ARIZONA CORPORATE TAX RULING

CTR 94-15

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:

Do the Arizona income tax statutes have a provision to adjust the amount of capital gain or loss included in Arizona gross income when computing Arizona taxable income?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-1101.1 defines Arizona gross income of a corporation as its federal taxable income for the taxable year.

A.R.S. § 43-1101.2 defines Arizona taxable income of a corporation as its Arizona gross income adjusted by the modifications specified in Title 43, Chapter 11, Article 3.

A.R.S. § 43-1122.3 allows a subtraction, not to exceed $1,000, of Arizona capital loss carryover.

A.R.S. § 43-1124 defines the Arizona capital loss carryover eligible for subtraction under A.R.S. § 43-1122.3 as the Arizona capital loss carryover existing at the beginning of the taxable year from taxable years beginning prior to January 1, 1988.

A.R.S. § 43-102.B precludes a taxpayer from deducting an item more than once in computing Arizona taxable income.

DISCUSSION:

Arizona gross income for a corporation is its federal taxable income. Arizona gross income includes all capital gain or loss reported in federal taxable income, including any federal capital loss carryover or carryback.

Capital loss deductions are limited to the amount of capital gain when computing federal taxable income. Excess losses must be carried over and claimed as a deduction against subsequent years' capital gains (or carried back against prior years' capital gains). However, Arizona statutes allow an additional subtraction of up to $1,000 of the unused Arizona capital loss each year.

This subtraction of capital loss from Arizona gross income is allowed in computing Arizona taxable income. A.R.S. § 43-1122.3 provides for a subtraction of up to $1,000 in Arizona capital loss carryover. This additional subtraction of unused capital losses was eliminated for losses incurred in taxable years beginning on or after January 1, 1988. However, unused losses from taxable years beginning prior to January 1, 1988, continue to be eligible for the subtraction under A.R.S. § 43-1122.3. The Arizona capital loss carryover eligible for subtraction under A.R.S. § 43-1122.3 is defined in A.R.S. § 43-1124. Essentially, an Arizona capital loss carryover is unused federal capital losses from taxable years beginning prior to January 1, 1988, reduced by any amounts carried over or back on the federal return and by any amounts previously claimed as a subtraction under A.R.S. § 43-1122.3.

> *Example*:
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> A taxpayer has unused federal capital losses for taxable years prior to January 1, 1988, of $10,000. The taxpayer may subtract $1,000 under A.R.S. § 43-1122.3 leaving an Arizona capital loss carryover of $9,000. In the subsequent year, the taxpayer has $5,000 in capital gain and carries over $5,000 in capital loss on the federal return and claims $1,000 of Arizona capital loss under A.R.S. § 43-1122.3. This will leave an Arizona capital loss available for carryover to the next year of $3,000.

Arizona allows a subtraction for an Arizona capital loss carryover of up to $1,000 each year, even though the federal loss carryover is limited to the amount of capital gain. Therefore, $1,000 of the nondeductible federal capital loss may be deducted for Arizona purposes before it is deducted for federal purposes. As a result, when federal capital losses are subsequently carried over and included in Arizona gross income, an adjustment may be required to prevent the losses from being deducted twice.

RULING:

An Arizona capital loss carryover incurred in taxable years beginning before January 1, 1988, in an amount not exceeding $1,000, may be subtracted from Arizona gross income to arrive at Arizona taxable income. To the extent a federal capital loss carryover in Arizona gross income includes amounts previously subtracted as Arizona capital loss, that amount must be added to Arizona gross income to preclude a double deduction.

Harold Scott, Director

Signed November 28, 1994

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.