

ARIZONA DEPARTMENT OF REVENUE

1600 WEST MONROE - PHOENIX, ARIZONA 85007-2650

JANE DEE HULL
GOVERNOR



MARK W. KILLIAN
DIRECTOR

ARIZONA CORPORATE TAX RULING CTR 99-1

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

ISSUES:

Is the double-weighted sales factor used in determining whether a corporation is a foreign corporation for purposes of A.R.S. § 43-1101.5(b)?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-1101.5(b) defines a foreign corporation as "[a] domestic corporation with less than twenty per cent of its property, payroll and sales in the United States for the three year period ending with the close of the taxable year of the corporation preceding the current taxable year, or for such part of that period as the corporation has been existence." This definition applies to taxable years beginning from and after December 31, 1989.

A.R.S. § 43-1139 specifies the apportionment formula that is to be used by corporations doing business within and without Arizona to apportion business income. The statute states, "All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two times the sales factor, and the denominator of which is four."

DISCUSSION:

A.R.S. § 43-1139 specifies the apportionment formula used by corporations doing business within and without Arizona to apportion business income. This statute was amended, effective September 21, 1991, to provide for double weighting of the sales factor in that formula. Questions have arisen as to whether the double weighting of the sales factor in the apportionment formula affects the calculation of the 20 percent threshold level for a corporation under A.R.S. § 43-1101.5(b).

ARIZONA CORPORATE TAX RULING

CTR 99-1

Page 2

A.R.S. § 43-1101.5(b) sets forth which domestic corporations will be considered foreign corporations. A domestic corporation is considered foreign if less than twenty percent of its property, payroll, and sales are in the United States for the three year period ending with the close of the taxable year of the corporation preceding the current taxable year, or for such part of that period as the corporation was in existence. Thus, this statute provides a basis to determine how a domestic corporation could fall under the meaning of a foreign corporation and thereby be excluded from any combined Arizona income tax return. A.R.S. § 43-1139 is used to apportion income to Arizona based on a specific formula as defined in that statute. A.R.S. § 43-1139, makes specific reference to double weighting the sales factor, whereas § 43-1101.5(b) neglects this specific language.

RULING:

The sales factor is not double-weighted when determining whether a corporation is a foreign corporation under A.R.S. § 43-1101.5(b). The double-weighting of the sales factor is used in the computation of apportioning income to Arizona.

Mark W. Killian, Director

Signed: February 2, 1999

Explanatory Notice

The purpose of a tax ruling is to provide interpretive guidance to the general public and to department personnel. A tax ruling is intended to encompass issues of law that are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement that provides interpretation, detail, or supplementary information concerning application of the law. Relevant statute, case law, or administrative rules, as well as a subsequent ruling, may modify or negate any or all of the provisions of any tax ruling. See GTP 96-1 for more detailed information regarding documents issued by the Department of Revenue.