

**ARIZONA INDIVIDUAL INCOME TAX RULING
ITR 95-2**

(EFFECTIVE FOR TAXABLE YEARS BEGINNING AFTER 12/31/93)

(Supersedes Arizona Individual Income Tax Ruling ITR 93-21: Ruling updated to reflect changes in references to Arizona income tax forms)

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:

When one spouse is a full-year resident of Arizona and the other spouse is a part-year resident of Arizona or an Arizona nonresident, may the taxpayers file a joint Arizona income tax return?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-309 allows married taxpayers to file joint Arizona income tax returns.

A.R.S. § 43-323 provides that all returns required by Title 43 of the Arizona Revised Statutes shall be in such form as the department may prescribe.

DISCUSSION:

For Arizona income tax filing purposes, if a husband and wife are required to file an Arizona income tax return, they may file a joint return if they meet the criteria specified under A.R.S. § 43-309.

Generally, under A.R.S. § 43-309 a joint Arizona income tax return may be filed if the husband and wife have the same taxable year. Arizona statutes do not prohibit the filing of a joint return when one spouse is a full-year Arizona resident and the other spouse is a part-year Arizona resident or an Arizona nonresident. Therefore, married individuals in these situations may elect to file a joint Arizona income tax return.

When a full-year Arizona resident and a part-year Arizona resident or a nonresident file a joint Arizona income tax return, they may not file using Arizona Form 140. The Arizona Form 140 is designed to accommodate only full-year Arizona residents. Use of this form by joint filers, where one spouse is a part-year resident or a nonresident, would result in reporting that is inconsistent with the tax statutes relating to part-year

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residents and nonresidents. Therefore, the use of Arizona Form 140 in these situations is improper.

Arizona Form 140PY is designed for use by part-year residents and Arizona Form 140NR is designed for use by nonresidents. However, if a full-year resident uses the Form 140PY or Form 140NR, it will not result in reporting that is inconsistent with tax statutes relating to full-year residents. Accordingly, Arizona Form 140PY must be used by joint filers where one spouse is a full-year resident and the other spouse is a part-year resident. Arizona Form 140NR must be used by joint filers where one spouse is a full-year resident and the other spouse is a nonresident.

When a full-year resident and a part-year resident file a joint Arizona income tax return, the full-year resident individual must report all income from all sources and the part-year resident must report all income earned while an Arizona resident plus any income derived from Arizona sources while an Arizona nonresident. The exemptions must be apportioned as if both the full-year resident spouse and the part-year resident spouse were part-year residents.

When a full-year resident and a nonresident file a joint Arizona income tax return, the full-year resident must report to Arizona all income from all sources and the Arizona nonresident must report all income derived from Arizona sources. The exemptions must be apportioned as if both the resident spouse and the nonresident spouse were nonresidents.

RULING:

A full-year Arizona resident who is married to a part-year Arizona resident may file a joint Arizona income tax return using Arizona Form 140PY.

A full-year Arizona resident who is married to an Arizona nonresident may file a joint Arizona income tax return using Arizona Form 140NR.

Harold Scott, Director

Signed: February 10, 1995

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

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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 95-2
(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 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 93-23 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