

ARIZONA DEPARTMENT OF REVENUE

ARIZONA CORPORATE TAX RULING

CTR 93-5

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:

Is that portion of employee stock option plan (ESOP) expense which is not deductible on the federal return when an ESOP credit is claimed allowed as a subtraction on the Arizona return?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-1101 provides that Arizona taxable income is federal taxable income as adjusted by the modifications in A.R.S. §§ 43-1121 and 1122.

A.R.S. § 43-1122 provides a specific list of subtractions which are allowable in adjusting federal taxable income to Arizona taxable income.

Arizona State Tax Commission v. Kieckhefer, 67 Ariz. 102, 191 P.2d 729 (1948). The court held that a right to a deduction does not exist in the absence of statutory authorization and a deduction will not be allowed for items not within the terms of the statute.

DISCUSSION:

A.R.S. § 43-1122 provides the only allowable subtractions from federal taxable income to arrive at Arizona taxable income. There is no provision within A.R.S. § 43-1122 to allow a subtraction of ESOP expenses which can not be deducted on the federal return when the ESOP credit is claimed.

Therefore, there is no statutory authority to allow a subtraction of the ESOP expenses not allowed as a deduction on the federal return and a deduction is allowable only when

specifically authorized by statute.

RULING:

ESOP expenses which are not allowed as a deduction on the federal return may not be claimed as a subtraction in arriving at Arizona taxable income.

Harold Scott, Acting Director
Signed March 29, 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.