

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2692

AN ACT

AMENDING SECTION 42-2101, ARIZONA REVISED STATUTES; RELATING TO PRIVATE
TAXPAYER RULINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-2101, Arizona Revised Statutes, is amended to
3 read:
4 42-2101. Private taxpayer rulings; request; revocation or
5 modification; taxpayer information ruling;
6 definitions
7 A. The department may issue private taxpayer rulings to taxpayers and
8 potential taxpayers on request. Each request shall be in writing and shall:
9 1. State the name, address and, if applicable, taxpayer identifying
10 number of the taxpayer or potential taxpayer who requests the ruling.
11 2. Describe all facts that are relevant to the requested ruling.
12 3. State whether, to the best knowledge of the taxpayer or potential
13 taxpayer, the issue or related issues are being considered by the department
14 in connection with an active audit, protest or appeal that involves the
15 taxpayer or potential taxpayer and whether the same request has been or is
16 being submitted to another taxing authority for a ruling.
17 4. Be signed by the taxpayer or potential taxpayer who makes the
18 request or by an authorized representative of the taxpayer or potential
19 taxpayer.
20 B. A TAXPAYER RULING REQUEST THAT COMPLIES WITH SUBSECTION A,
21 PARAGRAPHS 2 AND 3 OF THIS SECTION AND THAT IS SIGNED BY A REPRESENTATIVE OF
22 A TAXPAYER OR POTENTIAL TAXPAYER SHALL BE CONSIDERED A REQUEST FOR A TAXPAYER
23 INFORMATION RULING INSTEAD OF A PRIVATE TAXPAYER RULING.
24 ~~B.~~ C. A private taxpayer ruling OR TAXPAYER INFORMATION RULING may be
25 revoked or modified by either:
26 1. A change or clarification in the law that was applicable at the
27 time the ruling was issued, including changes or clarifications caused by
28 legislation, adopted administrative rules and court decisions.
29 2. Actual written notice by the department to the last known address
30 of the taxpayer or potential taxpayer of the revocation or modification of
31 the private taxpayer ruling OR TAXPAYER INFORMATION RULING IF THE TAXPAYER
32 IDENTIFYING INFORMATION HAS BEEN DISCLOSED TO THE DEPARTMENT PURSUANT TO
33 SUBSECTION E OF THIS SECTION. IF TAXPAYER IDENTIFYING INFORMATION HAS NOT
34 BEEN DISCLOSED, WRITTEN NOTICE BY THE DEPARTMENT TO THE LAST KNOWN ADDRESS OF
35 THE TAXPAYER REPRESENTATIVE WHO REQUESTED THE RULING WILL CONSTITUTE NOTICE
36 TO THE TAXPAYER OR POTENTIAL TAXPAYER.
37 ~~C.~~ D. With respect to the taxpayer or prospective taxpayer to whom
38 the private taxpayer ruling was issued, the revocation or modification of a
39 private taxpayer ruling shall not be applied retroactively to tax periods or
40 tax years before the effective date of the revocation or modification and the
41 department shall not assess any penalty or tax attributable to erroneous
42 advice that it furnished to the taxpayer or potential taxpayer in the private
43 taxpayer ruling if:

- 1 1. The taxpayer reasonably relied on the private taxpayer ruling.
- 2 2. The penalty or tax did not result either from a failure by the
- 3 taxpayer to provide adequate or accurate information or from a change in the
- 4 information.

5 E. SUBSECTION D OF THIS SECTION APPLIES TO A TAXPAYER INFORMATION
6 RULING IF THE TAXPAYER OR POTENTIAL TAXPAYER PROVIDES ITS NAME, ADDRESS,
7 IDENTIFYING NUMBER, IF APPLICABLE AND AUTHORIZATION PURSUANT TO SECTION
8 42-2003, SUBSECTION A, PARAGRAPH 1 FOR THE REPRESENTATIVE OF THE TAXPAYER OR
9 POTENTIAL TAXPAYER BEFORE THE DATE THE DEPARTMENT PUBLISHES THE RULING. THE
10 DEPARTMENT SHALL NOTIFY THE REPRESENTATIVE OF THE TAXPAYER OR POTENTIAL
11 TAXPAYER OF THE PROPOSED PUBLICATION DATE. IF THE DIRECTOR HAS DETERMINED
12 THAT THE TAXPAYER INFORMATION RULING SHOULD NOT BE PUBLISHED PURSUANT TO
13 SUBSECTION L OF THIS SECTION, SUBSECTION D OF THIS SECTION APPLIES IF THE
14 TAXPAYER OR POTENTIAL TAXPAYER PROVIDES THE IDENTIFYING INFORMATION BEFORE
15 THE DATE SPECIFIED BY THE DEPARTMENT ON ISSUING THE TAXPAYER INFORMATION
16 RULING TO THE REPRESENTATIVE. IF THE TAXPAYER OR POTENTIAL TAXPAYER DOES NOT
17 PROVIDE THE DEPARTMENT WITH THE IDENTIFYING INFORMATION AND REPRESENTATIVE
18 AUTHORIZATION BEFORE THE PROPOSED PUBLICATION DATE, OR FOR AN UNPUBLISHED
19 RULING, THE DATE SPECIFIED BY THE DEPARTMENT, THE TAXPAYER INFORMATION RULING
20 IS NOT BINDING ON THE DEPARTMENT FOR THE PURPOSE OF ABATING INTEREST, PENALTY
21 OR TAX.

22 ~~D.~~ F. A private taxpayer ruling OR TAXPAYER INFORMATION RULING may
23 not be relied upon, cited ~~nor~~ OR introduced into evidence in any proceeding
24 by a taxpayer other than the taxpayer who has received the private taxpayer
25 ruling.

26 ~~E.~~ G. A taxpayer may apply for an administrative hearing to determine
27 the propriety of a retroactive application of a revoked or modified private
28 taxpayer ruling by filing a written petition with the department pursuant to
29 section 42-1251 within forty-five days after receiving written notice of the
30 department's intent to retroactively apply a revoked or modified private
31 taxpayer ruling. THIS SUBSECTION APPLIES TO A TAXPAYER INFORMATION RULING IF
32 THE TAXPAYER HAS DISCLOSED THE TAXPAYER'S IDENTIFYING INFORMATION PURSUANT TO
33 SUBSECTION E OF THIS SECTION.

34 ~~F.~~ H. A private taxpayer ruling OR TAXPAYER INFORMATION RULING
35 constitutes the department's interpretation of the law or rules only as they
36 apply to the taxpayer making, and the particular facts contained in, the
37 request.

38 ~~G.~~ I. A private taxpayer ruling OR TAXPAYER INFORMATION RULING may be
39 issued only if no tax has accrued with respect to the transactions, events or
40 facts contained in the request. The department may issue a private taxpayer
41 ruling OR TAXPAYER INFORMATION RULING addressing a taxpayer's ongoing
42 business activities, except that the ruling applies only to transactions that
43 occur or tax liabilities that accrue from and after the date the taxpayer
44 receives the ruling.

1 ~~H.~~ J. The department shall attempt to issue private taxpayer rulings
2 OR TAXPAYER INFORMATION RULINGS within forty-five days after receiving the
3 written request and on receiving the facts that are relevant to the
4 ruling. If the ruling is expected to be delayed, the department shall notify
5 the requestor of the delay and the proposed date of issuance.

6 ~~I.~~ K. ~~Within thirty days after being issued,~~ The department shall
7 maintain the private taxpayer ruling OR TAXPAYER INFORMATION as a public
8 record and make it available at a reasonable cost for public inspection and
9 copying. The text of private taxpayer OR TAXPAYER INFORMATION rulings is
10 open to public inspection subject to the confidentiality requirements
11 prescribed by article 1 of this chapter.

12 L. AT THE TIME OF MAKING A PRIVATE TAXPAYER OR TAXPAYER INFORMATION
13 RULING REQUEST, A TAXPAYER OR POTENTIAL TAXPAYER MAY SUBMIT A WRITTEN REQUEST
14 THAT THE RULING NOT BE PUBLISHED DUE TO CONCERNS ABOUT CONFIDENTIALITY OR
15 OTHER DISCLOSED REASONS. IF THE DIRECTOR DETERMINES THAT THE RULING SHOULD
16 NOT BE PUBLISHED, THE RULING SHALL BE DEEMED CONFIDENTIAL FOR THE PURPOSE OF
17 SECTION 39-121.01, SUBSECTION D, PARAGRAPH 2. IF THE DIRECTOR DETERMINES
18 THAT THE RULING SHOULD BE PUBLISHED, THE TAXPAYER MAY WITHDRAW THE RULING
19 REQUEST, AND THE DEPARTMENT SHALL NOT PROCEED WITH A RULING IF THE REQUEST IS
20 WITHDRAWN. NOTWITHSTANDING SECTION 41-1092.02, THE DECISION OF THE DIRECTOR
21 TO PUBLISH IS NOT AN APPEALABLE AGENCY ACTION AS DEFINED IN SECTION 41-1092
22 AND IS NOT SUBJECT TO APPEAL BY THE TAXPAYER.

23 ~~J.~~ M. ~~In~~ FOR THE PURPOSES OF this section, ~~:-~~:

24 1. "Private taxpayer ruling" means a written determination by the
25 department issued on or after September 21, 1991 that interprets and applies
26 one or more statutes contained in this title or title 43 and any applicable
27 administrative rules that the department has adopted to the specific
28 prospective facts described in the request for a private taxpayer ruling.

29 2. "TAXPAYER INFORMATION RULING" MEANS A WRITTEN DETERMINATION BY THE
30 DEPARTMENT ISSUED ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
31 SECTION THAT INTERPRETS AND APPLIES ONE OR MORE STATUTES CONTAINED IN THIS
32 TITLE OR TITLE 43 AND ANY APPLICABLE ADMINISTRATIVE RULES THAT THE DEPARTMENT
33 HAS ADOPTED TO THE SPECIFIC PROSPECTIVE FACTS DESCRIBED IN A REQUEST FOR A
34 TAXPAYER INFORMATION RULING.