

ARIZONA INDIVIDUAL INCOME TAX RULING

ITR 02-4

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:

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

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-581 requires certain individuals to make estimated income tax payments and requires that the amount of estimated payment when combined with the taxpayer's Arizona withholding must equal least 90 percent of the tax due for the current year or 100 percent of the tax due for the preceding year.

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. § 43-581.

A.R.S. § 42-2062 provides that penalties imposed pursuant to A.R.S. §§ 43-581 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.) § 6654(a) provides for an addition to tax for individuals that underpay their estimated tax.

Internal Revenue Service Revenue Ruling (Rev. Rul.) 83-36, I.R.B. 1983-9, 10, 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 amended return is filed prior to the due date of the original return.

DISCUSSION:

A.R.S. § 43-581 provides that an Arizona taxpayer who is required to pay estimated income taxes shall pay an amount of estimated tax that reasonably reflects the taxpayer's Arizona

income tax liability that will be unpaid at the end of the taxpayer's tax year. A.R.S. § 43-581 also provides that due dates for Arizona estimated tax payment installments are those set by the Internal Revenue Code for federal payments and the amounts of Arizona estimated payments shall be a percentage of federal estimated tax payments when the taxpayer is required to make federal estimated tax payments. A.R.S. § 43-581 directs the Department of Revenue to prescribe rules for the payment of estimated tax in a similar manner to that provided in the Internal Revenue Code.

For federal estimated tax payment purposes, Rev. Rul. 83-36 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 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.

Because A.R.S. § 43-581 requires Arizona estimated tax payments to be treated in a manner similar to federal estimated tax payments, Arizona will follow the federal treatment for applying the penalty. If the taxpayer files a corrected return before the due date for timely filing the return, the department will deem that return to be the return for purposes of apply 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:

Steve, who is required to make estimated tax payments, files his 2001 Arizona income tax return on March 3, 2002. He properly calculates an underpayment of estimated tax penalty of \$300 on that return. On April 15, 2002, Steve files a corrected return for 2001 showing a reduced tax liability that reduces his underpayment of estimated tax penalty to \$50. Because Steve 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:

Tom, who is required to make estimated tax payments, files his 2001 Arizona income tax return on April 12, 2002. He properly calculates an underpayment of estimated tax penalty of \$150 on that return. On July 15, 2003, Tom files an amended return for 2001 showing a reduced income tax liability for 2001. If Tom's return filed on April 12, 2002, had shown this tax liability, there would have been no underpayment of estimated tax penalty. However, Tom cannot reduce his 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).

Example 3:

Julie, who is required to make estimated tax payments, files her 2001 return on March 31, 2002. Her return includes a properly calculated underpayment of estimated tax penalty for \$100. In February 2005 the department's audit of Julie shows an increased tax liability for the year 2001. If the underpayment of estimated tax penalty were calculated on Julie's tax liability as determined by the audit, her penalty would be \$200. However, the 2001 return filed on March 31, 2002, remains the return for taxable year for the purposes of the penalty imposed by A.R.S. § 42-1125(P). Julie's penalty for underpayment of estimated tax remains \$100.

RULING:

If an individual taxpayer files a corrected return after filing the 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 an individual 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.