



Douglas A. Ducey
Governor

Carlton Woodruff
Director

ARIZONA TRANSACTION PRIVILEGE TAX RULING TPR 20-1

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:

Whether taxpayers have reasonable cause for not timely filing or paying applicable transaction privilege taxes to the department due to the COVID-19 emergency and subsequent measures taken to protect public health.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-1004 requires the department to administer and enforce any laws assigned to it. In administering and enforcing such laws, the statute grants the department all the powers and duties prescribed by law for such purposes. In addition, the department is empowered to “[f]ormulate policies, plans and programs to effectuate the missions and purposes of the department.”

A.R.S. § 42-1005(A)(6) provides that, in addition to being directly responsible to the Governor for the “direction, control and operation of the department,” the Director must “[p]rovide such assistance to the governor and the legislature as they may require.”

A.R.S. § 42-6002 provides that A.R.S. Title 42, chapter 1 and chapter 5, article 1 apply to the administration of municipal privilege taxes, including the requirement that procedures for levy, collection and enforcement of applicable municipal taxes be consistent with the state’s statutes as authorized by A.R.S. Title 42, Chapter 5.

A.R.S. § 42-1125 prescribes the application of various civil penalties for noncompliance with statutory requirements, including penalties for late filing, late payments and failure to file or pay after notice and demand. Pursuant to A.R.S. § 42-1101, these penalties apply to any tax administered by the department.

A.R.S. § 42-2062 provides that most penalties imposed under A.R.S. § 42-1125 may be waived or abated upon the showing of reasonable cause for failure to comply with the statutory requirements.

For purposes of abating the penalties imposed under A.R.S. § 42-1125, Arizona General Tax Ruling GTR 04-2 provides that “reasonable cause” means that the taxpayer exercised ordinary business care and prudence but was nevertheless unable to file the return, furnish the requested information, or provide for payment of a tax liability within the prescribed time. *See United States v. Boyle*, 469 U.S. 241, 243-44 (1985); *Knappe v. United States*, 713 F.3d 1164, 1168 (9th Cir. 2013).

Aside from demonstrating reasonable cause, taxpayers must also show that their failure to timely pay or file was not due to willful neglect. *See Davis v. United States*, 961 F.2d 867, 871 (9th Cir. 1992); *People of Faith, Inc. v. Ariz. Dep’t of Revenue*, 171 Ariz. 140, 154 (App. 1992).

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DISCUSSION AND RULING:

On March 11, 2020, Governor Ducey issued an Emergency Declaration for the State of Arizona, the first in a series of measures responding to the ongoing worldwide novel coronavirus (COVID-19) pandemic.¹ This health emergency caused widespread disruption to ordinary business and commercial activities of taxpayers.

In response, the department has determined that the severe impact of the COVID-19 pandemic, the statewide emergency declaration and other measures implemented by the state to protect public health, constitute a reasonable basis for business owners and operators' inability to timely file or pay transaction privilege taxes, which also includes county excise taxes and municipal privilege taxes remitted to the department along with state transaction privilege tax. The department has further determined that such taxpayers' failure to timely file or pay does not stem from willful neglect.

The department will issue a procedure providing the steps taxpayers affected by this ruling should follow to request the abatement of any above-mentioned penalties that have been assessed.

Due to the nature of the COVID-19 emergency and the state's evolving measures to protect public health, this ruling applies to late filing and payment penalties assessed for transaction privilege tax periods beginning February 1, 2020² and will continue until further notice issued by the department.

Grant Nülle, Deputy Director

Signed: July 14, 2020

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.

¹ Available at <https://azgovernor.gov/file/34365/download?token=6YdWos-F>.

² This includes the period from January 1, 2020 to March 30, 2020 for quarterly filers.