

ARIZONA DEPARTMENT OF REVENUE

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ARIZONA CORPORATE INCOME TAX RULING CTR 02-1

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ISSUE:

How does an amended return affect the estimated payment underpayment penalty?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-582 requires corporations with a tax liability of at least \$1,000 for the taxable year to make estimated income tax payments.

A.R.S. § 42-1125(P) provides for the imposition of a penalty if the taxpayer does not pay the full amount of estimated tax required to be paid under A.R.S. § 43-582.

A.R.S. § 42-2062 provides that penalties imposed pursuant to A.R.S. §§ 43-582 and 42-1125 may be abated if the failure was due to reasonable cause and not due to willful neglect.

Internal Revenue Code (I.R.C.) § 6655(a) provides for an addition to tax for corporations that underpay their estimated tax.

Internal Revenue Service Revenue Ruling (Rev. Rul.) 78-256, 1978-1 C. B. 438 holds that the last return filed by a corporation on or before the due date, including extensions, for filing such return is the return for the taxable year for the purposes of I.R.C. § 6655(b) relating to the failure of a corporation to pay estimated tax.

DISCUSSION:

A.R.S. § 43-582 provides that an Arizona corporate taxpayer that is required to pay estimated income taxes shall pay an amount of estimated tax equal to 90 percent of the tax shown on the return for the taxable year or 100 percent of the tax shown on the corporation's return for the preceding taxable year providing the preceding taxable year was a 12-month year and the return for the preceding year showed a tax liability. Corporations that are classified as large corporations under A.R.S. § 43-582 must make estimated tax payments of 90 percent of the tax shown on the return for the taxable year. A.R.S. § 43-582 also provides that due dates for Arizona estimated tax payment installments are those set by the Internal Revenue

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Code for federal payments. A.R.S. § 43-582 directs the Department of Revenue to prescribe rules for the payment of estimated tax.

For federal estimated payment purposes, Rev. Rul. 78-256 provides that the return upon which the underpayment penalty is imposed is the original return. However, an amended return will be considered the return upon which the penalty for underpayment of estimated tax is imposed if the corrected return is filed prior to the due date, including extensions, of the original return. Therefore, for federal purposes, a taxpayer cannot reduce the underpayment penalty when an amended return reduces the tax unless the amended return is filed prior to the due date of the original return.

Arizona will follow the federal treatment for applying the penalty. If the taxpayer files a corrected return before the due date, including extensions, for timely filing the return, the department will deem that return to be the return for purposes of applying the estimated payment penalty.

For Arizona income tax purposes, A.R.S. § 42-1125(P) provides that the penalty is assessed on the amount not paid for the period of nonpayment. The department imposes the penalty in the same manner as the federal estimated tax payment penalty (always on the amount shown as tax on the original return, unless a corrected return is filed prior to the original return due date, including extensions). If the taxpayer files an amended return that reduces the Arizona income tax liability after the due date of the return, including extensions, that return will not reduce the Arizona estimated payment penalty. Conversely, if the department assesses the taxpayer additional income tax at a later date, there will be no increase in the estimated payment penalty. The taxpayer may still be eligible for penalty abatement if the underpayment was due to reasonable cause and not due to willful neglect.

Example 1:

X Corporation is required to make estimated tax payments and files its 2001 Arizona income tax return on February 27, 2002. The return shows a properly calculated underpayment of estimated tax penalty of \$300. On March 15, 2002, X Corporation files a corrected return for 2001 showing a reduced tax liability that reduces its underpayment of estimated tax penalty to \$50. Because X Corporation filed the corrected return by the due date of the 2001 income tax return, the department will treat the corrected return as the return upon which the underpayment of estimated tax penalty and will accept a properly calculated penalty of \$50.

Example 2:

Y Corporation is required to make estimated tax payments and files its 2001 Arizona income tax return on March 12, 2002. The return shows a properly calculated underpayment of estimated tax penalty of \$150. On July 15, 2003, Y Corporation files an amended return for 2001 showing a reduced income tax liability for 2001. If Y Corporation's return filed on March 12, 2002, had shown this tax liability, there would have been no underpayment of estimated tax penalty. However, Y Corporation cannot reduce its underpayment of estimated tax penalty because the amended return is not the return for the taxable year for the purposes of the penalty imposed by A.R.S. § 42-1125(P).

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Example 3:

Z Corporation is required to make estimated tax payments and files its 2001 return on March 11, 2002. Its return shows a properly calculated underpayment of estimated tax penalty for \$100. In February 2005 the department's audit of Z Corporation shows an increased tax liability for the year 2001. If the underpayment of estimated tax penalty was calculated on Z Corporation's tax liability as determined by the audit, its penalty would be \$200. However, the 2001 return filed on March 11, 2002, remains the return for taxable year for the purposes of the penalty imposed by A.R.S. § 42-1125(P). Z Corporation's penalty for underpayment of estimated tax remains \$100.

RULING:

If a corporate taxpayer files a corrected return after filing its original return and before the due date for filing the original return, including extensions, the corrected return is the return for the taxable year for the purposes of determining the underpayment of estimated tax penalty.

If a corporate taxpayer files an amended return after filing the original return and after the due date of the original return including extensions, the original return remains the return for the taxable year for the purposes of determining the underpayment of estimated tax penalty.

Mark W. Killian, Director

Signed: July 15, 2002

Explanatory Notice

The purpose of a tax ruling is to provide interpretive guidance to the general public and to department personnel. A tax ruling is intended to encompass issues of law that are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement that provides interpretation, detail, or supplementary information concerning application of the law. Relevant statute, case law, or administrative rules, as well as a subsequent ruling, may modify or negate any or all of the provisions of any tax ruling. See GTP 96-1 for more detailed information regarding documents issued by the Department of Revenue.