

ARIZONA INDIVIDUAL INCOME TAX RULING
ITR 93-20

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:

If an Arizona resident is married to a resident of another state, what income must the individuals report to Arizona when separate Arizona income tax returns are filed?

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.

A.R.S. § 43-1001 defines "Arizona gross income" of a resident individual to mean federal adjusted gross income for the taxable year, computed pursuant to the Internal Revenue Code.

A.R.S. § 43-1091 provides that Arizona gross income of nonresidents includes only that portion of federal adjusted gross income which represents income from sources within this state.

DISCUSSION:

Resident Spouse

Since Arizona is a community property state, the resident spouse generally must report one-half of the total community income from all sources plus all separate income. When an Arizona resident is married to a nonresident, the total community income will depend, in part, on whether the nonresident spouse is a resident of a community property state or a noncommunity property state.

If the nonresident spouse is a resident of a community property state, the total community income would include community income derived from the other state. Generally, income (wages) earned during marriage is considered to be community property. Therefore, the earnings of a nonresident spouse who resides in a community

property state would be included in the total community income, one-half of which is reportable by the Arizona resident. However, if the nonresident spouse is a resident of a noncommunity property state, the total community income will generally be comprised of only Arizona community income.

Nonresident Spouse

A nonresident individual is required to report to Arizona income from sources within this state. Therefore, the nonresident spouse of an Arizona resident, whether residing in a community property state or noncommunity property state, is required to report to Arizona one-half of the community income derived from Arizona sources plus all separate income from Arizona sources. Arizona community income, one-half of which is reportable by the nonresident spouse as Arizona source income, would include one-half of the earnings of the resident spouse.

Example 1:

An Arizona resident is married to a nonresident who is a resident of a community property state. The taxpayers 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>Resident Spouse</u>	<u>Nonresident Spouse</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>Resident Spouse</u>	<u>Nonresident Spouse</u>
Wages	\$ 32,500	\$ 20,000
Separate interest	\$ 10,000	\$ 0
Interest from community savings account	<u>\$ 2,500</u>	<u>\$ 0</u>
Total	\$ 45,000	\$ 20,000

Example 2:

Arizona resident married to a nonresident who is a resident of a noncommunity property state. Taxpayers file separate Arizona income tax returns. The taxpayers' total income

is comprised of wages of \$65,000 and interest income of \$35,000. The breakdown of the wages and interest for each spouse is as follows:

	<u>Resident Spouse</u>	<u>Nonresident Spouse</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>Resident Spouse</u>	<u>Nonresident Spouse</u>
Wages	\$ 20,000	\$ 20,000
Separate interest	\$ 10,000	\$ 0
Interest from community savings account	<u>\$ 2,500</u>	<u>\$ 2,500</u>
Total	\$ 32,500	\$ 22,500

RULING:

The Arizona resident spouse, married to a nonresident, must report to Arizona one-half of the total community income plus all separate income.

The nonresident spouse of an Arizona resident must report to Arizona one-half of the community income derived from Arizona sources plus all separate income from Arizona sources.

Harold Scott, Director

Signed: December 6, 1993

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 93-20
(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 93-18 Income Reporting Requirements for Married Arizona Residents Who File Separate Arizona Individual Income Tax Returns
- ITR 93-19 Deductions, Exemptions, and Credits for Married Taxpayers 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