



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

R75-798

BRUCE E. BABBITT
ATTORNEY GENERAL

January 19, 1976

Honorable A. V. Hardt
Arizona State Senator
State Capitol - Senate Wing
Phoenix, Arizona 85007

Re: R75-798

Dear Senator Hardt:

Pursuant to your request, we have reviewed Attorney General Opinion No. 71-18 (holding that legislation authorizing the computation of state income tax as a percentage of Federal income tax liability is unconstitutional) in light of cases decided since 1971. In our view, Opinion 71-18, which treats the narrow question of computations made from the Federal tax liability itself, does not necessarily preclude the use of underlying computational data (such as adjusted gross income) for the computation of state tax liability.

Thus, to the extent that you wish to pursue the matter, we will consider two alternatives, which are not necessarily exclusive. The first would be to draft and enact "ideal" legislation more or less independently of constitutional considerations, anticipating an immediate court test to resolve the matter once and for all.

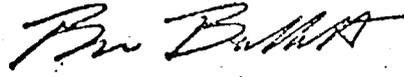
The second alternative, suggested by your letter, would be to draft legislation designed to minimize any constitutional problem. The most obvious approach would be to tie the computation to a present federal statutory pattern, with the provision that no federal changes would be taken into account until such time as the Arizona Legislature explicitly adopts such changes. Alternatively, legislation might be tried outright to specific parts of the Federal code that are subject to minimal change on the theory that subsequent federal changes would be sufficiently minimal so as to minimize the "delegation" problem.

Pursuant to our discussion, I have asked Mr. Winter of this office to meet with Mr. Trascante of the Revenue Department to consider the mechanics of using alternative federal tax measures. We will attempt to advise you shortly of our results.



Honorable A. V. Hardt
January 19, 1976
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Sincerely,

A handwritten signature in cursive script, appearing to read "Bruce Babbitt".

Bruce E. Babbitt
Attorney General

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