



STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD** - LEGAL DEPARTMENT  
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Date: August 5, 2005  
 Case: 1020269103229850  
 Case Unit: 1020269103230133  
 In reply refer to: 410:EJK

Regarding: \*\*\*\*\*

Dear \*\*\*\*\*:

This responds to your request dated \*\*\*\*\* for information and references to code sections.

You state that you are a full time resident of California. Further, you state that you own residential rental property in California that produces a limited profit and residential rental property in Arizona that generates losses.

**INFORMATION**

You ask if losses from the residential rental property in Arizona may be used to offset the profit from the residential property in California for a taxable year? Losses from the residential rental property in Arizona may be used to offset the profit from the residential property in California for a taxable year, subject to passive activity loss limitations.

You also ask if losses from the residential rental property in Arizona may be carried forward to the next taxable year and used to offset profit and income from other sources? Losses from the residential rental property in Arizona may be carried forward to the next taxable year and used to offset profit and income from other sources, subject to passive activity loss limitations.

**REFERENCES TO THE CALIFORNIA REVENUE AND TAXATION CODE**

California Revenue and Taxation Code section 17041(a) states, in part, "There shall be imposed for each taxable year upon the entire taxable income of every resident of this state . . . taxes in the following amounts and at the following rates . . ." In other words, as a resident of California, an income tax is imposed on your income from all sources, both within and without California.

California Revenue and Taxation Code section 17071 conforms by reference to the definition of gross income provided by Internal Revenue Code section 61. Gross income, as defined by Internal Revenue Code section 61, means all income from whatever source derived, including, but not limited to, certain listed specific items, including rents.

California Revenue and Taxation Code section 17201 conforms by reference to Part VI of Subchapter B of Chapter 1 of the Internal Revenue Code, except as otherwise provided. Among other deductions, this Part allows deductions for trade or business expenses, Internal Revenue Code section 162; interest expenses, Internal Revenue Code section 163; and deductions for depreciation, Internal Revenue Code section 167.

In other words, you must include income from all properties, including gross income from your property in Arizona in gross income, but you may also take deductions for items such as trade or business expenses, interest, and depreciation for this property. If this results in a loss, the loss may be reported as part of your California taxable income and used to offset other taxable income, subject to passive activity loss limitations.

California Revenue and Taxation Code section 17276 conforms by reference to the definition and application of net operating loss provided by Internal Revenue Code section 172, and also modifies application of net operating losses. As an example, although carry backs of losses are allowed for federal tax purposes, California Revenue and Taxation Code section 17276(c) does not allow loss carry backs for California income tax purposes. In general though, for taxable years beginning on or after January 1, 2004, 100% of losses may be carried forward for up to 20 years, and used subject to passive activity loss limitations.

## CONCLUSION

Please be advised that the tax consequences expressed in this information letter are based upon and limited to the facts you have submitted. In the event of a change in relevant statutory or judicial or administrative case law, a change in federal interpretation of federal law in cases where this information letter is based upon such interpretation, or a change in the material facts or circumstances relating to your request upon which this letter is based, the information in this letter may no longer be applicable. It is your responsibility to be aware of these changes should they occur.

This letter is an informational letter and is not a legal ruling by the Franchise Tax Board Chief Counsel within the meaning of Revenue and Taxation Code section 21012.

It is hoped that this satisfactorily responds to your questions.

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