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ARIZONA INDIVIDUAL INCOME TAX RULING ITR 07-2

(Rescinds and Supersedes Arizona Individual Income Tax Ruling ITR 01-2)

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.

ISSUES:

1. Does the department grant automatic filing extensions?
2. What effect does a filing extension have on the statute of limitations?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-1104 sets forth the time period within which a notice of additional tax due must be mailed.

A.R.S. § 42-1106 sets forth the period within which a claim for credit or refund may be filed.

A.R.S. § 42-1107 authorizes the department to grant an extension of time for filing an income tax return when certain requirements are met.

Arizona Administrative Code (A.A.C.) R15-2A-103 provides that the due date for a return is the date on or before which a return is required to be filed or on the last day of the period covered by an extension of time granted by the department.

DISCUSSION:

A.R.S. § 42-1107 authorizes the department to grant extensions for the filing of income tax returns.

If the taxpayer is granted an extension or extensions of time within which to file the federal income tax return for any taxable year, the taxpayer is automatically deemed to have been granted the same extension of time for filing the Arizona income tax return if at least 90 percent of the tax liability disclosed by the taxpayer's return for the reporting period is paid on or before the original due date.

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Alternatively, the taxpayer may file an application for an Arizona extension on or before the due date of the return. Upon receipt of a properly completed application, the department will grant an automatic six month extension for individual and fiduciary income tax returns provided:

1. The application is prepared on Arizona Form 204 (Application for Filing Extension for Individual and Fiduciary Returns Only).
2. The application is filed on or before the date prescribed for the filing of the return.
3. The application indicates the full amounts properly estimated as tax liability for such taxable year.

If the taxpayer does not pay at least 90 percent of the tax liability disclosed by the taxpayer's return on or before the original due date of the return, the taxpayer is subject to the extension underpayment penalty. A.R.S. § 42-1107 provides that, if a taxpayer filing with an extension does not pay 90 percent of the tax liability by the original due date, the taxpayer is subject to a penalty of one-half of one percent of the tax not paid for each 30 day period.

When an extension has been granted, the return is due on or before the last day of the period covered by the extension. In addition, since the date on which the return is required to be filed is extended, the period in which an assessment may be made or a refund may be claimed is also extended. This period of limitations begins at the expiration of the extension period or the date the return is filed, whichever is later.

If both the income tax extension and the return are filed prior to the original due date of the return, the extension shall be deemed not granted and has no effect on the statute of limitations.

The following examples illustrate the effect of extensions on the statute of limitations:

Example 1:

An individual taxpayer applies on April 5 for an automatic six month extension of time to file the return due April 15. Taxpayer meets all of the criteria for filing pursuant to an extension and subsequently files the return on April 20. In this case, the extension is deemed to be granted by the department. Therefore, the statute of limitations for claiming a refund or assessment of additional tax begins on the extended due date, October 15.

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Example 2:

An individual taxpayer applies on April 5 for an automatic six month extension of time to file the return due April 15. Taxpayer subsequently files the return prior to its original due date, on April 13. In this case, the timely filing of the return negates the extension. Therefore, the statute of limitations for claiming a refund or an assessment of an additional tax begins on the original due date of April 15.

Example 3:

An individual taxpayer applies on April 5 for an automatic six month extension of time to file the return due April 15. Taxpayer subsequently files the return on October 20. In this case, the statute of limitations for claiming a refund or assessment of additional tax begins on the date the return was filed, October 20, since the date the return is filed is later than the extended due date.

RULING:

The department will grant an automatic filing extension of six months for individual and fiduciary income tax returns when properly applied for by the taxpayer. Alternatively, the department will accept a federal extension for the period covered by the federal extension.

When an extension has been granted, the period of limitations for claiming refunds or for assessment of additional tax begins at the expiration of the extension period or the date the return is filed, whichever is later. If both the income tax extension and the return are filed prior to the original due date of the return, the extension shall be deemed not granted and has no effect on the statute of limitations.

Gale Garriott, Director

Signed: December 7, 2007

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

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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.