



ARIZONA GENERAL TAX RULING GTR 04-1

Janet Napolitano
Governor

(This ruling supersedes Arizona General Tax Ruling GTR 94-5)

J. Elliott Hibbs
Director

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 taxes determined to be due become final for purposes of A.R.S. §§ 42-1114, 42-1201, and 42-2066?

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.

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.

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The date on which the amount of tax determined to be due becomes final depends on the circumstances of each taxpayer's situation. Factors that affect the date on which the amount of tax becomes final include filing an amended return, the department's audit of a return, a taxpayer's protest of a deficiency assessment, and entering into a closing agreement.

Amount of tax originally determined by filing of return

When a taxpayer files a tax return, the amount of tax stated as due on the tax return establishes the liability for the tax. A tax return that is filed on or before the due date or extended due date is considered as filed on the due date or extended due date. A tax return that is filed after the due date or extended due date is considered as filed on the date the return is actually filed with the department. The amount of taxes determined to be due becomes final on the date the return is considered as filed.

A mathematical error corrected by the department at the time the return is filed does not change the date for establishing the amount of tax. An example of a mathematical error is an arithmetic or computation error shown on the return or any supporting schedules to the return. A return for which a mathematical error is corrected by the department is treated as having been filed on the same date the return was filed.

Amended returns

If an amended return shows an increase in tax due, the amount of the net increase becomes final on the date the amended return is filed with the department. The amount shown due on the return as originally filed remains final as of the date the return was filed. If an amended return filed before the due date shows an increase, the net increase becomes final on the due date.

If the amended return shows a decrease in the amount of tax due, there is no change to the date the amount of tax determined to be due is final. There is only a reduction in the amount due. Similarly, the denial of a claim for refund does not change the date the amount of tax determined to be due becomes final. The date remains the date the return is considered as filed.

Audited returns

If an audit of a return results in an assessment of additional tax due, the date on which the increased amount of tax determined to be due becomes final is the date the audit assessment becomes final.

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If the audit assessment of additional tax due is not protested by the taxpayer, the date on which the increased amount of tax due becomes final depends on whether the audit related to individual income tax or another tax type. If the audit is related to individual income tax, the amount of tax determined to be due becomes final if not protested within 90 days from the date the department mailed written notice of the deficiency to the taxpayer. For all other tax types, the amount of tax determined to be due becomes final if not protested within 45 days from the date of receipt of the deficiency notice by the taxpayer.

If an audit determination is protested by the taxpayer, the amount of tax determined to be due becomes final on the date that an administrative or judicial decision becomes final. Generally, an administrative or judicial decision becomes final when the decision is not appealed within the time limits prescribed by statute.

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 tax liability is:

1. the date on which the tax return was due (including an extended due date) or the date the return was filed, whichever is later;
2. the date on which an amended return was filed or the due date of the original return, whichever is later, for any additional amount of tax shown as due on the amended return;
3. the date on which a closing agreement authorized by A.R.S. § 42-1113 is entered into between the taxpayer and the department; **or**
4. the date on which a proposed deficiency assessment becomes final.

Examples: (The examples assume that the six year period has not been extended by agreement or stayed by operation of law.)

1. Corporation X, a calendar year taxpayer, filed its Arizona income tax return for 1998 on April 15, 1999. The amount of income tax due shown on the return was \$1,500. No payment was made at the time the return was filed.

The tax determined to be due becomes final on April 15, 1999. The obligation will be extinguished unless the department files suit or collects the unpaid taxes by levy on or before April 15, 2005.

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2. On September 4, 2001, Corporation T timely files its monthly transaction privilege tax return for August 2001 that was due on September 20. The amount of transaction privilege tax due shown on the return was \$3,000. No payment of taxes was made when the return was filed.

Corporation T files an amended transaction privilege tax return for August 2001 on February 1, 2002. The amount of tax due shown on the amended return was \$3,500; an increase of \$500 from the amount of tax due as shown on the return filed September 4, 2001. The additional tax due shown on the amended return becomes final on February 1, 2002.

The department conducts an audit of Corporation T's monthly transaction privilege tax returns for 2001. From the audit, the department determined that the corporation's tax liability for August 2001 was \$4,000. The department mails the audit assessment on July 12, 2002, and Corporation T receives it on July 15, 2002. No protest was filed in the 45 days following Corporation T's receipt of the assessment; therefore, the audit assessment period becomes final on August 30, 2002, the day after the protest period expired..

The obligations will be extinguished unless the department files suit or collects the unpaid taxes by levy on or before:

September 20, 2007 for the \$3,000 tax due shown on the return as originally filed.

February 1, 2008 for the \$500 additional tax due on the amended return.

August 30, 2008 for the additional tax of \$500 determined by audit.

3. Mr. and Mrs. White filed their Arizona income tax return for calendar year 1998 on April 1, 1999. The amount of income tax due shown on the return was \$1,000. No payment of taxes was made when the return was filed.

Mr. and Mrs. White file an amended return for 1998 on November 1, 2001. The amount of tax due shown on the amended return was decreased to \$800. Since the amount of tax was decreased from the amount of tax shown on the return as originally filed, the amount of tax due on the amended return supersedes the amount of tax due shown on the return as originally filed. The decreased tax of \$800 becomes final on April 15, 1999.

The department conducts an audit of the White's 1998 return. As a result of the audit the department determined that the White's tax liability for 1998 was \$1,100. The audit assessment was mailed on March 12, 2002. No protest was filed during the 90 day

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protest period from the date the notice was mailed; therefore, the audit assessment becomes final on June 11, 2002, the day after the protest period expired.

The obligations will be extinguished unless the department files suit or collects the unpaid taxes by levy on or before:

April 15, 2005 for the \$800 of tax due shown on the amended return.

June 10, 2008 for the additional tax of \$300 determined by audit.

4. Corporation Y, a calendar year taxpayer, filed its 1998 income tax return on April 15, 1999. The amount of tax due on the return was \$10,000. No payment of taxes was made when the return was filed. The tax shown on the return as filed becomes final on April 15, 1999.

Corporation Y filed an amended 1998 return on June 10, 2002. The amount of tax due on the amended return was \$12,000; an increase of \$2,000 from the amount of tax due as shown on the return as originally filed. The additional tax due shown on the amended return becomes final on June 10, 2002.

The obligations will be extinguished unless the department files suit or collects the unpaid taxes by levy on or before:

April 15, 2005 for the \$10,000 tax due shown on the return as originally filed.

June 10, 2008 for the \$2,000 additional tax due on the amended return.

5. Mr. and Mrs. Black filed their 1998 income tax return on April 15, 1999. The return was properly completed except for mathematical errors in subtracting the standard deduction and the personal exemption. The department mailed a notice of additional taxes due on May 5, 1999.

The return is treated as having been filed on April 15, 1999. Therefore, the tax due becomes final on April 15, 1999. The obligation will be extinguished unless the department files suit or collects the unpaid taxes by levy on or before April 15, 2005.

6. Mr. and Mrs. Smith filed their 1998 income tax return on February 25, 1999. The amount of tax due on the return was \$2,000. No payment of tax was made at the time the return was filed. Mr. and Mrs. Smith file an amended 1998 return on April 1, 1999. The amount of tax due on the amended return was \$2,500, an increase of \$500. The \$2,500 tax due becomes final on April 15, 1999. The obligation will be extinguished

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unless the department files suit or collects the unpaid taxes by levy on or before April 15, 2005.

7. Corporation Z timely files its monthly transaction privilege tax returns for June, July, and August of 2002 on or before the 20th day of the next succeeding month. The amount of tax due shown on each return was \$2,000. No payment was made at the time returns were filed.

The tax determined to be due for June 2002 becomes final on July 20, 2002. The obligation will be extinguished unless the department files suit or collects the unpaid tax by levy on or before July 20, 2008.

The tax determined to be due for July 2002 becomes final on August 20, 2002. The obligation will be extinguished unless the department files suit or collects the unpaid tax by levy on or before August 20, 2008.

The tax determined to be due for August 2002 becomes final on September 20, 2002. The obligation will be extinguished unless the department files suit or collects the unpaid tax by levy on or before September 20, 2008.

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

Signed: July 22, 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 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.

* This ruling does not apply to Arizona estate tax that is paid in installments. See Arizona Estate Tax Ruling ETR 04-1 for guidance on when Arizona estate tax that is paid in installments becomes final for purposes of A.R.S. §§ 42-1114, 42-1201, and 42-2066.