

(II) THE STATE;

(III) A COUNTY, MUNICIPAL CORPORATION, POLITICAL SUBDIVISION, OR INSTRUMENTALITY OF THE STATE;

(IV) ANOTHER STATE TO THE EXTENT THAT FUNCTIONS OF ITS GOVERNMENT ARE CARRIED ON OR PERFORMED IN THIS STATE; AND

(V) IF THE EMPLOYER IS A CORPORATION:

1. ANY OFFICER OF THE CORPORATION WHO EXERCISES DIRECT CONTROL OVER ITS FISCAL MANAGEMENT; AND

2. ANY AGENT OF THE CORPORATION WHO HAS A DUTY TO WITHHOLD INCOME TAX FROM WAGES.

REVISOR'S NOTE: Paragraph (1) of this subsection is new language substituted for the second clause of the second sentence of former Art. 81, § 313(c), which defined "employer" to include an individual under "§ 401(c)(4) of the Internal Revenue Code of 1954", for clarity. In light of this substitution, the former reference to "any person ... employing or using the services of one or more individuals for hire, remuneration or compensation of any kind" is deleted as unnecessary.

Paragraph (2) of this subsection is new language derived without substantive change from former Art. 81, § 279(c)(2) and (k).

The first clause of the second sentence of former Art. 81, § 313(c), which defined "employee", is deleted as surplusage.

Defined terms: "Corporation" § 1-101
"County" § 1-101 "Internal Revenue Code" § 1-101
"State" § 1-101 "Wages" § 10-101
"Withhold" § 10-905

(C) PAYMENT SUBJECT TO WITHHOLDING.

"PAYMENT SUBJECT TO WITHHOLDING" MEANS:

(1) AN ANNUITY OR SICK PAY PAYMENT DESCRIBED IN § 3402(O) OF THE INTERNAL REVENUE CODE;

(2) INCOME THAT IS SUBJECT TO THE INCOME TAX AND IS DISTRIBUTED BY A FIDUCIARY TO A NONRESIDENT ALIEN; AND

(3) INCOME THAT IS ATTRIBUTABLE TO BUSINESS CARRIED ON IN THE STATE AND IS INCLUDABLE IN A NONRESIDENT SHAREHOLDER'S DISTRIBUTIVE SHARE DERIVED FROM AN S CORPORATION.