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Governor

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Director

ARIZONA GENERAL TAX RULING GTR 16-1

(This Ruling Supersedes GTR 93-1)

This Ruling Applies to Only Taxes Imposed Pursuant to Arizona Revised Statutes, Title 43 (Individual Income Tax, Corporate Income Tax, Trust and Estate Income Tax and Withholding Tax).

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:

How does the department determine when, an income tax or withholding tax return that is filed through the United States mail, is timely filed?

RULING:

For the purpose of this ruling, the term "United States mail" includes any private delivery service designated by the United States Secretary of the Treasury pursuant to I.R.C. § 7502(f) and the term "postmark" includes any date recorded or marked by any such designated delivery service.

Under Arizona law, an income tax or withholding tax return that is mailed to the department is timely filed if it is delivered on or before its due date. Additionally, if the envelope or wrapper containing the return sent through the United States mail bears a postmark of the United States mail and that tax return is delivered to the department after its due date that return will be considered timely filed if all of the following apply:

1. The return was deposited in an official depository of the United States mail;
2. The date of the postmark is no later than the due date;
3. The return was properly addressed; and
4. The return had proper postage.

If the envelope or wrapper containing a return sent through the United States mail bears a private meter postmark made by other than the United States mail, the return is treated as timely filed if both of the following apply:

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1. The private meter postmark bears a date on or before the due date for filing; and
2. The return is received no later than the time it would ordinarily have been received from the same point of origin by the same class of U.S. postage. If the return is received by the department within five business days of the private meter postmark date the department will consider this requirement satisfied.

If the envelope or wrapper containing an income tax or withholding tax return sent through the United States mail bears both a United States mail postmark and a private meter postmark, the postmark made by the United States mail will be used to determine timeliness.

If the sender disputes the dates contained on the postmark, or if the postmark is not legible, the sender may introduce competent evidence to establish the mailing date on which the document shall be deemed filed. The question of what evidence will be considered competent cannot be answered by a general rule but depends largely upon the circumstances of each case. The following types of evidence are not intended to be all inclusive nor controlling but are only meant to be indicative of the items which may be considered in a timeliness determination:

- A postmarked registered or certified mail sender's receipt;
- Documentation from a U.S. Post Office official stating that there was an error on the part of the Post Office;
- The date the document was actually received;
- The taxpayer's filing history;
- A regularly maintained mailing log;
- Sworn testimony by the taxpayer or others regarding the mailing date of the document.

If the envelope or wrapper from an income tax or withholding tax return sent through the United States mail does not bear a postmark, the department will consider the return timely filed if the return is received by the department within five business days of the return's due date.

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DISCUSSION:

Under Arizona law, a document dealing with taxation that is timely mailed is treated as timely filed. A tax return sent through the United States mail is considered filed and received by the department on the date of the United States postmark stamped on the cover in which the return is mailed. If the sender disputes the postmark date or if the postmark is not legible, the sender may introduce evidence to establish the mailing date.

For Arizona tax purposes, the term "United States mail" includes any private delivery service designated by the United States secretary of the treasury pursuant to I.R.C. § 7502(f) and the term "postmark" includes any date recorded or marked by any such designated delivery service.

Private Meter Postmarks

The question has arisen as to what extent the department will accept a private meter postmark as opposed to a United States mail postmark in determining whether a document has been timely filed.

The Arizona provision closely follows the provisions under I.R.C. § 7502. Further, Treas. Reg. § 301.7502-1(c), provides guidance as to when a return bearing a postmark made by other than by the U.S. Post Office, such as those made by private meter machines, are treated as timely filed. This regulation provides that documents bearing postmarks made other than by the U.S. Post Office, such as those made by private meter machines, are treated as timely filed if both of the following apply:

1. The postmark bears a date on or before the due date for filing; and
2. The document is received no later than the time it would ordinarily have been received from the same point of origin by the same class of U.S. mail and postmarked on the last day for filing.

If the return is received by the department within five business days of the private meter postmark date the department will consider requirement number two to be satisfied.

If an envelope has a United States mail postmark and a private meter postmark, the private meter postmark will be disregarded.

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Disputed Postmarks

When there is a dispute as to whether a document has been timely filed by mail and the issue is a disputed postmark, A.R.S. § 1-218 is controlling.

A.R.S. § 1-218 provides that if the sender of a document disputes the dates contained on the postmark or if no such mark appears or is legible, the document shall be deemed filed and received by the addressee on the mailing date as established by competent evidence introduced by the sender.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 1-218(A) provides in part, that any tax return that is required to be filed with an agency of this state and that is deposited, properly addressed and postage prepaid, in an official depository of the United States mail shall be deemed filed and received by the addressee on the date shown by the postmark or other official mark of the United States mail stamped thereon. This subsection further provides that if the sender disputes the dates contained on such mark or no such mark appears or is legible, on the mailing date as established by competent evidence introduced by the sender.

A.R.S. § 1-218(B) provides that any filing that is described in subsection A of this section and that is not received by the addressee shall be deemed filed and received on the date of mailing if the sender establishes the date of mailing as provided in subsection A of this section and files with the addressee a duplicate filing within ten days after written notification of nonreceipt of such filing is given to the sender by the addressee.

A.R.S. § 1-218(C) provides that if any filing described in subsection A of this section is sent by United States certified or registered mail or certificate of mailing, the date of such registration, certification or certificate, as established by a record authenticated by proper officials of the United States mail, shall be deemed the date of filing.

A.R.S. § 1-218(E) provides that any filing described in subsection A of this section that does not contain a postmark or other official mark of the United States mail stamped thereon shall be considered timely if received within five business days after the due date of the filing.

A.R.S. § 1-218(F) provides that the term "United States mail" includes any private delivery service designated by the United States Secretary of the Treasury pursuant to I.R.C. § 7502(f) and the term "postmark" includes any date recorded or marked by any such designated delivery service.

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Internal Revenue Code (I.R.C.) § 7502(a) provides that the term “designated delivery service” means any delivery service provided by a trade or business if such service is designated by the Secretary for purposes of I.R.C. § 7502.

Treasury Regulations (Treas. Reg.) § 301.7502 provides the rules for I.R.S. acceptance of postmarks for timeliness determinations.

Grant Nülle, Deputy Director

Signed: May 31, 2016

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.