

ARIZONA INDIVIDUAL INCOME TAX RULING

ITR 93-18

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 should married Arizona residents who file separate Arizona individual income tax returns report their income on the respective returns?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 25-211 provides that all property acquired by either husband or wife during marriage is community property, except that which is acquired by gift or by inheritance.

A.R.S. § 25-213 provides that all property owned by each spouse before marriage, and that property acquired after marriage by gift or by inheritance, is the separate property of such spouse.

Internal Revenue Code (I.R.C.) § 66 contains provisions under which, for federal income tax purposes, community property laws may be disregarded and community income treated as the income of the spouse earning the income.

Poe v. Seaborn, 282 U.S. 101 (1930) held that one-half of community income is taxable to each spouse.

DISCUSSION:

Arizona law provides, in general, that income earned by each spouse and income from community assets are community income. Community income is attributable 50 percent to the husband and 50 percent to the wife. Each spouse may also have income from separate assets, such as assets owned prior to marriage or assets acquired by gift or by inheritance. Such income is separate income and is attributable 100 percent to the acquiring spouse.

When spouses file joint returns, all income is claimed together so there is no need to determine the respective income of each spouse. However, when spouses file separate returns, each spouse's respective income needs to be determined to accurately report that income on each spouse's respective return. Each spouse's separate return must report one-half of the community income from all sources plus any separate income for that spouse.

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Example:

Taxpayers are married and file separate Arizona income tax returns. The taxpayers' total income is comprised of community wages of \$65,000 and community and separate interest income of \$35,000. The breakdown of the wages and interest for each spouse is as follows:

	<u>Spouse 1</u>	<u>Spouse 2</u>	<u>Spouse 1 & Spouse 2</u>
Wages	\$ 40,000	\$ 25,000	
Separate interest	\$ 10,000	\$ 20,000	
Interest from community savings account			\$ 5,000

Under Arizona's community property provisions, each spouse would report the following income on his or her respective separate Arizona income tax return:

	<u>Spouse 1</u>	<u>Spouse 2</u>
Wages	\$ 32,500	\$ 32,500
Separate interest	\$ 10,000	\$ 20,000
Interest from community savings account	\$ 2,500	\$ 2,500
Total	\$ 45,000	\$ 55,000

RULING:

When Arizona resident individuals file their Arizona individual income tax returns as married, filing separately, each spouse must report one-half of the total community income plus all of his or her separate income on the respective Arizona returns.

Note: Please see Arizona Individual Income Tax Ruling ITR 93-22 for an explanation of the exceptions when community income is treated as separate income pursuant to Internal Revenue Code § 66.

Harold Scott, Director

Signed: December 6, 1993

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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 which are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement which provides interpretation, details or supplementary information concerning the 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 92-1 for more detailed information regarding documents issued by the Department of Revenue.

APPENDIX TO ARIZONA INDIVIDUAL INCOME TAX RULING - ITR 93-18
(Appendix Amended 4/15/2011)

For more information concerning the application of Arizona's community property provisions to Arizona income taxation, see the following income tax rulings:

- ITR 93-19 Deductions, Exemptions, and Credits for Married Taxpayers Who File Separate Arizona Individual Income Tax Returns
- ITR 93-20 Income Reporting Requirements of Resident and Nonresident Spouses Who File Separate Arizona Individual Income Tax Returns
- ITR 95-2 Filing a Joint Tax Return When a Resident Spouse is Married to a Part-Year Resident or Nonresident
- ITR 93-22 When Community Income May Be Treated as Separate Income
- ITR 93-23 Reporting Income, Deductions, Exemptions, and Withholding for Divorced Individuals for the Year of Divorce
- ITR 97-2 Joint and Several Income Tax Liability
- ITR 93-25 Tax Collection from a Divorced Individual for Tax Due on a Separate Return Filed by the Former Spouse
- ITR 93-26 Tax Collection from Married Individuals for Premarital Income Tax Liabilities