

REFERENCE TITLE: department of revenue closing agreements

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2111

Introduced by
Representative Yarbrough

AN ACT

AMENDING SECTION 42-2056, ARIZONA REVISED STATUTES; RELATING TO DEPARTMENT OF REVENUE CLOSING AGREEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-2056, Arizona Revised Statutes, is amended to
3 read:
4 42-2056. Closing agreements in cases of extensive taxpayer
5 misunderstanding or misapplication; attorney general
6 approval; rules; definition
7 A. If the department determines that noncompliance with tax
8 obligations results from extensive misunderstanding or misapplication of
9 provisions of this title or title 43 it may enter into closing agreements
10 with those taxpayers under the following terms and conditions:
11 1. Extensive misunderstanding or misapplication of the tax laws occurs
12 if the department determines that more than ~~sixty~~ FIFTY per cent of the
13 persons in the affected class have failed to properly account for their taxes
14 owing to the same misunderstanding or misapplication of the tax laws.
15 2. The department shall publicly declare the nature of the possible
16 misunderstanding or misapplication and the proposed definition of the class
17 of affected taxpayers and shall conduct a public hearing to hear testimony
18 regarding the extent of the misunderstanding or misapplication and the
19 definition of the affected class.
20 3. If, after the public hearing, the department determines that a
21 class of affected taxpayers has failed to comply with their tax obligations
22 because of extensive misunderstanding or misapplication of the tax laws it
23 shall issue a tax ruling announcing that finding and publish the ruling in a
24 newspaper of general circulation.
25 4. A closing agreement under this section may abate some or all of the
26 penalties, interest and tax that the taxpayers have failed to remit, or the
27 agreement may provide for the prospective treatment of the matter as to the
28 class of affected taxpayers. Notwithstanding section 42-1113, all taxpayers
29 in the class shall be offered the opportunity to enter into a similar
30 agreement for the same tax periods.
31 5. Taxpayers in the affected class who have properly accounted for
32 their tax obligations for these tax periods shall be offered the opportunity
33 to enter into a similar closing agreement providing for a pro rata credit or
34 refund of their taxes previously paid, subject to section 42-1104, subsection
35 A and section 42-1106, subsection A.
36 6. The closing agreement shall require the taxpayers to properly
37 account for and pay such taxes in the future. If a taxpayer fails to comply
38 with that requirement, the agreement is voidable by the department and the
39 department may assess the taxpayer for the delinquent taxes. The department
40 may issue such a proposed assessment within six months after the date that it
41 declares the agreement void or within the period prescribed by section
42 42-1104, whichever is later.
43 B. Before entering into closing agreements pursuant to this section,
44 the department shall secure the approval of the attorney general of the tax

1 ruling and the agreements. The department may not enter into the agreements
2 without the approval of the attorney general.

3 C. After a closing agreement has been signed pursuant to this section,
4 and subject to the taxpayer's compliance with the requirements of subsection
5 A, paragraph 6 of this section, it is final and conclusive except on a
6 showing of fraud, malfeasance or misrepresentation of a material fact. The
7 case shall not be reopened as to the matters agreed on, and the agreement
8 shall not be modified by any officer, employee or agent of the state. The
9 agreement or any determination, assessment, collection, payment abatement,
10 refund or credit made pursuant to the agreement shall not be annulled,
11 modified, set aside or disregarded in any suit, action or proceeding.

12 D. The department shall report in writing its activities under this
13 section to the governor, the president of the senate and the speaker of the
14 house of representatives on or before February 1 of each year.

15 E. The department may adopt rules to implement this section.

16 F. For the purposes of this section, "affected class" means taxpayers
17 who are directly affected by the department's position in a tax matter.