

ARIZONA PARTNERSHIP TAX RULING

PTR 97-2

(Supersedes PTR 94-2)

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.

ISSUE:

How is a limited liability company classified for Arizona income tax purposes?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 29-857, as amended by Laws 1997, Ch. 282, § 40, provides that, for Arizona income tax purposes, a domestic or foreign limited liability company (LLC) and its members shall be taxed as if the LLC is a partnership or a corporation, or is disregarded as an entity separate from its owner, as determined pursuant to the Internal Revenue Code.

A.R.S. § 43-102.A.2 provides that it is the intent of the legislature to adopt the provisions of the Internal Revenue Code relating to the measurement of taxable income for corporations and partnerships to the end that taxable income reported each taxable year by a corporation or partnership to the Internal Revenue Service shall be the identical sum reported to Arizona subject only to modifications contained in Title 43 of the Arizona Revised Statutes.

Treasury Regulation (Treas. Reg.) §§ 301.7701-2 through 301.7701-4, prescribe the "check-the-box rules" on elective tax classification of business entities. The regulations are generally effective on January 1, 1997.

DISCUSSION:

The Arizona Limited Liability Company Act, as amended by Laws 1997, Ch. 282, §§ 16 through 40, applies retroactively from and after December 31, 1996. The amendments to the act are effective July 21, 1997. The Arizona Limited Liability Company Act, as amended, allows single member domestic and foreign limited liability companies.

A.R.S. § 29-857, which prescribes the tax treatment of LLCs, states:

A limited liability company established under this chapter or a foreign limited liability company transacting business in this state pursuant to this chapter shall pay the taxes that are imposed by the laws of this state or any political subdivision of this state on domestic and foreign limited partnerships on an identical basis, except that, for purposes of title 42, chapter 9, and title 43, a domestic or foreign limited liability company and its members shall be taxed as if the limited liability company is either a partnership or a corporation, or is disregarded as an entity, as determined pursuant to the internal revenue code as defined in § 43-105.

An LLC will be classified for Arizona income tax purposes as either a partnership or a corporation, or will be disregarded as an entity separate from its owner, depending on its classification for federal income tax purposes under Treas. Reg. §§ 301.7701-1 through 301.7701-4. Therefore, a single member LLC will be treated as a corporation, or if disregarded as a separate entity for federal income tax purposes, will be treated as a branch or division of its owner, or as a sole proprietorship.

The classification of an LLC for Arizona income tax purposes will apply retroactively from and after December 31, 1996, including LLCs that determined their federal tax classification under the "check-the-box rules" before the effective date of the revised Arizona Limited Liability Company Act.

RULING:

The federal tax classification of a limited liability company determines the entity's classification for Arizona tax purposes.

If the limited liability company is classified as a partnership for federal income tax purposes, the limited liability company must report its income to Arizona as a partnership on Arizona Form 165.

If the limited liability company, including a single member LLC, is classified as a corporation for federal income tax purposes, the limited liability company must report its income to Arizona as a corporation on Arizona Form 120.

If the limited liability company, including a single member LLC, is classified as a corporation for federal income tax purposes, and makes a valid federal election to be taxed as an S corporation, the limited liability company must report its income to Arizona as an S corporation on Arizona Form 120S.

If a single member limited liability company is disregarded as an entity separate from its owner for federal income tax purposes, the limited liability company's income will be included in the Arizona tax return of its owner.

The classification of an LLC for Arizona income tax purposes will apply retroactively from and after December 31, 1996, including LLCs that determined their federal tax classification under the "check-the-box rules" before the effective date of the revised Arizona Limited Liability Company Act.

Mark W. Killian, Director
Date Signed August 8, 1997

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.