

Taxpayer Bill of Rights

Pub 001

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The purpose of this publication is to inform you, the taxpayer, of your rights under Arizona tax laws. The legislature passed these laws to promote fairness, confidentiality, and consistency of application of the tax laws. In case of any omissions in this publication or any inconsistency with the statutes or rules, the language of the Arizona Revised Statutes (see A.R.S. § 42-2051) and the Arizona Administrative Code will prevail.

Your General Rights As A Taxpayer

- You will always be treated fairly and with courtesy by our employees.
- By law, your personal and financial information will be kept confidential.
- Whether you contact our department in person, by letter, or by telephone, your questions will be answered promptly and accurately.
- We do not evaluate any of our employees by the amount of taxes they collect or assess.
- At the time a new transaction privilege tax license is issued, the licensee will also be given publications explaining the collection, reporting, and payment of the taxes for the appropriate taxable classifications.
- Refunds will be promptly delivered to you. If you have not received your refund within forty-five days, you should call the department. Although it is unusual, if you have not received your refund within sixty days of the filing deadline or the date you filed (whichever is later), the department will pay interest from the 61st day, until it is refunded.
- Any interviews relating to a deficiency in payment of any tax will be conducted at your place of business or at the closest Department of Revenue office and will be held at a reasonable time. If you wish, you may record the interview. Before the interview begins, the department employee will give you information about your rights and about the audit, corrections, and appeals procedures regarding your tax deficiency (the amount you owe).
- Once we have sent you a proposed assessment (the initial notice of the amount of tax we have determined you owe), for any particular tax period, that proposed assessment cannot be increased except in specific limited circumstances. Once the department completes an audit and a tax deficiency has been determined, your liability for that particular tax for the period included

in the audit is fixed, and no additional audit may be conducted for that period, except under specific limited circumstances.

- We will not file a suit or levy against you to recover taxes if ten years have passed since the date the amount of taxes you owed became final, however, the ten-year statute will toll if: 1) the department entered into a lawsuit to collect the debt; 2) the taxpayer and department have a written agreement to extend the statute of limitations; 3) the department's ability to collect has been stayed or halted due to a federal or state provision.

If you owe taxes, you may ask for an installment plan to pay them. You may be asked to provide a financial report to show that you are not able to pay the taxes all at once. If your request to pay in installments is denied or if your current installment plan is changed in any way, you have the right to petition the Taxpayer Assistance Office to review the decision. The Taxpayer Assistance Office has the authority to change the department's decision.

The Taxpayer Assistance Office

The Taxpayer Assistance Office is available to protect you against any unfair treatment, however unintentional, that you may experience while dealing with the department. The Problem Resolution Officer heads this office and reports to the Director.

This office assists taxpayers in:

- Obtaining easily understandable information about departmental procedures.
- Answering questions about filing or preparing Arizona tax returns.
- Finding documents or payments the taxpayer has filed with the department.

This office also:

- Receives and evaluates any complaints about employees of the department.
- Identifies policies and practices that do not allow for the fair treatment of taxpayers and recommends alternatives to the Director.
- Provides service to taxpayers who have not been able to solve their problems through normal channels.
- Negotiates with department personnel to resolve complex and sensitive taxpayer problems.
- Stops or prohibits the department from taking action against a taxpayer while reviewing the action.

- Represents taxpayers' interests in planning meetings, reviewing instructions and formulating departmental policies and procedures.
- Actions taken by the Taxpayer Assistance Office may be reviewed by the Director who may modify actions taken by the office.

Taxpayer Assistance Orders

Taxpayer assistance orders are issued if the Problem Resolution Officer determines that you may suffer a serious hardship because of the way the tax laws are carried out by the department. The order will temporarily stop any action taken against you; it is binding on the department until it is reversed or canceled by the Problem Resolution Officer or the Director. Under a taxpayer assistance order, interest will continue to accumulate. A taxpayer assistance order may not be used to question the merits of a tax owed or as a substitute for any protest actions, such as appeals.

You Can Rely On Our Written Information & Answers

Although the department is confident that the oral responses given by its employees are correct, the department is not bound by that oral advice. We encourage you to put your questions in writing, and we will answer you in writing. This will reduce the chances of a misunderstanding.

If you underpay your tax as a direct result of your following the written advice we have given you, an incorrect instruction on a tax return form, or a department tax ruling, you will not have to pay interest or penalties on that tax.

Private Taxpayer Rulings

For a more formal answer to a specific tax question, you may make a request in writing for a private taxpayer ruling. If you underpay your taxes because you relied on this ruling, you will not have to pay any additional tax, interest, or penalty, unless you did not provide adequate or accurate information. The ruling only applies to taxes that become due after the ruling has been given and only to the taxpayer who has requested the ruling.

Rulings may be canceled by the department with a written notice or because of a change in law. Thirty days after they are issued, private taxpayer rulings are available to the public for inspection and copying. Any confidential information, such as the taxpayer's identity, will be removed before the ruling is made available to the public. For more information on private taxpayer rulings please refer to GTP 08-1 and GTR 08-1 which are available on the department's website at www.azdor.gov.

Abatement of Penalties

If you feel you should not have to pay a penalty that has been assessed against you, you may make a written request

stating the reasons you believe it should be abated. The penalty will be forgiven if the conduct or lack of conduct that led to the penalty was due to reasonable cause.

If the penalty is related to an underpayment of transaction privilege tax, use tax, severance tax, telecommunications service excise tax, or county excise tax, "reasonable cause" includes situations in which you had a reasonable basis to believe that the tax did not apply to the business activity or the storage, use, or consumption of your tangible personal property in Arizona.

Closing Agreements in Cases of Extensive Taxpayer Misunderstanding or Misapplication

If the department determines that a certain class of taxpayers has failed to comply with their tax obligations as a result of extensive misunderstanding or misapplication of the tax laws, it may enter into closing agreements with those taxpayers. The department will hold a public hearing at which the affected taxpayers may inform the department as to the extent of the problem.

Extensive misunderstanding or misapplication occurs if the department determines that more than sixty percent (60%) of the taxpayers in a particular class have failed to account for their taxes properly.

These closing agreements, which require Attorney General approval, may abate some or all of the penalties, interest, and tax that the taxpayers have failed to pay, or they may pertain to future taxation only.

The Appeals Process

Department Hearings

If you disagree with the findings of an audit, you may discuss your concerns with the auditor or the auditor's supervisor. You also have the right to protest an assessment. A request for a hearing for personal income tax audits must be made within ninety days of the date the proposed audit assessment is mailed to you. For all other audits, the deadline is forty-five days from the date you receive the assessment.

You must make any requests for a hearing in writing. With respect to individual and corporate income tax, withholding tax and estate tax, the hearings are administered by the department. Transaction privilege (sales), use, and luxury tax hearings are administered by administrative law judges at the Office of Administrative Hearings. The administrative law judge will make a decision within twenty days of the end of the hearing. The department shall attempt to issue a decision from the hearing officer within ninety days after the date of a formal hearing or after the last post-hearing memo is due, whichever is later. If the department expects the decision to be delayed, the department shall notify the taxpayer or his designated representative of the proposed issue date. Hearings can be held at the department, over the

phone, or by mail. You may appeal any hearing decision to the Director for a director's decision. A director's decision is a review of the hearing decision, issued to you in writing.

If you win a hearing or a director's decision, you may be reimbursed for the reasonable fees and costs of presenting your case, if the department's position was not substantially justified. You must first give the Problem Resolution Officer a detailed list of the fees within thirty days after the conclusion of the administrative proceeding; the Problem Resolution Officer will then determine, within thirty days, whether to grant your request.

Requests for fees and costs may not exceed \$75,000 or the actual amount of money spent, whichever is less. This section of the bill of rights only affects expenses incurred after December 31, 1994.

Board of Tax Appeals and Tax Court

If you disagree with the department's hearing decision and the director's decision, you may appeal to the Board of Tax Appeals within thirty days of receiving the decision. You may request the appeal without paying the tax owed.

If you disagree with the decision of the Board of Tax Appeals, you may appeal to the Tax Court within sixty days of receiving the decision. If you do not appeal the Board's decision before the deadline, you have not lost your right to protest. You may pay the taxes owed and then file a claim for refund. If your claim for refund is denied, you may proceed in the administrative and judicial appeals process.

Innocent Spouse Relief, Separation of Liability and Equitable Relief

Many married taxpayers choose to file a joint tax return. When a joint return is filed, both taxpayers are jointly and individually responsible for the tax and any interest or penalty due on the joint return even if they later divorce. This is true even if a divorce decree states that a former spouse will be responsible for any amounts due on previously filed joint returns. One spouse may be held responsible for all the tax due even if the other spouse earned all of the income.

In some cases, a spouse will be relieved of the tax, interest, and penalties on a joint tax return.

Three types of relief are available.

1. Innocent spouse relief.
2. Separation of liability.
3. Equitable Relief.

Please see Publication 300 for more information.

Expedited Review of Jeopardy Assessments

Within thirty days of the date a jeopardy assessment is filed against you, you may ask for an expedited review to determine if the jeopardy assessment is reasonable. The department will decide within fifteen days of your request. If the department rules in favor of the jeopardy assessment, you still have thirty days to file a civil action against the department in Tax Court. The Tax Court will then determine if the department acted reasonably in filing the jeopardy assessment.

For Additional Information, call:

Phoenix(602) 255-3381
Toll free from area codes 520 & 928(800) 352-4090

Or Write to:

Arizona Department of Revenue
Taxpayer Information & Assistance
1600 W Monroe
Phoenix AZ 85007

For Related Tax Information:

ADOR Website www.azdor.gov
File and Pay Online www.AZTaxes.gov

This publication is available in an alternative format upon request.