

ARIZONA DEPARTMENT OF REVENUE

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ARIZONA GENERAL TAX RULING GTR 99-1

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:

Does the filing of an amended Arizona tax return constitute the filing of a return and provide a separate statute of limitations for that return?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-1104(A) provides for a general four year statute of limitations for Arizona tax returns.

A.R.S. § 42-1104(B)(5) and (6) provide for an extension of the statute of limitations when a federal income tax return is amended or adjusted by the Internal Revenue Service.

A.R.S. § 42-1106(A) provides that the period within which a claim for refund may be filed is the period within which the department may make an assessment under A.R.S. § 42-1104.

A.R.S. § 42-1118 provides for the refund of tax paid in excess of the amount actually due.

Ira Goldring v. Commissioner, 20 T.C. 79 (Dec. 19, 1954), provides that the statute of limitations applies to the original return filed and is unaffected by the filing of amended returns.

Lewis v. Reynolds, 284 U.S. 281 (1932), provides that a taxpayer's claim for refund must be reduced to the actual amount of overpayment despite the fact that a deficiency could not be assessed due to the statute of limitations.

DISCUSSION:

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A.R.S. § 42-1104(A) provides that every notice of additional tax due must be mailed within four years after the return is required to be filed or four years after the return is filed, whichever period expires later. The period in which a taxpayer may file an amended return or claim a refund is the same. The word "return" has been construed in numerous cases to include only the original return. *National Refining Co. of Ohio*, 1 B.T.A. 236 (Dec. 94); *E.L. Harris*, 5 B.T.A. 1026 (Dec. 2052).

An amended return does not have a separate statutory life from that of the original return. In *Ira Goldring v. Commissioner*, 20 T.C. 79 (Dec. 19,584), the Tax Court stated, "It has been held that the statute of limitations starts to run in connection with the filing of the original return and its running cannot in any way be affected or suspended by the later filing of amended returns." See also *Belle R. Weaver*, 4 B.T.A. 15 (Dec. 1417); *Estelle B. Sargent*, 22 B.T.A. 1270 (Dec. 6888); *Anna M.B. Foster*, 45 B.T.A. 126 (Dec. 12,073), *aff'd*, 131 F.2d 405 (42-2 USTC paragraph 9737).

A taxpayer who discovers an error in an original return may file an amended return and claim a refund within the four year statutory period provided in A.R.S. §§ 42-1104(A) and 42-1106(A). Pursuant to A.R.S. § 42-1118(A) if the department determines that an amount of tax has been paid in excess of the amount actually due, the department may issue a refund. If a claim for refund is filed within the statutory period, the department may review the claim and issue a refund for any tax paid in excess of the amount actually due even if the statutory period has subsequently expired. Although the department may reduce a refund to the amount actually due, it may not issue a deficiency notice after expiration of the statutory period.

RULING:

An amended return does not have a separate statutory life from that of the original return. An amended return does not extend the statute of limitations for a particular tax period other than as prescribed by law, such as federal adjustments reported under A.R.S. § 43-327 and extended by A.R.S. § 42-1104(B)(5) and (6).

A claim for refund which is received before the statute of limitations has expired but which is processed after such expiration, may be adjusted to reduce the

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refund claim to the actual amount of overpayment (including zero). However, when adjustment of the refund claim results in an underpayment, a deficiency may not be assessed if the statute of limitations has expired.

Mark W. Killian, Director

Signed: February 17, 1999

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.