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ARIZONA INDIVIDUAL INCOME TAX RULING ITR 05-2

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ISSUE:

When a taxpayer does not claim the dependent exemption for a student on the federal return in order to allow the student to claim a federal education credit on the student's federal return, will Arizona allow that taxpayer to claim the dependent exemption on the Arizona return?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-1001.3 provides that the term "dependent" has the same meaning as prescribed by Internal Revenue Code (I.R.C.) § 152.

A.R.S. § 43-1023.A allows an exemption for each dependent as defined in A.R.S. § 43-1001 and subject to the qualifications prescribed by I.R.C. § 151(c).

I.R.C. § 25A provides for education credits on the federal income tax return.

I.R.C. § 151(c) provides for a dependent exemption on the federal income tax return.

I.R.C. § 152 defines the term "dependent" for federal income tax purposes.

Treas. Reg. § 1.25A-1(f) provides for federal income tax purposes, that if a student is a claimed dependent of another taxpayer, only that taxpayer may claim the education tax credit for the student's qualified tuition and related expenses. However, if another taxpayer is eligible to, but does not, claim the student as a dependent, only the student may claim the education tax credit.

DISCUSSION:

For both federal and Arizona income tax purposes, a taxpayer is allowed an exemption for a person that qualifies as the taxpayer's dependent.

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Under I.R.C. § 152, as amended by the 2004 Working Families Tax Act, a dependent is either a qualifying child or a qualifying relative. Both a qualifying child and a qualifying relative must satisfy tests relating to relationship, abode and support. A qualifying relative must also meet an income requirement. A qualifying child does not have to meet the income requirement, but must satisfy an age requirement. To be a qualifying child, the child must be under age nineteen at the close of the calendar year in which the taxpayer's taxable year begins, or be a student and under age twenty-four at the close of the calendar year in which the taxpayer's taxable year begins. I.R.C. § 152 defines a student as an individual who, during each of five calendar months during the calendar year in which the taxpayer's taxable year begins, is a full-time student at an educational organization described in I.R.C. § 170, or is pursuing a full-time course of instructional on-farm training. I.R.C. § 151(c) provides an exemption for the taxpayer's dependent. Therefore, for federal purposes, a taxpayer may claim an exemption for a person who is a student, when all of the applicable requirements are met.

In the case of students, I.R.C. § 25A provides nonrefundable education credits that may not exceed the tax liability. These credits provide taxpayers with a means to recover some of the costs of post-secondary education and adult education and are available only to taxpayers below a certain income level. A taxpayer may claim the credit for qualified tuition expenses incurred by the taxpayer, the taxpayer's spouse or any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under I.R.C. § 151. Treas. Reg. § 1.25A-1(f) provides that if a student is a claimed dependent of another taxpayer, only that taxpayer may claim the education tax credit for the student's qualified tuition and related expenses. However, if another taxpayer is eligible to, but does not claim the student as a dependent, only the student may claim the education tax credit. Therefore, if the taxpayer claims the student as an exemption, the taxpayer will be eligible to claim the education credit allowable under I.R.C. § 25A even if the student paid the qualifying education expenses. However, if the taxpayer does not claim the exemption for the student, the student may claim the education credit, but not the exemption. In this case, neither the parent nor the student will claim an exemption for the student.

For Arizona income tax purposes, A.R.S. § 43-1001.3 provides that the term "dependent" has the same meaning as prescribed under I.R.C. § 152. A.R.S. § 43-1023.B.1 provides that a taxpayer is allowed an exemption of \$2,300 for each dependent, as defined in A.R.S. § 43-1001 and subject to the qualifications prescribed by I.R.C. § 151(c). Therefore, if a person qualifies as a dependent for federal income tax purposes, that person will also qualify as a dependent for Arizona income tax purposes. There is no provision in Arizona law that requires a taxpayer who is eligible to claim a dependent exemption on the federal return to actually claim that exemption in order to claim the dependent exemption on the Arizona return.

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RULING:

For federal income tax purposes, when a student qualifies as a taxpayer's dependent, and the taxpayer chooses to not claim an exemption for that student to allow the student to claim the education credit, that student still qualifies as the taxpayer's dependent under I.R.C. § 152. In this case, the taxpayer is allowed the exemption under I.R.C. § 151, however, the taxpayer just chooses to not claim that exemption. Additionally, since the taxpayer is entitled to claim the exemption, the student may not claim the exemption.

For Arizona purposes, the student would meet the definition of a dependent under A.R.S. § 43-1001.3 since the student meets the definition of dependent under I.R.C. § 152 and the exemption would be allowable under I.R.C. § 151. Arizona law does not require that the taxpayer actually claim the student as a dependent on the federal return to be eligible to claim the exemption on the Arizona return. Therefore, when a taxpayer does not claim the dependent exemption for a student on the federal return in order to allow that student to claim a federal education credit on the student's federal return, Arizona will allow that taxpayer to claim the dependent exemption on the Arizona return.

Gale Garriott, Director

Signed: September 6, 2005

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 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.