State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2201

AN ACT

AMENDING SECTION 44-336, ARIZONA REVISED STATUTES; RELATING TO UNCLAIMED PROPERTY.

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

Section 1. Section 44-336, Arizona Revised Statutes, is amended to read:

44-336. Private holder rulings; holder information rulings; request; revocation or modification; definitions

A. The department may issue private holder rulings to unclaimed property holders and potential unclaimed property holders on request. Each request shall be in writing and shall:

1. State the name, address and, if applicable, identifying number of the holder or potential holder who requests the ruling.

2. Describe all facts that are relevant to the requested ruling.

3. State whether, to the best knowledge of the holder or potential holder, the issue or related issues are being considered by the department in connection with an active audit, protest or appeal that involves the holder or potential holder and whether the same request has been or is being submitted to another governmental authority for a ruling.

4. Be signed by the holder or potential holder who makes the request or by an authorized representative of the holder or potential holder.

B. A HOLDER RULING REQUEST THAT COMPLIES WITH SUBSECTION A, PARAGRAPHS 2 AND 3 OF THIS SECTION AND THAT IS SIGNED BY A REPRESENTATIVE OF A HOLDER OR POTENTIAL HOLDER SHALL BE CONSIDERED A REQUEST FOR A HOLDER INFORMATION RULING INSTEAD OF A REQUEST FOR A PRIVATE HOLDER RULING.

C. A private holder ruling OR HOLDER 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 holder or potential holder of the revocation or modification of the private holder ruling OR HOLDER INFORMATION RULING IF THE HOLDER IDENTIFYING INFORMATION HAS BEEN DISCLOSED TO THE DEPARTMENT PURSUANT TO SUBSECTION E OF THIS SECTION. IF HOLDER IDENTIFYING INFORMATION HAS NOT BEEN DISCLOSED, WRITTEN NOTICE BY THE DEPARTMENT TO THE LAST KNOWN ADDRESS OF THE HOLDER REPRESENTATIVE WHO REQUESTED THE RULING WILL CONSTITUTE NOTICE TO THE HOLDER OR POTENTIAL HOLDER.

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


F. A private holder ruling OR HOLDER INFORMATION RULING shall not be relied on, cited or introduced into evidence in any proceeding by a holder other than the holder who has received the private holder ruling OR HOLDER INFORMATION RULING.

G. A holder may apply for REQUEST an administrative hearing to determine the propriety of a retroactive application of a revoked or modified private holder ruling by filing a written petition with the department pursuant to title 41, chapter 6, article 10 within forty-five days after receiving written notice of the department’s intent to retroactively apply a revoked or modified private holder ruling. THIS SUBSECTION APPLIES TO A HOLDER INFORMATION RULING IF THE HOLDER HAS DISCLOSED THE HOLDER'S IDENTIFYING INFORMATION PURSUANT TO SUBSECTION E OF THIS SECTION.

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

I. A private holder ruling OR HOLDER INFORMATION RULING may be issued only if no unclaimed property liability has accrued with respect to the transactions, events or facts contained in the request. The department may issue a private holder ruling OR HOLDER INFORMATION RULING addressing a holder’s ongoing business activities, except that the ruling applies only to transactions that occur or unclaimed property liabilities that accrue from and after the date the holder receives the ruling.
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H. J. The department shall attempt to issue private holder rulings OR HOLDER 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. K. Within thirty days after being issued, the department shall maintain the private holder ruling OR HOLDER INFORMATION RULING as a public record and make it available at a reasonable cost for public inspection and copying. The text of private holder rulings AND HOLDER INFORMATION RULINGS is open to public inspection subject to the confidentiality requirements prescribed by title 42, chapter 2, article 1.


M. For THE purposes of this section—:

1. "HOLDER 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 ANY PROVISION OF THIS CHAPTER AND ANY APPLICABLE ADMINISTRATIVE RULES THAT THE DEPARTMENT HAS ADOPTED TO THE SPECIFIC PROSPECTIVE FACTS DESCRIBED IN A REQUEST FOR A HOLDER INFORMATION RULING.

2. "Private holder ruling" means a written determination by the department THAT IS issued on or after January 1, 2001 AND that interprets and applies one or more statutes contained in this title ANY PROVISION OF THIS CHAPTER and any applicable administrative rules that the department has adopted to the specific prospective facts described in the request for a private holder ruling.