

ARIZONA DEPARTMENT OF REVENUE

ARIZONA INDIVIDUAL INCOME TAX RULING

ITR 94-9

(On 7/26/2011 the Arizona Administrative Code rule reference was updated to use the rule's new number. No substantive changes were made.)

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 an Arizona nonresident individual who is a partner in a partnership that regularly places orders with brokers in Arizona to buy or sell securities subject to Arizona income tax on his or her distributive share of that partnership income when the only activity of the partnership is buying, selling, and holding securities?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-1091 defines "Arizona gross income" of nonresident individuals.

A.R.S. § 43-1401.1 defines "Arizona gross income" of a partnership.

A.R.S. § 43-1401.2 defines "Arizona taxable income" of a partnership.

A.R.S. § 43-1412.17 provides that each partner, in computing taxable income, is required to include his or her distributive share of a partnership's Arizona taxable income.

Arizona Administrative Code (A.A.C.) rule R15-2C-601(A)(2) provides that the income of a nonresident from sources within Arizona includes his or her distributive share of partnership income which is derived from sources within Arizona.

DISCUSSION:

When the only activity of a partnership is buying, selling, and holding securities and the partnership systematically and continuously buys, sells, or trades securities through Arizona brokers so as to constitute doing business in Arizona, the partnership's profit or gain derived from such activity conducted in Arizona constitutes Arizona source income.

ARIZONA INDIVIDUAL INCOME TAX RULING

ITR 94-9

Page 2

An Arizona nonresident individual is required to include in Arizona gross income that portion of federal adjusted gross income which is derived from Arizona sources. The income of a nonresident from sources within Arizona includes his or her distributive share of partnership income which is derived from sources within Arizona.

RULING:

An Arizona nonresident individual who is a partner in a partnership that regularly places orders with brokers in Arizona to buy or sell securities is subject to Arizona income tax on his or her distributive share of that partnership income since such income from activities conducted in Arizona is income from Arizona sources.

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 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.