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ARIZONA INDIVIDUAL INCOME TAX RULING ITR 09-2

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:

Will the department deem a taxpayer to have met the reasonable cause exception to the late payment penalty when a taxpayer with a valid filing extension paid at least 90% of the tax due by the return's original due date and then files the return by the extended due date paying the remaining amount due in full with the return?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-1107, as amended by Laws 2009, Ch. 116, authorizes the department to grant extensions of time to file income tax returns and also imposes an extension underpayment penalty if a taxpayer fails to pay at least 90% of the tax disclosed on the return. This section also provides that a taxpayer is not subject to the penalty prescribed under A.R.S. § 42-1125(D) if the taxpayer is subject to the penalty prescribed under A.R.S. § 42-1107.

A.R.S. § 42-1125(D) provides for a late payment penalty if a person fails to pay the amount shown as tax on any return within the time prescribed, unless the failure is due to reasonable cause.

A.R.S. § 43-501 prescribes when income taxes are payable.

DISCUSSION:

The department has the authority to grant extensions of time to file, but not for payment of the tax. Under A.R.S. § 43-501, the tax is required to be paid on the 15th day of April following the close of the calendar year or, if the return is made on the basis of a fiscal year, on the 15th day of the fourth month following the close of the taxable year.

When a taxpayer is granted a filing extension, the taxpayer must pay at least 90% of the tax disclosed on the return by the return's original due date. If the taxpayer fails to pay at least 90% of the tax, the taxpayer will be subject to the extension underpayment penalty,

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but not the late payment penalty imposed under A.R.S. § 42-1125(D). The extension underpayment penalty will be charged on the amount unpaid from the return's original due date, until the date the tax is paid (25% maximum).

If a taxpayer filing under an extension pays at least 90% of the tax, but less than 100% of the tax, the taxpayer will not be subject to the extension underpayment penalty. However, the taxpayer will be subject to the late payment penalty under A.R.S. § 42-1125(D), unless the failure is due to reasonable cause.

RULING:

The department will deem a taxpayer to have met the reasonable cause exception to the late payment penalty when a taxpayer meets all of the following:

1. The taxpayer has a valid filing extension.
2. The taxpayer has paid at least 90% of the Arizona tax due by the return's original due date.
3. The taxpayer files the Arizona return by the extended due date.
4. The taxpayer pays the remaining amount due in full with the return.

When a taxpayer meets all of the above criteria, the department will not impose the late payment penalty when processing a return filed timely under an extension. However, if a taxpayer meets one through three above, but fails to pay the remaining amount due at the time of filing, the taxpayer would not meet the reasonable cause exception. In this case, the department would impose the late payment penalty on the amount unpaid, from the return's original due date until the tax was paid, up to a maximum of 10%.

Gale Garriott, Director

Signed: February 8, 2010

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

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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.