

ARIZONA CORPORATE TAX PROCEDURE

CTP 95-2

ISSUE:

May an affiliated group which made a retroactive election to file consolidated Arizona corporate income tax returns be issued a refund for an overpayment of tax arising from the filing of an original 1993 consolidated tax return?

APPLICABLE LAW:

Laws 1994, Ch. 41, § 37 provides for a retroactive election to file consolidated Arizona income tax returns by an affiliated group of corporations for taxable years beginning from and after December 31, 1985. This section provides that filing an amended return in the manner prescribed by the department constitutes an election to file a consolidated return. This section also provides that net overpayments arising from the filing of amended returns shall be treated as credits against future Arizona corporate income tax liabilities for taxable years beginning from and after June 30, 1995.

DISCUSSION AND CONCLUSION:

The department stated, in Arizona Corporate Tax Ruling CTR 94-10, that an original 1993 corporate tax return could be filed on a consolidated basis if the original or extended due date for the 1993 return was after July 17, 1994. Original returns filed in the manner prescribed in the ruling are deemed by the department to comply with the requirement for the filing of amended returns.

Prospective elections to file on a consolidated basis, as provided by Arizona Revised Statutes (A.R.S.) § 43-947, apply to taxable years beginning from and after December 31, 1993. Overpayments of tax arising from the filing of consolidated returns for taxable years 1994 and later by taxpayers who made retroactive or prospective elections may be refunded.

Returns for taxable year 1993, whether original or amended, that are filed on a consolidated basis are part of the retroactive election and, therefore, are subject to the statutory provisions prescribing the treatment of overpayments of tax from the filing of amended returns for taxable years 1986 through 1993. Overpayments of tax *arising from the filing of returns on a consolidated basis* shall be treated as credits against future Arizona corporate income tax liabilities for taxable years beginning from and after June 30, 1995. Overpayments of tax for the taxable year 1993 *that did not arise from the election to file on a consolidated basis* may be refunded.

The department will consider refund requests for 1993 original returns from taxpayers who made a valid retroactive election to file on a consolidated basis. Such taxpayers may request a refund of an overpayment of tax that did not arise from the election to file on a consolidated basis. Each claim for refund shall be in writing and shall state the specific grounds on which it is founded.

A taxpayer requesting a refund for the 1993 taxable year must:

1. Submit a letter to the department requesting a refund of tax and stating the reasons for the request. As part of the documentation for refund claims, the taxpayer must attach pro forma original 1993 corporate income tax return(s) using the method of filing that the taxpayer would have used if it had not made a retroactive election to file on a consolidated basis.

2. Send the refund request, including the pro forma return(s), to:

Corporate Income Tax Audit Section
Arizona Department of Revenue
P.O. Box 29080
Phoenix, AZ 85038-9080

The department will review each taxpayer's particular facts and circumstances as described in the refund request and the attached pro forma return(s). A refund will be issued only if the department determines that an overpayment of tax exists for the 1993 taxable year that did not arise from the filing of a return on a consolidated basis.

Harold Scott, Director

Signed: May 31, 1995

Explanatory Notice

The purpose of a tax procedure is to provide procedural guidance to the general public and to department personnel. A tax procedure is a written statement issued by the department to assist in the implementation of tax laws, administrative rules, and tax rulings by delineating procedures to be followed in order to achieve compliance with the law. Relevant statute, case law, or administrative rules, as well as a subsequent procedure, may

modify or negate any or all of the provisions of any tax procedure. See GTP 92-1 for more detailed information regarding documents issued by the Department of Revenue.