

# ARIZONA DEPARTMENT OF REVENUE

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## ARIZONA CORPORATE TAX RULING CTR 01-2

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.

### **ISSUE:**

How does a taxpayer filing an Arizona corporate income tax return determine whether computer software is included in the property factor?

### **APPLICABLE LAW:**

Arizona Revised Statutes (A.R.S.) § 43-102(A)(3) adopts the provisions of the Internal Revenue Code relating to the definitions of income, deductions, and accounting methods.

A.R.S. § 43-1140 provides that the property factor shall include real and tangible personal property used in the taxpayer's business.

Arizona Administrative Code (A.A.C.) rule R15-2D-604 provides that for purposes of the property factor, the value of the property shall be its basis for federal income tax purposes.

Internal Revenue Code (I.R.C.) § 167(f)(1) provides for the depreciation of computer software using the straight line method over a thirty-six month period.

I.R.C. § 197(e) provides for the amortization of intangibles and includes certain software but not canned software.

### **DISCUSSION:**

A.R.S. § 43-1140 provides that the property factor shall include real and tangible personal property used in the taxpayer's business. The property factor does not include intangible property or items that have been expensed. Arizona conforms to the Internal Revenue Code in the determination of the value and nature of business assets. Therefore, computer software that has been treated as tangible personal property and capitalized for federal tax purposes will be treated similarly for Arizona tax purposes.

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A.R.S. § 43-1140 provides that the numerator of the property factor shall include real and tangible personal property used in this state. Computer software is includible in the numerators of the states in which the software is actually used, not in the state where the original program disk or tape is located.

### **RULING:**

Under ordinary circumstances, the property factor includes only software treated as tangible personal property on the federal income tax return. The value of the software shall be attributed to the numerators of the states in which the software is used on a reasonable basis.

Mark W. Killian, Director

Signed: May 1, 2001

### 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.