

Revenue Ruling No. 20-001
January 30, 2020
Individual Income Tax

Tax Effect of Community Property Rules on Separate Residency of Married Persons

PURPOSE

The purpose of this ruling is to rule on the Louisiana individual income tax filing and reporting requirements of married person when one spouse is a Louisiana resident and the other spouse is a resident of another community property state.¹

FACTS

For the 2019 tax year, Spouse A and Spouse B are legally married. Spouse A is a Louisiana resident and earns \$80,000 in wages in Louisiana. Louisiana is a community property state² which treats wages earned in Louisiana as community property.³ Spouse B is a resident of State X, which is also a community property state which treats wages earned in State X as community property. Spouse B earns \$130,000 in wages in State X.

Other than wage income, neither spouse earns any additional income. Spouse A and Spouse B file IRS Form 1040, *U.S. Individual Income Tax Return* and select the “married filing jointly” filing status. Spouse A and Spouse B report federal adjusted gross income of \$210,000 (\$80,000 + \$130,000).

APPLICABLE LAW

Resident individuals are subject to Louisiana income tax on net income from whatever source derived.⁴ Nonresident individuals are subject to Louisiana income tax on net income derived from Louisiana sources.⁵ For purposes of determining a nonresident individual’s net income derived from Louisiana sources, wages received for personal services are allocated to the state in which the services are rendered.⁶ Wages earned in Louisiana are considered community property.⁷

¹ In addition to Louisiana, community property states include Arizona, California, Texas, Washington, Idaho, Nevada, New Mexico, and Wisconsin.

² Louisiana Civil Code Article 2334

³ Louisiana Civil Code Article 2338

⁴ LA R.S. 47:31(1) and 290(B)

⁵ LA R.S. 47:31(2) and 290(B)

⁶ LA R.S. 47:243(A)(7)

⁷ Louisiana Civil Code Article 2338

A Revenue Ruling is issued under the authority of LAC 61III.101 (C). A Revenue Ruling is written to provide guidance to the public and to Department of Revenue employees. It is a written statement issued to apply principles of law to a specific set of facts. A Revenue Ruling does not have the force and effect of law and is not binding on the public. It is a statement of the department's position and is binding on the department until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.

An individual is required to use the same filing status as the individual used on his or her federal income tax return.⁸ If married persons filed a federal income tax return using the “married filing jointly” filing status, the Louisiana income tax return must use the same filing status.

ANALYSIS

Filing Status

Since Spouse A and Spouse B filed their federal income tax return using the “married filing jointly” filing status, the general rule is that Spouse A and B must file with the “married filing jointly” filing status on their Louisiana income tax return.

Resident vs. Nonresident Return

The Form IT-540, *Louisiana Resident Income Tax Return* is designed to report all income from whatever sourced derived. The Form IT-540B, *Louisiana Nonresident Income Tax Return* allows for allocation and apportionment of income to determine income derived from Louisiana sources. Since Spouse B is a nonresident with non-Louisiana derived income, the Form IT-540B allows for the most accurate reporting of taxable income. Thus, Spouse A and Spouse B should file the Form IT-540B notwithstanding the general rule outlined in LA R.S. 47:294.

Reporting Louisiana Adjusted Gross Income

On the Form IT-540B, the federal adjusted gross income must match the amount from the Form 1040. Under these facts, this amount is \$210,000.

However, a modification is required to account for the differing residencies of Spouse A and Spouse B. The Louisiana adjusted gross income must include Spouse A’s income from all sources and Spouse B’s income derived from Louisiana sources, including half of any community property income earned in Louisiana by the Louisiana resident spouse (Spouse A).

Calculation of Louisiana Adjusting Gross Income

Spouse	Income Source	Percentage and Amount
A	One half of all community property income	50% of \$210,000 = \$105,000
B	One half of community property income earned in Louisiana	50% of \$80,000 = \$40,000

⁸ LA R.S. 47:294

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The Louisiana adjusted gross income is \$145,000 (\$105,000 + \$40,000).⁹

RULING

Louisiana taxes all of the income of a resident and the Louisiana sourced income of a nonresident. For married persons, where one spouse is a Louisiana resident and the other spouse is a resident of another community property state, Louisiana will tax all of the income of the resident spouse and the Louisiana sourced income of the nonresident spouse. The Louisiana resident's income will include one half of all community property income earned everywhere. The nonresident's Louisiana sourced income will include one half of the community property income earned in Louisiana by the resident spouse.

Kimberly Lewis Robinson
Secretary

⁹ LA R.S. 47:33 provides resident individuals a credit for taxes paid to other states. Based on the facts provided, Spouse A is entitled to a credit for taxes paid to other states, including a credit for tax paid on the same income subject to tax by Louisiana. However, Spouse B cannot claim the credit because Spouse B is a nonresident. The Form IT-540B does not include a line to claim this credit. Therefore, if a taxpayer is subject to the provisions of this ruling, the taxpayer should prepare Form R-10606 as an attachment to the Form IT-540B.

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