



Janet Napolitano
Governor

J. Elliott Hibbs
Director

ARIZONA ESTATE TAX RULING ETR 04-1

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

ISSUE:

When does the amount of Arizona estate tax determined to be due become final for purposes of A.R.S. §§ 42-1114, 42-1201, and 42-2066 when the Arizona estate tax is paid in installments?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-1114 provides that the state may bring an action to recover the amount of any taxes, penalties and interest due and unpaid. The action cannot commence more than six years after the amount of taxes determined to be due becomes final unless the period is extended by written agreement or is stayed by operation of federal or state law.

A.R.S. § 42-1201 provides that if a person liable to pay any tax neglects or refuses to pay the tax, the department may collect the tax by levy. The levy cannot be made more than six years after the amount of tax determined to be due becomes final unless the period is extended by written agreement or is stayed by operation of federal or state law.

A.R.S. § 42-2066 provides that a taxpayer's obligations for any tax, interest or penalty required to be collected by the department are extinguished, if not previously satisfied, six years after the amount of tax determined to be due becomes final unless the department has commenced a suit to collect the debt, the period is extended by written agreement, or collection is stayed by operation of federal or state law.

A.R.S. § 42-4004 provides that an estate may elect to pay the Arizona estate tax in installments if the estate has elected to make federal tax payments in installments pursuant to Internal Revenue Code (IRC) § 6166 and the Arizona tax due exceeds \$50,000.

IRC § 6166 provides that in certain situations, the payment of the federal estate tax may be deferred and paid in installments.

ARIZONA ESTATE TAX RULING

ETR 04-1

Page 2

DISCUSSION:

Arizona law limits the period of time within which the department may collect a taxpayer's tax obligations. A taxpayer's obligations for any tax, penalty or interest are extinguished six years after the amount of tax determined to be due becomes final unless the department has filed suit to collect the tax, the period is extended by agreement, or collection is stayed by operation of law. The time limit within which the department may file suit or levy to collect unpaid taxes is also six years after the amount of tax determined to be due becomes final.

A.R.S. § 42-4004 provides that a personal representative of an estate may elect to pay all or part of the Arizona estate tax in installments if the estate has elected to pay the federal estate tax in installments pursuant to IRC § 6166 and the Arizona estate tax exceeds \$50,000. The payments are required to be made at the same time as the federal estate tax in the same number of equal installments.

IRC § 6166 provides that in certain situations, an estate may elect to defer part or all of the federal estate tax attributable to interests in a closely held business. The tax may be deferred for up to fourteen years, with the estate making annual payments of interest only for the first four years and paying the balance in up to ten annual installments of principal and interest. The interest on each installment is allowed as a federal estate tax deduction.

The federal taxable estate tax is reduced each year due to the interest deduction and the Arizona liability is also reduced each year. Therefore, the final amount of the Arizona estate tax liability cannot be determined until the final amount of the federal taxable estate is determined at the end of the installment period.

RULING:

For purposes of the limitation period established by A.R.S. §§ 42-1114, 42-1201, and 42-2066, a final determination of the amount of Arizona estate tax liability when the Arizona tax is paid in installments pursuant to A.R.S. § 42-4004 is the date on which the department receives from the estate a copy of the final federal estate tax closing letter issued by the Internal Revenue Service after the final federal installment payment has been made.

Gale Garriott, Deputy Director,
for J. Elliott Hibbs, Director

Signed: July 21, 2004

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

ARIZONA ESTATE TAX RULING

ETR 04-1

Page 3

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.