

ARIZONA DEPARTMENT OF REVENUE

ARIZONA PARTNERSHIP TAX RULING

PTR 94-1

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 a partnership with ten or fewer partners that received an abatement of the federal failure to file penalty under the federal reasonable cause standards for such partnerships also qualify for abatement of the Arizona penalty for failure to file an information return?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-136.J imposes a penalty of \$500 for filing an information return late or for filing an information return which is incomplete unless it is shown that such failure is due to reasonable cause.

A.R.S. § 43-306 requires all partnerships in Arizona to file a partnership return.

Internal Revenue Code (I.R.C.) § 6698 prescribes a penalty for failing to file or for filing an incomplete federal partnership return unless it is shown that such failure is due to reasonable cause.

Internal Revenue Service Procedure (Rev. Proc.) 84-35 sets forth the federal procedures under which the federal penalty imposed for failing to file a partnership return will be abated for partnerships with ten or fewer partners.

DISCUSSION:

For Arizona income tax purposes, A.R.S. § 43-306 requires **all** partnerships doing business in Arizona to file a partnership return. There is no exception to this filing requirement for small partnerships having ten or fewer partners. If a partnership fails to file the required Arizona partnership return, the partnership will be subject to the \$500 penalty imposed for late filing or

incomplete filing of an Arizona partnership return under A.R.S. § 42-136.J unless such failure is due to reasonable cause.

The Arizona Department of Revenue has established standards for reasonable cause. Under the department's reasonable cause standards, the department will comply with abatement decisions made by the Internal Revenue Service for the same filing periods **if the same** conditions apply.

For federal purposes, Rev. Proc. 84-35 sets forth procedures under which partnerships with ten or fewer partners will not be subject to the federal penalty imposed under I.R.C. § 6698 for failure to file a partnership return. Generally, under Rev. Proc. 84-35, a qualifying partnership will be considered to have met the reasonable cause test and will not be subject to the I.R.C. § 6689 penalty if it establishes that all partners timely reported their full shares of partnership items.

RULING:

A partnership with ten or fewer partners that does business in Arizona is required to file an Arizona partnership return, even if each partner fully reports his or her share of the partnership's income, deductions, and credits. If no Arizona partnership return is filed, the partnership will be subject to the \$500 penalty imposed under A.R.S. § 42-136.J unless the failure is due to reasonable cause. For Arizona penalty abatement purposes, a partnership that fails to file an Arizona partnership return will satisfy the Arizona reasonable cause standards if the partnership satisfies the federal reasonable cause standards set forth in federal Rev. Proc. 84-35 when the same conditions apply, i.e., all partners timely report their full shares of partnership items to Arizona.

Harold Scott, Director
Date Signed April 4, 1994

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 which are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement which provides interpretation, details or supplementary information concerning the 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 92-1 for more detailed information regarding documents issued by the Department of Revenue.