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ARIZONA INDIVIDUAL INCOME TAX RULING ITR 10-1

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:

Does the subtraction, for armed forces personnel, under A.R.S. § 43-1022 apply to Arizona residents who are active duty service members of the commissioned corps of the United States Public Health Service or the National Oceanic and Atmospheric Administration?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-1022.19, provides that in computing Arizona adjusted gross income, a taxpayer may subtract the amount of compensation received for active service as a member of the reserves, national guard, or the armed forces of the United States.

10 U.S.C. § 101(a)(4) provides that the term “armed forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

10 U.S.C. § 101(a)(5) provides that the term “uniformed services” means the armed forces, the commissioned corps of the National Oceanic and Atmospheric Administration, and the commissioned corps of the Public Health Service.

50 U.S.C. App. § 511(1) provides that for the purpose of the Servicemembers Civil Relief Act [Public Law 108-189 50 U.S.C. App. §§501–596 (19 Dec 2003) as amended by Public Law 108-454 (10 Dec 2004)] the term “servicemember” means a member of the uniformed services, as that term is defined in U.S.C. § 10-101(a)(5).

DISCUSSION:

Arizona Revised Statutes (A.R.S.) § 43-1022.19, provides that in computing Arizona adjusted gross income, a taxpayer may subtract the amount of compensation received for active service as a member of the reserves, national guard, or the armed forces of the United States. A taxpayer may subtract such amounts, to the extent they have not already been excluded from Arizona gross income under the Internal Revenue Code.

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The uniformed services of the United States consist of the armed forces, the Public Health Service and the National Oceanic and Atmospheric Administration. The armed forces of the United States consists of five branches: the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps and the United States Coast Guard. For the purpose of the Servicemembers Civil Relief Act, the term "servicemember" means a member of the uniformed services. While the United States Public Health Service and the National Oceanic and Atmospheric Administration are part of the uniformed services and are covered under the Servicemembers Civil Relief Act, they are not a part of the armed force of the United States.

RULING:

Because the United States Public Health Service and the National Oceanic and Atmospheric Administration are not an armed force of the United States, the subtraction, for armed forces personnel under A.R.S. § 43-1022, does not apply to Arizona residents who are active duty service members of the commissioned corps of the United States Public Health Service or the National Oceanic and Atmospheric Administration.

Gale Garriott, Director

Signed: June 21, 2010

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.