

STATE OF ARIZONA

Department of Revenue



Janice K. Brewer
Governor

John A. Greene
Director

October 19, 2012

Attached please find a proposed Arizona Individual Income Tax Ruling that addresses the determination of household income for the purpose of determining eligibility for the property tax credit. The proposed ruling would replace the current Arizona Individual Income Tax Ruling ITR 92-4. The Department would appreciate written comments on this draft ruling.

The deadline for comments is **Friday, November 30, 2012**. Any request for an extension of time for review must also be made by this date. This office will review all comments that are received through this date and make any appropriate revisions before the Department issues the final document.

Please address your comments to:

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ARIZONA INDIVIDUAL INCOME TAX RULING ITR 12-X

(Supersedes Arizona Individual Income Tax Ruling ITR 92-4)

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:

What is household income for the purpose of determining eligibility for the property tax credit allowed under Arizona Revised Statutes (A.R.S.) § 43-1072?

RULING:

For the purpose of the property tax credit, "household income" includes the sum of all income of each person who resided with the claimant in his or her principal dwelling during the taxable year whether or not the member is related to, or a dependent of, the claimant.

Items Included in Income

For purposes of the property tax credit income includes the following items:

- (1) Salaries, wages, tips, commissions or bonuses.
- (2) All dividend and interest income, including U.S. Government interest and interest from Arizona municipalities.
- (3) Business and farm income. Income from business or farm activities is calculated as net income or loss from business or farm activities determined in the same manner as reportable for federal income tax purposes. If the net result is a loss, the claimant must use the loss for determining income for the year in which the loss was incurred. If the claimant incurred a loss in a year other than the claim year and that loss resulted in a net operating loss for federal purposes, the claimant cannot use the federal net operating loss deduction to calculate income for the property tax credit.

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- (4) Rent and royalty income. Income from rents or royalties is calculated as gross income from rent or royalty activities less deductions, determined in the same manner as income or loss reportable for federal income tax purposes. If the net result is a loss, the claimant must use the loss for determining income for the year in which the loss was incurred without regard to the passive activity loss rules. If the claimant incurred a loss in a year other than the claim year and that loss resulted in a passive activity loss carry forward for federal purposes, the claimant cannot use the federal passive activity loss deduction to calculate income for the property tax credit.
- (5) S corporation, partnership, estate and trust income. Income from S corporations, partnerships, estates or trusts is the amount reportable on the federal Form K-1 that the S corporation, partnership, trust or estate issued to that individual for the taxable year. If the net result is a loss, the claimant must use the loss for determining income for the year in which the loss was incurred without regard to the passive activity loss rules. If the claimant incurred a loss in a year other than the claim year and that loss resulted in a passive activity loss carry forward for federal purposes, the claimant cannot use the federal passive activity loss deduction to calculate income for the property tax credit.
- (6) Alimony.
- (7) Capital gains and losses from the sale or exchange of property. Income from capital gains is computed by applying the current year's capital losses against the current year's capital gains. If the net result for the taxable year is a loss, the amount of the loss used to compute income for the taxable year cannot exceed \$1,500. If the claimant incurred a capital loss in a prior year that resulted in a capital loss carryover for federal income tax purposes, the claimant cannot use that prior year's capital loss to reduce the current year's capital gains to calculate income. When computing household income, the maximum net loss of \$1,500 is applicable to each household member who had capital gains and losses from the sale or exchange of property during the taxable year, when the net result for that person resulted in a loss.
- (8) Nontaxable strike benefits.
- (9) Pension and annuity income. Pension and annuity income includes Arizona state and local retirement benefits, and U.S. Government pensions including civil service and military retirement benefits. Pension and annuity income for the year does not include amounts of pension distributions that were transferred into another retirement plan without federal tax consequences during the year (a rollover).

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Pension and annuity income also does not include any pension or annuity described in the "Items Excluded from Income" section of this ruling.

(10) Unemployment insurance payments from states other than Arizona.

(11) Any other income not specifically described in items 1 through 11 above that is not specifically excluded from income as described in the "Items Excluded from Income" section of this ruling.

Items Excluded from Income

For the purpose of the property tax credit, income does not include any of the following items:

- U.S. social security benefits;
- Railroad retirement benefits;
- Workmen's compensation;
- "Loss of time" insurance payments;
- Arizona unemployment insurance payments;
- Veterans' disability pensions;
- Welfare payments;
- Surplus food or other relief provided by a governmental agency;
- Gifts;
- Property tax credits received for the prior year.

DISCUSSION:

A claimant's eligibility for the property tax credit is based on the claimant's household income. A.R.S. § 43-1072(H)(5) defines "household income" as the entire income received by all persons who resided with the claimant in his or her principal dwelling during the taxable year.

For the purpose of the property tax credit, A.R.S. § 43-1072(H)(6) defines the term "income" to mean "adjusted gross income" plus various other types of specified income. The term "adjusted gross income" is defined under A.A.C. R15-2C-502 to mean the sum of all income not specifically excluded in A.R.S. § 43-1072 whether or not subject to Arizona income tax, except those items that A.R.S. § 43-1072 specifically includes in income. A.R.S. § 43-1072(I) enumerates items specifically excluded from income for the purpose of the property tax credit.

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LEGAL REFERENCES:

A.R.S. § 43-1072 provides a credit for property taxes or rent paid by Arizona resident individuals who meet specified income and age requirements.

A.R.S. § 43-1072(A)(3) provides that a claimant's eligibility for the property tax credit is based on the entire income received by all persons who resided with the claimant in his or her household during the taxable year.

A.R.S. § 43-1072(H)(3) defines the term "homestead" as the principal dwelling, whether owned or rented by the claimant.

A.R.S. § 43-1072(H)(4) defines the term "household" to mean the household of the claimant and such other persons as resided with the claimant in the claimant's homestead during the taxable year.

A.R.S. § 43-1072(H)(5) defines the term "household income" to mean all income received by all persons of a household in a taxable year while members of the household.

A.R.S. § 43-1072(H)(6) defines the term "income" for the purpose of the property tax credit.

A.R.S. § 43-1072(I) enumerates items specifically excluded from income for the purpose of the property tax credit.

Arizona Administrative Code (A.A.C.) R15-2C-502 defines the term "adjusted gross income" for the purpose of the property tax credit to mean the sum of all income not specifically excluded in A.R.S. § 43-1072 whether or not subject to Arizona income tax, except those items that A.R.S. § 43-1072 specifically includes in income.

John A. Greene, Director

Date

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.

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