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ARIZONA INDIVIDUAL INCOME TAX RULING ITR 11-4

(This Ruling Supersedes Arizona Individual Income Tax Ruling ITR 93-11)

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.

(Please note I.R.C. §217(k) suspended the deduction for moving expenses for any taxable year beginning after December 31, 2017 and before January 1, 2026 except in the case of members of the Armed Forces of the United States where I.R.C. 217(g) applies.)

ISSUE:

Can an active duty member of the United States Armed Forces who moves pursuant to a military order deduct moving expenses related to that move on his or her Arizona income tax return?

APPLICABLE LAW:

A.R.S. § 43-961(5) provides that in computing taxable income no deduction shall in any case be allowed in respect of any amount that would otherwise be allowable as a deduction which is allocable to one or more classes of income that is not required to be included in a person's Arizona adjusted gross income or Arizona taxable income.

A.R.S. § 43-1001(2) provides that the Arizona gross income of a resident individual is his or her federal adjusted gross income for the taxable year, computed pursuant to the Internal Revenue Code.

A.R.S. § 43-1022(19) provides a subtraction from Arizona gross income for the amount of pay received for active service as a member of the armed forces of the United States.

A.R.S. § 43-1097 provides, in part, that during the tax year in which a taxpayer changes from a nonresident to a resident, Arizona taxable income shall include all income and deductions realized or recognized, or both, depending on the taxpayer's method of accounting, during the period the individual was a resident.

I.R.C. § 217 provides a deduction for moving expenses paid or incurred during the taxable year in connection with the commencement of work by the taxpayer as an employee or as

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a self-employed individual at a new principal place of work. This section further imposes distance and time requirements for moving expenses to be deductible.

I.R.C. § 217(g) provides that a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station is not subject to the time and distance requirements.

10 U.S.C. § 101(a)(4) provides that the term “armed forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

DISCUSSION:

For federal income tax purposes, I.R.C § 217 allows individuals to deduct reasonable moving expenses paid or incurred during the taxable year in connection with the commencement of work at a new principal place of work. For moving expenses to be deductible, a taxpayer must generally meet time and distance requirements. However, a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station is not subject to the time and distance requirements.

For federal income tax purposes, moving expenses incurred for qualified moves that are not paid or reimbursed by the individual’s employer are allowable as a deduction in computing adjusted gross income and are not subject to the 2% floor limitation on itemized deductions. Therefore, moving expenses allowable as a deduction under I.R.C. § 217, are deducted from gross income when computing federal adjusted gross income.

For Arizona income tax purposes, moving expenses are realized after the move is complete. Therefore, federally deductible moving expenses incurred by an Arizona resident to move within Arizona are generally deductible on the Arizona income tax return. Federally deductible moving expenses incurred to move into Arizona by an individual who is establishing Arizona residency are generally deductible on the Arizona income tax return. Federally deductible moving expenses incurred to move from Arizona by an individual who is abandoning Arizona residency are not deductible on an Arizona income tax return.

The starting point for a full year Arizona resident is the federal adjusted gross income. Therefore, any moving expense deduction included in the federal adjusted gross income will likewise be reflected in Arizona gross income.

The starting point for the Arizona return for an individual that becomes an Arizona resident during the taxable year is that portion of the federal adjusted gross income realized or recognized, during the period in which the individual was an Arizona resident, plus any Arizona source income for the period in which the individual was an Arizona nonresident. This amount may or may not reflect a moving expense deduction included in the federal adjusted gross income.

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A.R.S. § 43-961(5) prohibits a taxpayer from taking any deduction which is allocable to income not required to be included in the individual's Arizona adjusted gross income or Arizona taxable income. Therefore, if moving expenses are allocable to income which is exempt from Arizona income tax, the taxpayer may not take a deduction for those moving expenses.

A.R.S. § 43-1022(19) provides a subtraction from Arizona gross income for the amount of pay received for active service as a member of the United States Armed Forces. Therefore, active duty military pay is exempt from Arizona income tax.

RULING:

An active duty member of the United States Armed Forces who moves pursuant to a military order cannot deduct moving expenses related to that move on his or her Arizona income tax return since the active duty military pay is exempt from Arizona income tax.

A full-year Arizona resident active duty armed forces member that included a moving expense deduction in his or her federal adjusted gross income for a move made pursuant to a military order, who is required to file an Arizona income tax return, must make the following addition and subtraction on the Arizona income tax return.

1. The armed forces member must subtract, from Arizona gross income, all of his or her military pay included in federal adjusted gross income.
2. The armed forces member must add to Arizona gross income the amount of moving expense deduction included in federal adjusted gross income for the move made pursuant to the military order.

A part-year Arizona resident active duty armed forces member that included a moving expense deduction in his or her federal adjusted gross income for a move made pursuant to a military order must exclude that moving expense deduction in the computation of Arizona gross income.

Gale Garriott, Director

Signed: June 22, 2011

Explanatory Notice

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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.