



Janice K. Brewer
Governor

David Raber
Director

ARIZONA INDIVIDUAL INCOME TAX RULING ITR 14-1

(Supersedes Arizona Individual Income Tax Ruling ITR 95-2)

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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?

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.

Full-Year Arizona Resident Married to a Part-Year Arizona Resident

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 (including community property income earned by an out-of-state spouse) 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 (including any community property income earned by the Arizona resident spouse). The exemptions must be apportioned as if both the full-year resident spouse and the part-year resident spouse were part-year residents.

The income reported on Form 140PY must reflect the aggregate income that would be reported on separate Arizona income tax returns if the married couple were filing separate Arizona income tax returns. For the resident spouse, income reported to Arizona would include one-half of the total community income plus all separate income. Whether income is community or separate is determined by the laws of the state in which the person is a resident. If the part-year resident spouse was a resident of a community property state, then the total community income would include income from both Arizona and the state where the spouse was a resident. Total community income would include wages earned by both spouses while

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married (if the part year resident spouse was also a resident of a community property state during the taxable year). As a result, the resident spouse may have to report to Arizona community income from another state. In general, if the part-year resident spouse was a resident of a non-community property state, the total community income will only include Arizona community income.

Form 140PY Examples

Example 1: Part-year resident (from a community property state) married to an Arizona full-year resident.				
H, an Arizona resident is married to W who became an Arizona resident on July 1 of the taxable year. W was a resident of a community property state prior to moving to Arizona. For the year that W became an Arizona resident, H and W file a joint Arizona income tax return using Form 140PY. Prior to completing Form 140PY for the taxable year, both H and W must figure how much income each would be required to report to Arizona on separate Arizona income tax returns. H and W have total income of \$100,200 (\$65,200 of community wages and \$35,000 of interest income from both community and separate property). The breakdown of the wages and interest for H and W is as shown.				
	H	W		
	H's Total For the Year	W's Total For the Year	Prior to AZ Residency	After AZ Residency
Wages	\$40,000	\$25,200	\$12,600	\$12,600
Separate interest income	\$10,000	\$20,000	\$10,000	\$10,000
Interest from community savings account		\$ 5,000		\$ 5,000
Total income	\$50,000	\$50,200	\$22,600	\$27,600
If both H and W were to file separate Arizona income tax returns, those returns should reflect the following income on each respective separate Arizona income tax return.				
	H	W		
Wages	\$32,600	\$26,300		
Separate interest income	\$10,000	\$10,000		
Interest from community savings account	\$ 2,500	\$ 2,500		
Total	\$45,100	\$38,800		
The above income reportable by H to Arizona is determined as follows;				
½ of community property wages earned by H during the taxable year		\$20,000		
½ of community property wages earned by W during the part of the year that W was an Arizona nonresident		\$ 6,300		
½ of community property wages earned by W during the part of the year that W was an Arizona resident		\$ 6,300		
Total wage income reportable to Arizona by H			\$32,600	
H's separate interest income		\$10,000		
½ of the total community property interest income		\$ 2,500		
Total interest income reportable to Arizona by H			\$12,500	
Total income reportable to Arizona by H			\$45,100	
The above income reportable by W to Arizona is determined as follows;				
½ of community property wages earned by H during the taxable year		\$20,000		
½ of community property wages earned by W during the part of the year that W was an Arizona resident		\$ 6,300		
Total wage income reportable to Arizona by W			\$26,300	
W's separate interest income earned while an Arizona resident		\$10,000		
½ of the total community property interest income		\$ 2,500		
Total interest income reportable to Arizona by W			\$12,500	

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Total income reportable to Arizona by W			\$38,800
Amounts Reported by both H and W on Form 140PY			
	H	W	Total Reported on AZ Form 140PY
Wages	\$32,600	\$26,300	\$58,900
Interest Income	\$12,500	\$12,500	\$25,000
Form 140PY Arizona Gross income			\$83,900

Example 2: Part-year resident (from a non-community property state) married to an Arizona full-year resident.

H, an Arizona resident is married to W who became an Arizona resident on July 1 of the taxable year. **W was a resident of a non-community property state prior to moving to Arizona.** For the year that W became an Arizona resident, H and W file a joint Arizona income tax return using Form 140PY. Prior to completing Form 140PY for the taxable year, both H and W must figure how much income each would be required to report to Arizona on separate Arizona income tax returns. H and W have total income of \$100,200 (\$65,200 of community wages and \$35,000 of interest income from both community and separate property). The breakdown of the wages and interest for H and W is as shown.

	H		W	
	H's Total For the Year	W's Total For the Year	Prior to AZ Residency	After AZ Residency
Wages	\$40,000	\$25,200	\$12,600	\$12,600
Separate interest income	\$10,000	\$20,000	\$10,000	\$10,000
Interest from community savings account		\$ 5,000		\$ 5,000
Total income	\$50,000	\$50,200	\$22,600	\$27,600

If both H and W were to file separate Arizona income tax returns those returns should reflect the following income on each respective separate Arizona income tax return.

	H	W
Wages	\$26,300	\$26,300
Separate interest income	\$10,000	\$10,000
Interest from community savings account	\$ 2,500	\$ 2,500
Total	\$38,800	\$38,800

The above income reportable by H to Arizona is determined as follows;

½ of community property wages earned by H during the taxable year	\$20,000	
½ of community property wages earned by W during the part of the year that W was an Arizona resident	\$ 6,300	
Total wage income reportable to Arizona by H		\$26,300
H's separate interest income	\$10,000	
½ of the total community property interest income	\$ 2,500	
Total interest income reportable to Arizona by H		\$12,500
Total income reportable to Arizona by H		\$38,800

The above income reportable by W to Arizona is determined as follows;

½ of community property wages earned by H during the taxable year	\$20,000	
½ of community property wages earned by W during the part of the year that W was an Arizona resident	\$ 6,300	
Total wage income reportable to Arizona by W		\$26,300
W's separate interest income	\$10,000	
½ of the total community property interest income	\$ 2,500	
Total interest income reportable to Arizona by W		\$12,500
Total income reportable to Arizona by W		\$38,800

Amounts Reported by both H and W on Form 140PY			
	H	W	Total Reported on AZ Form 140PY
Wages	\$26,300	\$26,300	\$52,600
Interest Income	\$12,500	\$12,500	\$25,000
Form 140PY Arizona Gross income			\$77,600

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Full-Year Arizona Resident Married to an Arizona Nonresident

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 (including community property income earned by an out-of-state spouse) and the Arizona nonresident must report all income derived from Arizona sources (including any community property income earned by the Arizona resident spouse). The exemptions must be apportioned as if both the resident spouse and the nonresident spouse were nonresidents.

The income reported on Form 140NR must reflect the aggregate income that would be reported on separate Arizona income tax returns if the married couple were filing separate Arizona income tax returns. For the resident spouse, income reported to Arizona would include one-half of the total community income plus all separate income. Whether income is community or separate is determined by the laws of the state in which the person is a resident. If the nonresident spouse was a resident of a community property state, then the total community income will include income from both Arizona and the state where the spouse is a resident. Total community income would include wages earned by both spouses while married (if the nonresident spouse was a resident of a community property state). As a result, the resident spouse may have to report to Arizona, community income from that state. In general, if the nonresident spouse was a resident of a non-community property state, the total community income will only include Arizona community income.

Form 140NR Examples

Example 3: Nonresident (resident of a community property state) married to an Arizona full-year resident.		
H, an Arizona resident is married to W who is a resident of a community property state . H and W file a joint Arizona income tax return using Form 140NR. Prior to completing Form 140NR for the taxable year, both H and W must figure how much income each would be required to report to Arizona on separate Arizona income tax returns. H and W have total income of \$100,200 (\$65,200 of community wages and \$35,000 of interest income from both community and separate property). The breakdown of the wages and interest for H and W is as shown.		
	H	W
	H's Total For the Year	W's Total For the Year
Wages	\$40,000	\$25,200
Separate interest income	\$10,000	\$20,000
Interest from community savings account		\$ 5,000
Total income	\$50,000	\$50,200
If both H and W were to file separate Arizona income tax returns those returns should reflect the following income on each respective separate Arizona income tax return.		
	H	W
Wages	\$32,600	\$20,000
Separate interest income	\$10,000	\$ 0
Interest from community savings account	\$ 2,500	\$ 0
Total	\$45,100	\$20,000
The above income reportable by H to Arizona is determined as follows;		
½ of community property wages earned by H during the taxable year		\$20,000
½ of community property wages earned by W during the taxable year		\$12,600

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Total wage income reportable to Arizona by H		\$32,600	
H's separate interest income	\$10,000		
½ of the total community property interest income	\$ 2,500		
Total interest income reportable to Arizona by H		\$12,500	
Total income reportable to Arizona by H		\$45,100	
The above income reportable by W to Arizona is determined as follows;			
½ of community property wages earned by H during the taxable year	\$20,000		
Total wage income reportable to Arizona by W		\$20,000	
Total interest income reportable to Arizona by W		\$ 0	
Total income reportable to Arizona by W		\$20,000	
Amounts Reported by both H and W on Form 140PY			
	H	W	Total Reported on AZ Form 140PY
Wages	\$32,600	\$20,000	\$52,600
Interest Income	\$12,500	\$ 0	\$12,500
Form 140NR Arizona Gross income			\$65,100

Example 4: Nonresident (resident of a non-community property state) married to an Arizona full-year resident.

H, an Arizona resident is married to **W who is a resident of a non-community property state**. H and W file a joint Arizona income tax return using Form 140NR. Prior to completing Form 140NR for the taxable year, both H and W must figure how much income each would be required to report to Arizona on separate Arizona income tax returns. H and W have total income of \$100,200 (\$40,000 of community wages, \$25,200 of separate wages and \$30,000 of separate interest income and \$5,000 of community interest income). The breakdown of the wages and interest for H and W is as shown.

	H	W
	H's Total For the Year	W's Total For the Year
Wages	\$40,000	\$25,200
Separate interest income	\$10,000	\$20,000
Interest from community savings account	\$ 5,000	
Total income	\$55,000	\$45,200

If both H and W were to file separate Arizona income tax returns those returns should reflect the following income on each respective separate Arizona income tax return.

	H	W
Wages	\$20,000	\$20,000
Separate interest income	\$10,000	\$ 0
Interest from community savings account	\$ 2,500	\$ 2,500
Total	\$32,500	\$22,500

The above income reportable by H to Arizona is determined as follows;

½ of community property wages earned by H during the taxable year	\$20,000	
Total wage income reportable to Arizona by H		\$20,000
H's separate interest income	\$10,000	
½ of the total community property interest income	\$ 2,500	
Total interest income reportable to Arizona by H		\$12,500
Total income reportable to Arizona by H		\$32,500

The above income reportable by W to Arizona is determined as follows;

½ of community property wages earned by H during the taxable year	\$20,000	
Total wage income reportable to Arizona by W		\$20,000
½ of the total community property interest income	\$ 2,500	
Total interest income reportable to Arizona by W		\$ 2,500

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Total income reportable to Arizona by W			\$22,500
Amounts Reported by both H and W on Form 140PY			
	H	W	Total Reported on AZ Form 140PY
Wages	\$20,000	\$20,000	\$40,000
Interest Income	\$12,500	\$ 2,500	\$15,000
Form 140NR Arizona Gross income			\$55,000

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 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.

Additionally, since Arizona is a community property state, community property must be taken into consideration when completing a joint return filed by a full-year resident who is married to an Arizona part-year resident or Arizona nonresident. Total community income will depend, in part, on whether the part-year resident spouse or nonresident spouse was a resident of a community property state or a non-community property state during the taxable year.

If the part-year resident or nonresident spouse was a resident of a community property state, the total community income would include community income derived from the other

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state. Generally, income (wages) earned during marriage is considered to be community property. Therefore, the earnings of a nonresident spouse (or a part-year Arizona resident spouse) who resides in (or resided in) a community property state would be included in the total community income, one-half of which is reportable by the Arizona resident. However, if the nonresident spouse (or a part-year Arizona resident spouse) is (or was) a resident of a non-community property state, the total community income will generally be comprised of only Arizona community income.

In the case of the nonresident spouse (or part-year resident spouse for the period of Arizona non-residency), that spouse is required to report to Arizona income from sources within this state. Therefore, the nonresident spouse (or part-year resident spouse) of an Arizona resident, whether residing in a community property state or non-community property state, is required to report to Arizona one-half of the community income derived from Arizona sources plus all separate income from Arizona sources. Arizona community income, one-half of which is reportable by the nonresident spouse as Arizona source income, would include one-half of the earnings of the resident spouse.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 25-211 provides that all property acquired by either husband or wife during marriage is community property, except that which is acquired by gift or by inheritance.

A.R.S. § 25-213 provides that all property owned by each spouse before marriage, and that property acquired after marriage by gift or by inheritance, is the separate property of such spouse.

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.

David Raber, Director

Signed: May 14, 2014

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 that are not

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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.

APPENDIX TO ARIZONA INDIVIDUAL INCOME TAX RULING ITR 14-1

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 93-25 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
- ITR 11-2 Joint and Several Income Tax Liability
- ITR 14-2 Reporting Income, Deductions, Exemptions, and Withholding for Divorced Individuals for the Year of Divorce