



**GENERAL TAX PROCEDURE
ELECTRONIC FILING PROGRAM REQUIREMENTS
GTP 20-1**

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Procedure for Reviewing Practices of Paid Preparers and
for Suspension of Tax Preparers From Electronic Filing Program

ISSUE:

This document provides procedural guidance to paid tax preparers and tax professionals using the Electronic Filing Program (EFP), specifically:

- Requirements for tax preparers participating in the Arizona Department of Revenue's (ADOR) Electronic Filing Program (EFP), and
- Steps taken to ensure compliance with these EFP requirements.

APPLICABLE LAWS:

Arizona Revised Statutes (A.R.S.) § 42-1103.01 gives authority to ADOR and its Director to supervise a tax preparer's business activities related to tax preparation and provides that tax preparers shall not:

- misrepresent their experience or education;
- guarantee the payment of any tax refund or the allowance of any tax credit, or
- engage in fraudulent or deceptive conduct that substantially interferes with the proper administration of title 42 or 43, Arizona Revised Statutes.

A.R.S. § 42-1103.02(A) authorizes ADOR to impose a civil penalty against tax return preparers that submit returns or related documents to a tax authority if they knew or reasonably should have known that their client understated a tax liability on a return or a claim for refund. "Understatement of liability" means any understatement of the net amount payable with respect to any imposed tax or any overstatement of the net amount creditable or refundable with respect to any tax. A.R.S. § 42-1103.02(D).

A.R.S. § 42-1125.01 provides that tax preparers shall furnish a completed copy of any return or tax-related document (e.g., schedules) to taxpayers prior to filing the same or face a civil penalty. Tax preparers shall provide their identifying number, preparer's tax identification number (PTIN) on any return or document filed with ADOR. Consistent with A.R.S. §§ 42-1105.01, 42-1105.02, 42-1125.01, tax preparers shall timely file tax returns on behalf of their clients that are signed and otherwise completed.

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A.R.S. § 42-1125.01(D) imposes a civil penalty (in the amount of \$50 and up to \$25,000 in any calendar year) on tax preparers that fail to retain a copy of any return or document filed with ADOR for four years (or six years for transaction privilege tax and use returns).

A.R.S. § 42-1125.01(E) imposes a \$500 civil penalty on tax preparers that negotiate or fraudulently endorse any check issued to taxpayers.

A.R.S. § 42-1125.01(F) imposes a penalty of \$50 for each failure to comply with any EFP requirement up to \$25,000 during any calendar year.

PROCEDURE:

To ensure tax preparers file complete and accurate tax returns and otherwise meet the applicable requirements, ADOR may take various adverse actions against tax preparers, including:

- Suspension from electronic filing program, A.R.S. § 42-1103.03.
- Assessment of civil penalties, A.R.S. §§ 42-1103.02, 42-1125.01(F).
- An action to enjoin return preparers, A.R.S. § 42-1103.01.
- Criminal prosecution, A.R.S. § 42-1127.

In the course of receiving, processing, reviewing and auditing tax returns, based on available data analytics and audit selection programs, ADOR may identify electronically filed tax returns prepared by a single tax preparer that have not been accepted as filed, rejected or otherwise adjusted or questioned through the process of review or audit. The tax preparer may be disciplined via reprimand and assessment of penalty and/or suspension from participating in the EFP as well as assessment of penalties for not complying with applicable laws or EFP requirements outlined above.

Reprimand Letter

ADOR may issue a reprimand letter when it is determined that the tax preparer filed multiple returns or claims for a refund where a significant number of such returns or claims require an audit adjustment or contains a common error.

The reprimand letter will notify the tax preparer about the returns requiring review or adjustment and provide a general description of audit adjustments or common errors. The reprimand letter will provide the tax preparer with an opportunity to challenge findings for inaccurate, incomplete or otherwise deficient returns or filings identified as the basis of the reprimand. ADOR may also propose civil penalties pursuant to A.R.S. §§ 42-1103.02, 42-1125.01(F).

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A tax preparer challenging a reprimand letter must respond in writing or schedule a meeting to discuss the areas of concern. After the meeting, the parties must agree, sign and date the "Summary of Findings" and conclude with the issuance of any of the following:

- (a) a notice of withdrawal of reprimand,
- (b) a summary of actions that the tax preparer will take to come into compliance with the EFP requirements, or
- (c) a similar document outlining the outcome of the parties' meeting.

ADOR will continue to monitor a reprimanded tax preparer to ensure adherence to A.R.S. § 42-1103.01 *et al.* and that corrections are made.

Notice of Suspension

When a tax preparer files multiple returns and the majority of such returns (more than 50%) require audit adjustment or include a common error indicating understatement of tax liability, or, in other circumstances a tax preparer's unprofessional or inappropriate conduct interferes with the proper administration of tax, ADOR may make a finding that the tax preparer is in violation of the EFP requirements (e.g., by failing to exercise due diligence as a preparer or submitting returns/claims that the preparer knows or reasonably should know understate the liability).

ADOR will send a notice of suspension from the EFP program to the tax preparer's last known address of record setting forth its finding(s). The notice of suspension will contain the number of returns that require or required an Audit team's review or adjustment and a general description of the applicable audit adjustment or common error, or another basis justifying suspension. ADOR will also send a notice of suspension from the EFP program to those tax preparers that were previously reprimanded but failed to take corrective action.

If the tax preparer disagrees with the determination, the tax preparer may petition ADOR to review the suspension action within 180 days by filing a petition outlining the reasons the suspension should be lifted. A.R.S. § 42-1103.03(B). ADOR may meet with the tax preparer before or after the petition is filed, to provide information regarding specific returns and filings at issue or to reach an informal settlement or resolution.

ADOR will determine if the suspension should be lifted within 15 days after the request for review.

If following informal settlement efforts, the parties are unable to resolve differences and ADOR does not lift the suspension or waive a civil penalty, the tax preparer has appellate rights pursuant to A.R.S. §§ 42-1103.02(C), 42-1103.03(C) and 42-1251.

Grant Nülle, Deputy Director

Signed: May 22, 2020

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Explanatory Notice

The purpose of a tax procedure is to provide procedural guidance to the general public and department personnel. A tax procedure is a written statement issued by the department to assist in the implementation of tax laws, administrative rules and tax rulings by delineating procedures to be followed in order to achieve compliance with the law. Relevant statute, case law, or administrative rules, as well as a subsequent procedure, may modify or negate any or all of the provisions of any tax procedure. See GTP 96-1 for more detailed information regarding documents issued by the Department of Revenue.