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Robert R. Corbin

August 11, 1980

Mr. William Jamieson, Jr.
Director
Department of Economic Security
P. O. Box 6123
Phoenix, AZ 85005

RE: 180-151 (R80-145)

Dear Mr. Jamieson:

You have asked whether A.R.S. § 23-603.C is applicable to agricultural labor performed by aliens on and after January 1, 1980.

A.R.S. § 23-603.C provides:

C. Notwithstanding the provisions of § 23-617, paragraph 1, service defined in subsection A performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to §§ 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act is exempt employment.

The answer to your question is "no." There is no legal basis to interpret the exemption as continuing beyond the January 1, 1980 deadline set by the legislature.

A.R.S. § 23-603.C exempted from the Arizona Unemployment Insurance law certain aliens who were temporarily residing in this country working in agricultural labor. The purpose of the Federal and State exemptions was to encourage employers to hire more aliens who were admitted to the U.S. under specific sections of the Immigration and Nationality Act, the employers being thus relieved of unemployment taxes on wages paid to the aliens. There was concern, however, that the exemption might result in a substantial exclusion of U.S. workers in favor of the alien agricultural workers. Therefore, a temporary exemption, allowing opportunity to assess the effect, was enacted in both the Federal and Arizona law, with both exemptions having a built-in expiration date of January 1, 1980. Public law 96-84 on October 10, 1979, extended the

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life of FUTA exemptions an additional two years to January 1, 1982. The Arizona legislature did not enact an extension of the time limit of A.R.S. § 23-603.C and thus the Arizona exemption^{1/} expired on January 1, 1980.

Sincerely,



BOB CORBIN
Attorney General

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^{1/}The exemption was enacted into Arizona law on Federal recommendation, but was not a Federal requirement. The exemption was not a part of the Federal conformity requirements as set out in 26 USCA 3304, and therefore failure to extend the exemption does not constitute a conflict with Federal law subject to A.R.S. § 41-1962, providing that in the event of a conflict the Federal law shall control.