

1 statutory adjustment, the amount of income reported to Arizona must be identical to the amount of
2 adjusted gross income reported to the Internal Revenue Service ("IRS"). A.R.S. § 43-102(A)(1).

3 Appellants properly included the capital gain from the sale of their Washington property in their
4 federal adjusted gross income. There is no provision under Arizona law that permits them to exclude this
5 capital gain from their 1998 Arizona income. The right to a deduction does not exist in the absence of
6 statutory authority. *Department of Revenue v. Transamerica Title Ins. Co.* Therefore, the amount
7 received is included in Arizona income. A.R.S. § 43-102(A)(1).

8 Appellants argue that their payment of Washington State property tax during the years they
9 owned the property relieves them of the obligation to pay income tax on the capital gain from the sale of
10 the property. Appellants rely on A.R.S. § 43-1071, which states in part :

11 A. Subject to the following conditions, residents shall be allowed a credit against the
12 taxes imposed by this chapter for net income taxes imposed by and paid to another
state or country on income taxable under this chapter:

- 13 1. The credit shall be allowed only for taxes paid to the other state or country on
14 income that is derived from sources within that state or country and that is
15 taxable under its laws irrespective of the residence or domicile of the
recipient.

16 The statute specifically provides for a credit for *income* tax imposed by another state. Appellants
17 acknowledge that Washington does not have a state income tax but argue that they should be able to
18 subtract the capital gain income from the sale of their Washington property under this provision because
19 they paid property tax for the support of Washington State in lieu of a state income tax.

20 There is no authority for Appellants' position. A.R.S. § 43-1071 relates to income tax only, not
21 property tax. There is no provision under Arizona law that allows Appellants to subtract this amount from
22 Arizona income. Because the income is taxable for federal purposes and there is no available
23 adjustment to Arizona income to allow for the subtraction of the income, the income is subject to Arizona
24 income tax. A.R.S. § 43-102(A)(1).

25 CONCLUSIONS OF LAW

26 Appellants are not entitled to the refund claimed. See A.R.S. § 43-102(A)(1).

27 . . .

28 . . .

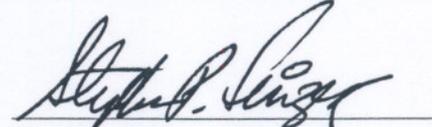
ORDER

THEREFORE, IT IS HEREBY ORDERED that the appeal is denied, and the final order of the Department is affirmed.

This decision becomes final upon the expiration of thirty (30) days from receipt by the taxpayer, unless either the State or taxpayer brings an action in superior court as provided in A.R.S. § 42-1254.

DATED this 24th day of October, 2000.

STATE BOARD OF TAX APPEALS



Stephen P. Linzer, Chairman

SPL:ALW
CERTIFIED

Copies of the foregoing
mailed or delivered to:

Loren R. and Roberta M. Bergh
1959 Spruce Drive
Lake Havasu City, Arizona 86406

Christine Cassetta
Assistant Attorney General
Civil Division, Tax Section
1275 West Washington Street
Phoenix, Arizona 85007