

Senate Engrossed House Bill

~~conformity; internal revenue code; exception~~  
(now: DOR; procedures; administrative rulings)

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
First Regular Session  
2021

# HOUSE BILL 2879

AN ACT

AMENDING TITLE 42, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 42-2080; AMENDING SECTION 42-2101, ARIZONA REVISED  
STATUTES; RELATING TO THE DEPARTMENT OF REVENUE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 42, chapter 2, article 2, Arizona Revised  
3 Statutes, is amended by adding section 42-2080, to read:

4 42-2080. Rulings, procedures, notices and other  
5 administrative announcements; notice; public  
6 comment; records; confidentiality; exceptions

7 A. THE DEPARTMENT MAY ISSUE DRAFT RULINGS, PROCEDURES, NOTICES AND  
8 ADMINISTRATIVE ANNOUNCEMENTS THAT APPLY TO TAX LAWS AND REGULATIONS,  
9 EITHER GENERALLY OR FOR A SPECIFIC SET OF FACTS, AND THAT OTHERWISE DO NOT  
10 CHANGE THE SUBSTANCE AND MEANING OF A STATUTE OR RULE. EXCEPT FOR PRIVATE  
11 TAXPAYER RULINGS ISSUED PURSUANT TO SECTION 42-2101, THE DEPARTMENT SHALL  
12 ALLOW FOR AND ACCEPT WRITTEN PUBLIC COMMENTS ON THE DRAFT RULING,  
13 PROCEDURE, NOTICE OR ADMINISTRATIVE ANNOUNCEMENT AS PRESCRIBED BY THIS  
14 SECTION. A RULING, PROCEDURE, NOTICE OR ADMINISTRATIVE ANNOUNCEMENT  
15 BECOMES FINAL AND EFFECTIVE THIRTY DAYS AFTER THE RULING, PROCEDURE,  
16 NOTICE OR ADMINISTRATIVE ANNOUNCEMENT IS ISSUED FOR PUBLIC COMMENT AND  
17 REVIEW UNLESS THE DEPARTMENT WITHDRAWS THE RULING, PROCEDURE, NOTICE OR  
18 ADMINISTRATIVE ANNOUNCEMENT. THE DEPARTMENT MAY AMEND THE DRAFT RULING,  
19 PROCEDURE, NOTICE OR ADMINISTRATIVE ANNOUNCEMENT IN RESPONSE TO PUBLIC  
20 COMMENTS RECEIVED DURING THE THIRTY-DAY PERIOD.

21 B. THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN ON ITS WEBSITE A  
22 PUBLICLY ACCESSIBLE RECORD OF ALL DRAFT AND FINAL RULINGS, PROCEDURES,  
23 NOTICES AND ADMINISTRATIVE ANNOUNCEMENTS AND SHALL PROMINENTLY ANNOUNCE  
24 ADDITIONS, MODIFICATIONS AND OTHER CHANGES TO THIS RECORD ON THE  
25 DEPARTMENT WEBSITE'S HOME PAGE.

26 C. A DRAFT RULING, PROCEDURE, NOTICE OR ADMINISTRATIVE ANNOUNCEMENT  
27 THAT APPLIES TO TAX LAWS AND REGULATIONS IS NOT CONSIDERED FINAL AND  
28 EFFECTIVE UNLESS THE RULING, PROCEDURE, NOTICE OR ADMINISTRATIVE  
29 ANNOUNCEMENT CONTAINS ALL OF THE FOLLOWING:

30 1. THE SUBJECT MATTER OF THE DRAFT RULING, PROCEDURE, NOTICE OR  
31 ADMINISTRATIVE ANNOUNCEMENT.

32 2. A CITATION TO ALL STATUTES, RULES AND PUBLISHED ADMINISTRATIVE  
33 RULINGS RELATING TO THE DRAFT RULING, PROCEDURE, NOTICE OR ADMINISTRATIVE  
34 ANNOUNCEMENT.

35 3. THE NAME AND CONTACT INFORMATION OF DEPARTMENT PERSONNEL WITH  
36 WHOM PERSONS MAY COMMUNICATE REGARDING THE DRAFT RULING, PROCEDURE, NOTICE  
37 OR ADMINISTRATIVE ANNOUNCEMENT.

38 4. THE DATE ON WHICH THE DRAFT RULING, PROCEDURE, NOTICE OR  
39 ADMINISTRATIVE ANNOUNCEMENT WAS PROPOSED.

40 5. THE DATE ON WHICH THE DRAFT RULING, PROCEDURE, NOTICE OR  
41 ADMINISTRATIVE ANNOUNCEMENT WILL BECOME FINAL AND EFFECTIVE.

42 6. A STATEMENT OF WHETHER PUBLIC COMMENTS ON THE DRAFT RULING,  
43 PROCEDURE, NOTICE OR ADMINISTRATIVE ANNOUNCEMENT WERE RECEIVED AND WHERE  
44 THE WRITTEN COMMENTS AND THE DEPARTMENT'S RESPONSE TO THOSE COMMENTS ARE  
45 AVAILABLE FOR INSPECTION.



1 of a taxpayer or potential taxpayer shall be considered a request for a  
2 taxpayer information ruling instead of a private taxpayer ruling.

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

5 1. A change or clarification in the law that was applicable at the  
6 time the ruling was issued, including changes or clarifications caused by  
7 legislation, adopted administrative rules and court decisions.

8 2. Actual written notice by the department to the last known  
9 address of the taxpayer or potential taxpayer of the revocation or  
10 modification of the private taxpayer ruling or taxpayer information ruling  
11 if the taxpayer identifying information has been disclosed to the  
12 department pursuant to subsection E of this section. If taxpayer  
13 identifying information has not been disclosed, written notice by the  
14 department to the last known address of the taxpayer representative who  
15 requested the ruling ~~will constitute~~ CONSTITUTES notice to the taxpayer or  
16 potential taxpayer.

17 D. With respect to the taxpayer or prospective taxpayer to whom the  
18 private taxpayer ruling was issued, the revocation or modification of a  
19 private taxpayer ruling shall not be applied retroactively to tax periods  
20 or tax years before the effective date of the revocation or modification,  
21 and the department shall not assess any penalty or tax attributable to  
22 erroneous advice that it furnished to the taxpayer or potential taxpayer  
23 in the private taxpayer ruling if:

24 1. The taxpayer reasonably relied on the private taxpayer ruling.

25 2. The penalty or tax did not result either from a failure by the  
26 taxpayer to provide adequate or accurate information or from a change in  
27 the information.

28 E. Subsection D of this section applies to a taxpayer information  
29 ruling if the taxpayer or potential taxpayer provides its name, address,  
30 identifying number, if applicable, and authorization pursuant to section  
31 42-2003, subsection A, paragraph 1 for the representative of the taxpayer  
32 or potential taxpayer before the date the department publishes the ruling.  
33 The department shall notify the representative of the taxpayer or  
34 potential taxpayer of the proposed publication date. If the director has  
35 determined that the taxpayer information ruling should not be published  
36 pursuant to subsection ~~+~~ M of this section, subsection D of this section  
37 applies if the taxpayer or potential taxpayer provides the identifying  
38 information before the date specified by the department on issuing the  
39 taxpayer information ruling to the representative. If the taxpayer or  
40 potential taxpayer does not provide the department with the identifying  
41 information and representative authorization before the proposed  
42 publication date, or for an unpublished ruling, the date specified by the  
43 department, the taxpayer information ruling is not binding on the  
44 department for the purpose of abating interest, penalty or tax.

1 F. A private taxpayer ruling or taxpayer information ruling may not  
2 be relied ~~upon~~ ON, cited or introduced into evidence in any proceeding by  
3 a taxpayer other than the taxpayer who has received the private taxpayer  
4 ruling.

5 G. A taxpayer may apply for an administrative hearing to determine  
6 the propriety of a retroactive application of a revoked or modified  
7 private taxpayer ruling by filing a written petition with the department  
8 pursuant to section 42-1251 within forty-five days after receiving written  
9 notice of the department's intent to retroactively apply a revoked or  
10 modified private taxpayer ruling. This subsection applies to a taxpayer  
11 information ruling if the taxpayer has disclosed the taxpayer's  
12 identifying information pursuant to subsection E of this section.

13 H. A private taxpayer ruling or taxpayer information ruling  
14 constitutes the department's interpretation of the law or rules only as  
15 they apply to the taxpayer making, and the particular facts contained in,  
16 the request.

17 I. A private taxpayer ruling or taxpayer information ruling may be  
18 issued only if no tax has accrued with respect to the transactions, events  
19 or facts contained in the request. The department may issue a private  
20 taxpayer ruling or taxpayer information ruling addressing a taxpayer's  
21 ongoing business activities, except that the ruling applies only to  
22 transactions that occur or tax liabilities that accrue from and after the  
23 date the taxpayer receives the ruling.

24 J. WITHIN THIRTY DAYS AFTER RECEIVING A WRITTEN REQUEST PURSUANT TO  
25 SUBSECTION A OF THIS SECTION, THE DEPARTMENT SHALL MEET WITH THE REQUESTOR  
26 TO DISCUSS THE FACTS AND CIRCUMSTANCES PERTAINING TO THE REQUEST, AT A  
27 TIME AND PLACE DESIGNATED BY THE DEPARTMENT, UNLESS THE REQUESTOR WAIVES  
28 THIS MEETING. The department shall ~~attempt to~~ issue private taxpayer  
29 rulings or taxpayer information rulings within ~~forty-five~~ NINETY days  
30 after receiving the written request, ~~and on receiving the facts that are~~  
31 ~~relevant to the ruling~~ UNLESS THE DEPARTMENT AND THE REQUESTOR AGREE TO  
32 DELAY THE RULING. If the ruling is expected to be delayed, the department  
33 shall notify the requestor of the BASIS FOR THE PROPOSED delay and the  
34 proposed date of issuance. PURSUANT TO SUBSECTION A OF THIS SECTION, THE  
35 DEPARTMENT MAY DECLINE TO ISSUE A RULING, AND THIS SUBSECTION DOES NOT  
36 REQUIRE THE DEPARTMENT TO ISSUE A RULING. IF THE DEPARTMENT DECLINES TO  
37 ISSUE A RULING, THE DEPARTMENT SHALL ISSUE APPROPRIATE WRITTEN ASSISTANCE  
38 OR ADVICE THAT EXPLAINS THE REASON THE DEPARTMENT IS DECLINING TO ISSUE A  
39 RULING AND PROVIDE A GENERAL DISCUSSION OF RELEVANT TAX PRINCIPLES OR  
40 APPLICATIONS.

41 K. THE DEPARTMENT SHALL PROVIDE THE REQUESTOR WITH A DRAFT OF THE  
42 PRIVATE TAXPAYER RULING OR TAXPAYER INFORMATION RULING AT LEAST THIRTY  
43 DAYS BEFORE ISSUING THE RULING PURSUANT TO SUBSECTION J OF THIS SECTION.  
44 IF REQUESTED BY THE REQUESTOR, THE DEPARTMENT SHALL MEET WITH THE  
45 REQUESTOR WITHIN FOURTEEN DAYS AFTER PROVIDING THE DRAFT RULING, AT A TIME

1 AND PLACE DESIGNATED BY THE DEPARTMENT, TO DISCUSS THE CONTENTS OF THE  
2 DRAFT RULING.

3 ~~K.~~ L. The department shall maintain the private taxpayer ruling or  
4 taxpayer information RULING as a public record and make it available at a  
5 reasonable cost for public inspection and copying. The text of private  
6 taxpayer or taxpayer information rulings is open to public inspection  
7 subject to the confidentiality requirements prescribed by article 1 of  
8 this chapter.

9 ~~L.~~ M. At the time of making a private taxpayer RULING or taxpayer  
10 information ruling request, a taxpayer or potential taxpayer may submit a  
11 written request that the ruling not be published due to concerns about  
12 confidentiality or other disclosed reasons. If the director determines  
13 that the ruling should not be published AND THE TAXPAYER REQUESTS THAT THE  
14 RULING BE KEPT CONFIDENTIAL, the ruling shall be deemed confidential for  
15 the purpose of section 39-121.01, subsection D, paragraph 2. If the  
16 director determines that the ruling should be published AND THE TAXPAYER  
17 REQUESTS THAT THE RULING BE KEPT CONFIDENTIAL, the taxpayer may withdraw  
18 the ruling request, and the department shall not proceed with a ruling if  
19 the request is withdrawn. Notwithstanding section 41-1092.02, the  
20 decision of the director to publish is not an appealable agency action as  
21 defined in section 41-1092 and is not subject to appeal by the taxpayer.

22 ~~M.~~ N. For the purposes of this section:

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

29 2. "Taxpayer information ruling" means a written determination by  
30 the department issued on or after ~~the effective date of this amendment to~~  
31 ~~this section~~ SEPTEMBER 26, 2008 that interprets and applies one or more  
32 statutes contained in this title or title 43 and any applicable  
33 administrative rules that the department has adopted to the specific  
34 prospective facts described in a request for a taxpayer information  
35 ruling.