HOUSE BILL 2692

AN ACT

AMENDING SECTION 42-2101, ARIZONA REVISED STATUTES; RELATING TO PRIVATE TAXPAYER RULINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 42-2101, Arizona Revised Statutes, is amended to read:

42-2101. Private taxpayer rulings; request; revocation or modification; taxpayer information ruling; definitions

A. The department may issue private taxpayer rulings to taxpayers and potential taxpayers on request. Each request shall be in writing and shall:

1. State the name, address and, if applicable, taxpayer identifying number of the taxpayer or potential taxpayer who requests the ruling.
2. Describe all facts that are relevant to the requested ruling.
3. State whether, to the best knowledge of the taxpayer or potential taxpayer, the issue or related issues are being considered by the department in connection with an active audit, protest or appeal that involves the taxpayer or potential taxpayer and whether the same request has been or is being submitted to another taxing authority for a ruling.
4. Be signed by the taxpayer or potential taxpayer who makes the request or by an authorized representative of the taxpayer or potential taxpayer.

B. A taxpayer ruling request that complies with subsection A, paragraphs 2 and 3 of this section and that is signed by a representative of a taxpayer or potential taxpayer shall be considered a request for a taxpayer information ruling instead of a private taxpayer ruling.

C. A private taxpayer ruling or taxpayer information ruling may be revoked or modified by either:

1. A change or clarification in the law that was applicable at the time the ruling was issued, including changes or clarifications caused by legislation, adopted administrative rules and court decisions.
2. Actual written notice by the department to the last known address of the taxpayer or potential taxpayer of the revocation or modification of the private taxpayer ruling or taxpayer information ruling if the taxpayer identifying information has been disclosed to the department pursuant to subsection E of this section. If taxpayer identifying information has not been disclosed, written notice by the department to the last known address of the taxpayer representative who requested the ruling will constitute notice to the taxpayer or potential taxpayer.

D. With respect to the taxpayer or prospective taxpayer to whom the private taxpayer ruling was issued, the revocation or modification of a private taxpayer ruling shall not be applied retroactively to tax periods or tax years before the effective date of the revocation or modification and the department shall not assess any penalty or tax attributable to erroneous advice that it furnished to the taxpayer or potential taxpayer in the private taxpayer ruling if:
1. The taxpayer reasonably relied on the private taxpayer ruling.
2. The penalty or tax did not result either from a failure by the
taxpayer to provide adequate or accurate information or from a change in the
information.

E. SUBSECTION D OF THIS SECTION APPLIES TO A TAXPAYER INFORMATION
RULING IF THE TAXPAYER OR POTENTIAL TAXPAYER PROVIDES ITS NAME, ADDRESS,
IDENTIFYING NUMBER, IF APPLICABLE AND AUTHORIZATION PURSUANT TO SECTION
42-2003, SUBSECTION A, PARAGRAPH 1 FOR THE REPRESENTATIVE OF THE TAXPAYER OR
POTENTIAL TAXPAYER BEFORE THE DATE THE DEPARTMENT PUBLISHES THE RULING. THE
DEPARTMENT SHALL NOTIFY THE REPRESENTATIVE OF THE TAXPAYER OR POTENTIAL
TAXPAYER OF THE PROPOSED PUBLICATION DATE. IF THE DIRECTOR HAS DETERMINED
THAT THE TAXPAYER INFORMATION RULING SHOULD NOT BE PUBLISHED PURSUANT TO
SUBSECTION L OF THIS SECTION, SUBSECTION D OF THIS SECTION APPLIES IF THE
TAXPAYER OR POTENTIAL TAXPAYER PROVIDES THE IDENTIFYING INFORMATION BEFORE
THE DATE SPECIFIED BY THE DEPARTMENT ON ISSUING THE TAXPAYER INFORMATION
RULING TO THE REPRESENTATIVE. IF THE TAXPAYER OR POTENTIAL TAXPAYER DOES NOT
PROVIDE THE DEPARTMENT WITH THE IDENTIFYING INFORMATION AND REPRESENTATIVE
AUTHORIZATION BEFORE THE PROPOSED PUBLICATION DATE, OR FOR AN UNPUBLISHED
RULING, THE DATE SPECIFIED BY THE DEPARTMENT, THE TAXPAYER INFORMATION RULING
IS NOT BINDING ON THE DEPARTMENT FOR THE PURPOSE OF ABATING INTEREST, PENALTY
OR TAX.

F. A private taxpayer ruling OR TAXPAYER INFORMATION RULING may
not be relied upon, cited OR introduced into evidence in any proceeding
by a taxpayer other than the taxpayer who has received the private taxpayer
ruling.

G. A taxpayer may apply for an administrative hearing to determine
the propriety of a retroactive application of a revoked or modified private
taxpayer ruling by filing a written petition with the department pursuant to
section 42-1251 within forty-five days after receiving written notice of the
department's intent to retroactively apply a revoked or modified private
taxpayer ruling. THIS SUBSECTION APPLIES TO A TAXPAYER INFORMATION RULING IF
THE TAXPAYER HAS DISCLOSED THE TAXPAYER'S IDENTIFYING INFORMATION PURSUANT TO
SUBSECTION E OF THIS SECTION.

H. A private taxpayer ruling OR TAXPAYER INFORMATION RULING
constitutes the department's interpretation of the law or rules only as they
apply to the taxpayer making, and the particular facts contained in, the
request.

I. A private taxpayer ruling OR TAXPAYER INFORMATION RULING may be
issued only if no tax has accrued with respect to the transactions, events or
facts contained in the request. The department may issue a private taxpayer
ruling OR TAXPAYER INFORMATION RULING addressing a taxpayer's ongoing
business activities, except that the ruling applies only to transactions that
occur or tax liabilities that accrue from and after the date the taxpayer
receives the ruling.
H. J. The department shall attempt to issue private taxpayer rulings OR TAXPAYER INFORMATION RULINGS within forty-five days after receiving the written request and on receiving the facts that are relevant to the ruling. If the ruling is expected to be delayed, the department shall notify the requestor of the delay and the proposed date of issuance.

I. Within thirty days after being issued, the department shall maintain the private taxpayer ruling OR TAXPAYER INFORMATION as a public record and make it available at a reasonable cost for public inspection and copying. The text of private taxpayer OR TAXPAYER INFORMATION rulings is open to public inspection subject to the confidentiality requirements prescribed by article 1 of this chapter.


M. FOR THE PURPOSES OF this section:

1. "Private taxpayer ruling" means a written determination by the department issued on or after September 21, 1991 that interprets and applies one or more statutes contained in this title or title 43 and any applicable administrative rules that the department has adopted to the specific prospective facts described in the request for a private taxpayer ruling.

2. "TAXPAYER INFORMATION RULING" MEANS A WRITTEN DETERMINATION BY THE DEPARTMENT ISSUED ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION THAT INTERPRETS AND APPLIES ONE OR MORE STATUTES CONTAINED IN THIS TITLE OR TITLE 43 AND ANY APPLICABLE ADMINISTRATIVE RULES THAT THE DEPARTMENT HAS ADOPTED TO THE SPECIFIC PROSPECTIVE FACTS DESCRIBED IN A REQUEST FOR A TAXPAYER INFORMATION RULING.