

ATRA SUPPORTS HB2692

Maintains a taxpayer's right to seek tax guidance from the Department of Revenue anonymously

Background

Situations arise where taxpayers require anonymity when seeking tax advice from the Arizona Department of Revenue (DOR). One example of this is in the situation of a potential acquisition or merger and both parties are bound by confidentiality; however, there are tax consequences in which the parties need guidance from DOR. One avenue in which taxpayers have had the ability to request such anonymous guidance in the past was through the taxpayer's representative by means of an information letter.

Through an information letter, a taxpayer representative would typically lay out the facts and legal arguments in the request similar to that which would be required if a private taxpayer ruling (PTR) is requested, except that the taxpayer identity would not be disclosed and the ruling would not be published. The taxpayer would be looking for a technical analysis and conclusion from DOR as to the tax treatment of a transaction or activity. In addition, unlike a PTR that would prevent the assessment of taxes, penalties, and interest if DOR modifies or revokes the ruling, a taxpayer that received a ruling on an information letter could only have penalties and interest abated.

On November 19, 2007, DOR issued a General Tax Ruling (GTR 07-1) that precludes the issuance of information letters to taxpayer representatives if the taxpayer is not disclosed. Instead, DOR will issue a "statement of general guidance," which provides only general advisory guidance. This ruling closes an avenue of tax advice that was previously available to taxpayers that wanted to remain anonymous.

Basis for ATRA's Support

HB2692 continues the practice of allowing taxpayers to request tax guidance anonymously by means of a taxpayer information ruling (TIR) through the taxpayer's representative. If a TIR is requested, the taxpayer representative is required to provide the same level of information that is required under a PTR. A taxpayer that discloses its identity prior to the publication date of the TIR is provided the same level of protection as a PTR, which is waiver of tax, penalty, and interest for periods prior to revocation or modification of the ruling if DOR changes its position. If the taxpayer chooses to remain anonymous, the ruling is not binding on DOR for abatement of tax, penalty, and interest.

If the taxpayer believes that its identity can be determined by publication of either a PTR or TIR despite redaction, the taxpayer may request that the ruling not be published at the time of its request for a PTR or TIR. If DOR determines that the ruling should be published, the taxpayer may withdraw its ruling request at that time and DOR is not to proceed with a ruling.



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