedule an oral hearing.
- B. The Hearing Officer may, for good cause shown, postpone, recess, or continue a hearing to a specified date, time, and place. The Hearing Officer shall notify all the parties regarding a rescheduled hearing.
- C. ~~If no postponement has been obtained~~ the Hearing Officer does not postpone the hearing and any party to the hearing fails to appear without good cause, the Hearing Officer may:
 - 1. Proceed with the hearing,
 - 2. Reschedule the hearing, or
 - 3. Issue a decision based on the petition and memoranda provided, ~~or~~
 - 4. ~~Issue a default order.~~

R15-10-116. Hearing Procedure

- A. The Hearing Officer may hold hearings: Hearings may be held
 - 1. in In person,
 - 2. via By telephone, or
 - 3. by By the submission of memoranda, or
 - 4. By a combination of these methods. Hearings by memoranda shall be conducted by the submission of memoranda according to a schedule prescribed by the Hearing Officer.
- B. For hearings by memoranda, the Hearing Officer shall prescribe a schedule for the submission of the memoranda.
- ~~B.C.~~ The Hearing Officer may conduct the hearing in an informal manner.
 - 1. The Hearing Officer may accept a stipulation of facts ~~state any facts stipulated,~~
 - 2. ~~An opening statement may be made by any~~ Any party in the hearing may make an opening statement,
 - 3. ~~The position of each party shall be stated and evidence shall be presented;~~ Each party may state its position and present evidence.
 - 4. Each party may reply to any statements or arguments, and
 - 5. ~~Closing statements or arguments may be made by any party.~~ Any party may make closing statements or arguments.
- ~~C.D.~~ The Hearing Officer may remand any matter to the applicable section of the Department of Revenue at the request of either party or at the Hearing Officer's own discretion.

R15-10-119. Stipulation of Facts

The petitioner and the Department may file a stipulation stating: ~~the facts upon which they agree, the facts which are in dispute, and the reasons for the dispute.~~

- 1. The facts upon which they agree.
- 2. The facts that are in dispute, and
- 3. The reasons for the dispute.

R15-10-120. Official Notice

The Hearing Officer may take official notice of the following as an admission of facts:

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1. The records ~~maintained by that~~ the Department of Revenue, maintains.
2. Tax returns filed with the Department of Revenue for or on behalf of the taxpayer or any affiliated person together with related records on file with the Department, or
3. A fact ~~which that~~ is generally known in this state or ~~which that~~ is capable of accurate and ready determination by reference to sources whose accuracy cannot reasonably be questioned.

R15-10-122. Transcripts and Records

- A. ~~All oral proceedings shall be tape recorded by the Hearing Office. The Hearing Office shall tape record all oral proceedings. The Hearing Office shall furnish, without charge, a~~ copy of the tape recording of the hearing ~~shall be furnished to a party to the proceedings that requests a copy, requesting it.~~
- B. A party to the proceedings may arrange at the party's own expense to have transcribe the hearing ~~manually transcribed~~. A full copy of any transcript cited in any proceeding shall be furnished to the opposing party. A party who cites a transcript in any proceeding shall furnish a full copy of the transcript to the opposing party and the Hearing Officer.
- C. The petitioner shall not remove the records and files of the Department ~~shall not be removed from the Department by the petitioner for use as evidence or other purposes. The Department shall, as permitted by law, furnish certified copies as requested. The Department shall provide the~~ Such copies ~~shall be provided~~ at a reasonable charge not to exceed the commercial rate for such the service.

ARTICLE 2. ADMINISTRATION

R15-10-201. Closing Agreements Relating to Tax Liability

- A. A closing agreement provided for in A.R.S. § ~~42-123~~ 42-1113 or A.R.S. § ~~42-139.06~~ 42-2056 may relate to any taxable period.
 1. A closing agreement entered into for taxable periods ending prior to the date of the agreement may relate to the total liability of the taxpayer or to 1 or more separate items affecting the liability of the taxpayer.
 2. A closing agreement entered into for taxable periods ending subsequent to the date of the agreement shall only relate to 1 or more separate items affecting the liability of the taxpayer.
 3. The Department and the taxpayer may enter into a closing agreement even though under the agreement the taxpayer is not liable for any tax for the period to which the agreement relates.
 4. There may be a series of closing agreements relating to the liability of a taxpayer for a single taxable period.
- B. A closing agreement shall be in writing and shall state the conditions of the agreement.
- C. A closing agreement is not effective until it is signed by the taxpayer or an authorized representative of the taxpayer; and by an authorized employee of the Department.

ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS

R15-10-307. Timely Payment

- A. Payers remitting tax payments through electronic funds transfer shall initiate the transfer so that the payment is deposited to the Department account on or before the payment due date.
- B. If a tax due date falls on a Saturday, Sunday, or legal holiday, the deposit by electronic funds transfer shall be made no later than 5:00 p.m. on the next banking day.
- C. Taxpayers required to, or who voluntarily elect to, participate in the EFT Program shall be subject to the penalty prescribed by A.R.S. § ~~42-136(D)~~ 42-1125(D) if payments are not deposited to the Department account on or before the payment due date.

ARTICLE 4. REIMBURSEMENT OF FEES AND OTHER COSTS RELATED TO AN ADMINISTRATIVE PROCEEDING

R15-10-401. Application for Reimbursement of Fees and Other Costs Related to an Administrative Proceeding

- A. To apply for reimbursement of reasonable fees and other costs, as provided in A.R.S. § ~~42-139(14)~~ 42-2064, a taxpayer shall file a written application with the Department's problem resolution officer.
- B. An application shall include the following:
 1. Taxpayer's name, address, and identification number;
 2. Identification of the tax type and the administrative proceeding for which reimbursement is sought;
 3. A detailed explanation of the reasons why the taxpayer alleges that the position of the Department in the administrative proceeding was not substantially justified;
 4. If multiple issues were presented in the administrative proceeding and the taxpayer did not prevail on all issues, a detailed explanation of the issue or set of issues on which the taxpayer prevailed, a detailed explanation of the issue or set of issues on which the taxpayer did not prevail, and a detailed explanation as to why the issue or set of issues on which the taxpayer prevailed is the most significant issue or set of issues presented in the administrative proceeding;

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5. A statement that the taxpayer has not unduly and unreasonably protracted the administrative proceeding for which reimbursement is sought;
 6. A statement that the reason the taxpayer prevailed was not due to an intervening change in the applicable law; and
 7. A detailed explanation of the nature and amount of each specific item for which reimbursement is sought.
- C.** An application may also include any other matters that the taxpayer wishes the Department's problem resolution officer to consider in determining whether and in what amount reimbursement should be made.
- D.** The taxpayer shall sign the application. It shall contain or be accompanied by a written verification under penalty of perjury that the information provided in the application and all accompanying material is true and complete to the best of the signer's information and belief.
- E.** If a paid representative of the taxpayer prepares the application, the representative shall also sign the application. It shall contain or be accompanied by a written verification under penalty of perjury that the information provided in the application and all accompanying material is true and complete to the best of the representative's information and belief.
- F.** Fees and other costs incurred in making application for reimbursement or regarding an appeal of a decision for reimbursement do not relate to an administrative proceeding in connection with an assessment, determination, collection, or refund of tax as required by A.R.S. § ~~42-139(14)~~ 42-2064. Therefore, fees and other costs incurred with respect to an application or appeal under A.R.S. § ~~42-139(14)~~ 42-2064 are not reimbursable.