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ARIZONA INDIVIDUAL INCOME TAX RULING ITR 14-2

(Supersedes Arizona Individual Income Tax Ruling ITR 93-23)

Reference to dependent exemptions removed due to passage of HB 2757 (2019)

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:

For Arizona income tax purposes, how do divorced individuals treat their income, deductions and withholding for the year of divorce?

RULING:

Income received after the termination of the community is the separate income of the individual who earned it or owns the property producing it. The termination of the community occurs when the petition for dissolution of marriage is filed, if that petition results in a divorce.

For the year of divorce, each individual reports one-half of community income and any separate income on his or her Arizona return. When community income is reported, each individual may claim one-half of the deductions and credits related to items of community property, including one-half of the Arizona income tax withheld from community income.

Income Example: H and W divorced during the taxable year. They lived with each other during the taxable year, but separated and filed for divorce on April 1 of the taxable year. The divorce became final on September 15 of that same year. Therefore, the community was terminated on April 1 of the taxable year. H's and W's total income for the year consists of \$65,000 wages. Of the total wages (\$65,000), \$16,250 is community wages (the wages earned prior to the filing of the divorce). The breakdown of the wages for each is as follows:

Division of total wages earned by H and W during the taxable year						
	H			W		
	Earned 1/1 - 3/31	Earned 4/1 - 12/31	Total	Earned 1/1 - 3/31	Earned 4/1 - 12/31	Total
Wages	\$10,000	\$30,000	\$40,000	\$6,250	\$18,750	\$25,000

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Wages Reportable by H for the Return Filed for the Year of Divorce			
½ community wages earned by H for period prior to filing of the divorce (.50 X 10,000)	\$5,000		
½ community wages earned by W for period prior to filing of the divorce (.50 X 6,250)	\$3,125		
Total community wages reportable by H for the taxable year (5,000 + 3,125)		\$ 8,125	
Separate wages earned by H after filing of the divorce		\$30,000	
Total wages reportable by H for the taxable year			\$38,125

Wages Reportable by W for the Return Filed for the Year of Divorce			
½ community wages earned by H for period prior to filing of the divorce (.50 X 10,000)	\$5,000		
½ community wages earned by W for period prior to filing of the divorce (.50 X 6,250)	\$3,125		
Total community wages reportable by H for the taxable year (5,000 + 3,125)		\$ 8,125	
Separate wages earned by W after filing of the divorce		\$18,750	
Total wages reportable by W for the taxable year			\$26,875

Withholding Example: H and W divorced during the taxable year. They lived with each other during the taxable year, but separated and filed for divorce on April 1 of the taxable year. The divorce became final on September 15 of that same year. Therefore, the community was terminated on April 1 of the taxable year. H's and W's total Arizona withholding for the taxable year was \$1,530. Of the total Arizona withholding (\$1,530), \$382 is from community wages (the amount withheld prior to the filing of the divorce). The breakdown of the Arizona withholding for each is as follows:

Division of total Arizona Withholding Between H and W for the Taxable Year						
	H			W		
	AZ Tax Withheld From Wages Earned 1/1 - 3/31	AZ Tax Withheld From Wages Earned 4/1 - 12/31	Total	AZ Tax Withheld From Wages Earned 1/1 - 3/31	AZ Tax Withheld From Wages Earned 4/1 - 12/31	Total
Arizona Withholding	\$270	\$810	\$1,080	\$112	\$338	\$450

AZ Withholding Reportable by H for the Return Filed for the Year of Divorce			
½ AZ Withholding from community wages earned by H for period prior to filing of the divorce (.50 X 270)	\$135		
½ AZ Withholding from community wages earned by W for period prior to filing of the divorce (.50 X 112)	\$ 56		
Total AZ Withholding from community wages reportable by H for the taxable year (135 + 56)		\$191	
AZ Withholding from Separate wages earned by H after filing of the divorce		\$810	
Total AZ Withholding reportable by H for the taxable year			\$1,001

AZ Withholding Reportable by W for the Return Filed for the Year of Divorce			
½ AZ Withholding from community wages earned by H for period prior to filing of the divorce (.50 X 130)	\$135		
½ AZ Withholding from community wages earned by W for period prior to filing of the divorce (.50 X 112)	\$ 56		
Total AZ Withholding from community wages reportable by H for the taxable year (135 + 56)		\$191	
AZ Withholding from Separate wages earned by W after filing of the divorce		\$338	
Total AZ Withholding reportable by W for the taxable year			\$529

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DISCUSSION:

Income received after the termination of the community is the separate income of the individual who earned it or owns the property producing it. Under Arizona law, the termination of the community occurs when the petition for dissolution of marriage is filed, rather than the date the divorce is granted, if that petition resulted in a divorce.

Since the marital status of taxpayers is determined on the last day of the tax year, a person who has been granted a decree of dissolution of marriage during the year is not eligible to file a joint return with the former spouse. In determining items reportable on their respective returns, the parties, in effect, split their tax year into the period before the termination of the community and the period after the termination of the community.

With respect to the period before the divorce, the former spouses may have community income, deductions, and withholding. Each individual should report one-half of community income and any separate income on his or her respective return. When community income is reported, each individual may claim one-half of the deductions and credits related to items of community property, including one-half of the total income tax withheld from community income.

Deductible **expenses paid out of separate funds** are deductible only by the spouse who pays them. **For example**, if otherwise deductible medical expenses are paid from an account that is the separate property of one of the spouses, only that spouse may claim a deduction for the expenditure. (Otherwise deductible medical expenses would be those medical expenses paid out of the taxpayer's separate funds for medical services his or her spouse received while married or for expense paid for his or her spouse while married.)

If **expenses are paid from funds from an account that is considered community property**, the deduction should generally be split between both spouses. **For example**, if otherwise deductible mortgage interest on a residence owned by both spouses is paid from a joint checking account, each spouse would deduct half of the mortgage interest on their separate returns.

If, only one of the spouses is entitled to a deduction for the expense (for example, a payment of property taxes for property owned by just one of the spouses), only that spouse is allowed a deduction for the expenditure even if the expense is paid from joint funds.

Each spouse must maintain records documenting who is considered to have paid the expense.

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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 or that which is acquired after service of a petition for dissolution of marriage, legal separation or annulment if the petition results in a decree of dissolution of marriage, legal separation or annulment.

A.R.S. § 25-213(A) 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. § 25-213(B) provides that property that is acquired by a spouse after service of a petition for dissolution of marriage, legal separation or annulment is also the separate property of that spouse if the petition results in a decree of dissolution of marriage, legal separation or annulment.

A.R.S. § 43-1001 defines a "married person," for Arizona income tax purposes, to mean a married person on the last day of the taxable year.

David Raber, Director

Signed: May 14, 2014

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.

APPENDIX TO ARIZONA INDIVIDUAL INCOME TAX RULING ITR 14-2

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 93-20 Income Reporting Requirements of Resident and Nonresident Spouses Who File Separate Arizona Individual Income Tax Returns
- ITR 93-22 When Community Income May Be Treated as Separate Income
- 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
- ITR 11-5 Joint and Several Income Tax Liability
- ITR 14-1 Filing a Joint Tax Return When a Resident Spouse is Married to a Part- Year Resident or Nonresident