

ARIZONA CORPORATE TAX RULING

CTR 95-4

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.

ISSUES:

1. How does the initial absence of conformity with the Internal Revenue Code in effect on November 8, 1993, and the subsequent retroactive conformity provided by A.R.S. § 43-106 affect corporations for taxable year 1993?
2. How do the additional subtractions applicable to corporations which were enacted under A.R.S. § 43-106 impact taxable years 1994 and later?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-105 provides taxable year specific Internal Revenue Code applications for Arizona income tax purposes.

Laws 1993, 6th S.S., Ch. 2 (selective conformity act) did not conform Arizona law for purposes of computing Arizona gross income of corporations for taxable years beginning from and after December 31, 1992, to the Internal Revenue Code as amended by the Revenue Reconciliation Act of 1993.

A.R.S. § 43-106 retroactively conforms Arizona law for purposes of computing Arizona gross income of corporations for taxable years beginning from and after December 31, 1992, to the Internal Revenue Code as amended by the Revenue Reconciliation Act of 1993. A.R.S. § 43-106 also provided special subtractions in addition to the subtractions allowed by A.R.S. § 43-1122. The effective date of A.R.S. § 43-106 is July 17, 1994.

A.R.S. § 43-1101 provides that the Arizona taxable income of a corporation is its federal taxable income for the taxable year subject to the modifications specified in A.R.S. §§ 43-1121 and 43-1122.

A.R.S. § 43-1122 prescribes items which are allowable subtractions in the computation of a

corporation's Arizona taxable income.

Arizona State Tax Commission v. Kieckhefer, 67 Ariz. 102, 191 P.2d 729 (1948) 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:

The starting point for the Arizona corporate income tax computation is the corporation's federal taxable income computed under the Internal Revenue Code as defined in Title 43 for that taxable year. A.R.S. § 43-106 retroactively conformed Arizona law for purposes of computing Arizona gross income to the Internal Revenue Code, as amended by the Revenue Reconciliation Act of 1993, for taxable year 1993. Therefore, Arizona gross income of a corporation for the 1993 taxable year will conform to the corporation's federal taxable income for that year.

In computing Arizona taxable income, Arizona gross income is subject to specified additions and subtractions. Allowable subtractions are only those items specifically prescribed by statute. A.R.S. § 43-106 provided additional subtractions from Arizona gross income for the 1993 taxable year. However, for taxable years beginning on or after January 1, 1994, there are no statutory provisions continuing the additional subtractions enacted under A.R.S. § 43-106. Since A.R.S. § 43-106 provided only additional subtractions, there are no provisions which would require a taxpayer to report a gain or loss for Arizona purposes different than that reported for federal purposes on disposition of property for which an amount of additional amortization or depreciation was allowed. Therefore, any gain or loss realized upon disposition of the property will be the same for Arizona purposes as for federal purposes.

RULING:

ISSUE 1:

Arizona gross income, for taxable years beginning from and after December 31, 1992 through December 31, 1993, is based on federal taxable income as computed under the Internal Revenue Code as amended by the Revenue Reconciliation Act of 1993. Those taxpayers that filed 1993 Arizona corporate income tax returns prior to the effective date of A.R.S. § 43-106 should file Arizona amended returns to reflect any difference in Arizona gross income as computed under the Internal Revenue Code as amended by the Revenue Reconciliation Act of 1993.

For example, taxpayers that filed 1993 Arizona tax returns prior to the effective date of A.R.S. § 43-106 were limited to a § 179 expense deduction of \$10,000. Those taxpayers may now file amended returns to claim the additional \$7,500 in § 179 expense allowable under the Internal

Revenue Code as conformed to in A.R.S. § 43-106.

In addition, corporate taxpayers may elect to claim additional special subtractions in the computation of Arizona taxable income for the 1993 taxable year as provided in A.R.S. § 43-106.

ISSUE 2:

The additional subtractions applicable to corporations which were enacted under A.R.S. § 43-106 will impact taxable years 1994 and later as follows:

1. Depreciation for nonresidential real property placed in service on or after May 13, 1993

The Arizona depreciation for nonresidential real property placed in service on or after May 13, 1993, is the same as the federal depreciation. The amount of depreciation taken on the federal return will be included in Arizona gross income. For taxable years starting on or after January 1, 1994, no additional subtraction for depreciation can be taken on the Arizona return. Any gain or loss realized upon disposition of the property will be the same for Arizona purposes as for federal purposes.

2. Amortization of intangible assets listed in Internal Revenue Code § 197

The Arizona amortization of assets listed in Internal Revenue Code § 197 is the same as the federal amortization. The amount of amortization taken on the federal return will be included in Arizona gross income. For taxable years starting on or after January 1, 1994, no additional subtraction for amortization can be taken on the Arizona return. Any gain or loss realized upon disposition of the intangible asset will be the same for Arizona purposes as for federal purposes.

3. Gains recognized under the mark-to-market accounting method

The gain recognized under the mark-to-market accounting method for federal purposes is the gain recognized for Arizona purposes. The amount of such gain included in federal taxable income will be included in Arizona gross income. For taxable years starting on or after January 1, 1994, no additional subtraction for the amount of gain recognized under the mark-to-market accounting method can be taken on the Arizona return.

4. Federal targeted jobs credit

The portion of any salaries and wages paid or incurred equal to the federal

targeted jobs credit claimed on the federal return which are not deductible for federal purposes cannot be subtracted or deducted for Arizona purposes.

5. Federal orphan drug credit

The portion of qualified clinical testing expenditures paid or incurred equal to the federal orphan drug credit claimed on the federal return which are not deductible for federal purposes cannot be subtracted or deducted for Arizona purposes.

6. Federal credit for research activities

The portion of research and development expenditures paid or incurred equal to the federal credit for research activities which are not deductible for federal purposes cannot be subtracted or deducted for Arizona purposes.

7. Losses of a thrift institution reimbursed by the Federal Savings and Loan Insurance Corporation

The amount of losses by a thrift institution with respect to principal, capital, or a similar amount on disposition or write down on assets with respect to which the institution has received reimbursements from the Federal Savings and Loan Insurance Corporation during the taxable year; or the amount of Federal Savings and Loan Insurance Corporation assistance that was received by a thrift institution during the taxable year and that was taken into account in computing worthless debt or addition to bad debt reserve, cannot be subtracted from Arizona gross income.

Harold Scott, Director
Signed: May 31, 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 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.