

ATRA SUPPORTS SB1233

Defining “final determination” for filing amended returns after a federal audit

Background

When a taxpayer is under audit by the Internal Revenue Service (IRS) and the taxpayer’s taxable income is adjusted, the taxpayer has 90 days to either file a copy of the final determination and allow the Department of Revenue (DOR) to compute the tax or file an amended return with DOR. Under current law, DOR can require the filing of an amended return and usually requests that taxpayers do so.

Because taxpayers’ statutes of limitation are impacted by whether that 90-day timeframe is met and what constitutes a “final determination” is not currently defined, taxpayers are often concerned with whether a particular agreement with IRS constitutes a final determination. In situations where there are partial agreements, taxpayers can end up filing multiple returns with DOR. Administratively, this is a burden for both the taxpayer and DOR.

ATRA’s Position

SB1233 adds a definition for “final determination” to eliminate any confusion between DOR and taxpayers as to when the 90-day period begins.

The proposed legislation provides that a final determination occurs when the appeal rights of both parties have been exhausted relative to the tax year in dispute. Partial agreements, jeopardy assessments, and other agreements are handled with the final determination so that only one amended return or notification has to be done. The bill also provides guidance as to how to handle a final determination when the taxpayer has reached agreement with IRS but an audit of a flow-through entity may impact taxable income in the future.

Any assessment that the taxpayer is required to pay or adjustment DOR is required to refund to the taxpayer is not payable until the final determination has been made. Nothing in the bill precludes a taxpayer from making a prepayment of tax to stop the running of interest.

ATRA ASKS LAWMAKERS TO VOTE YES ON SB1233



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