



MULTISTATE TAX

Arizona legislation addresses administrative rulings and procedures

Tax Alert

Overview

Arizona House Bill [H.B. 2879](#), signed into law on May 7, 2021 by Governor Doug Ducey, allows the Arizona Department of Revenue (“Department”) to issue draft rulings, notices, procedures, and administrative announcements concerning the Department’s administrative ruling procedures in addition to tax laws and regulations.¹ H.B. 2879 also modifies the process for issuing a private taxpayer ruling and a taxpayer information ruling.

Arizona bill provides guidance on administrative rulings and procedures

Administrative rulings

H.B. 2879 permits the Department to issue draft administrative rulings that apply tax laws and regulations generally or to a specific set of facts. The administrative rulings may not alter the substance and meaning of the tax statutes or regulations. H.B. 2879 requires the Department to hold a 30-day comment period to accept and consider all written public comments on draft administrative rulings with the exception of private taxpayer rulings. If the Department does not incorporate a public comment the Department must provide an explanation for its decision and preserve the response as a public record in compliance with taxpayer confidentiality requirements. During the 30-day comment period, the Department may amend the draft administrative ruling in response to the public comments. The Department must maintain publicly-accessible record of draft and final administrative rulings on its website and must prominently announce any changes.

An administrative ruling becomes final and effective 30 days after the ruling is issued for public comment unless the Department withdraws the ruling. However, a draft administrative ruling (including procedures, notices, or administrative announcements) that applies to the tax laws and regulations is not final and effective unless it contains the following:

- (a) the subject matter of the ruling;

- (b) a citation to all statutes, rules and published administrative rulings related to the ruling;
- (c) the name and contact information of Department personnel with whom persons may communicate regarding the ruling;
- (d) the date on which the ruling was proposed;
- (e) the date on which the ruling will become final and effective;
- (f) a statement of whether public comments on the ruling were received and where the written comments and Department's response to those comments are available for inspection; and
- (g) the signature of the Department Director.

Any final Department action is appealable, with certain exceptions, within 30 days after the effective date of the administrative ruling. A court must decide all questions of law without deference to the Department's determination.

The administrative ruling procedures do not apply to Department actions related to: tax forms and instructions, private taxpayer rulings, administrative procedure and rulemaking review, routine Department communications that do not substantively apply or interpret tax laws and regulations, and routine notices of normal filing obligations.²

Private taxpayer rulings and taxpayer information rulings

H.B. 2879 also amends the procedures regarding private taxpayer rulings and taxpayer information rulings. Within 30 days of receiving a ruling request, the Department must meet with the requesting party to discuss the facts and circumstances of the request, unless the requesting party waives the meeting. At least 30 days prior to issuing the ruling, the Department must provide the requesting party an opportunity to review a draft of the private letter ruling or taxpayer information ruling. The requesting party has the opportunity to meet with the Department within 14 days of receiving the draft to discuss the contents of the draft ruling. Furthermore, within 90 days of receiving the written ruling request, the Department must issue the private taxpayer ruling or taxpayer information ruling, unless the requesting party and the Department agree to delay the ruling.

If the Department declines to issue a ruling, the Department must issue written advice or assistance explaining why it has declined to issue a ruling and provide a discussion of the relevant tax principles or applications. If the Director determines that a ruling should not be published and the requesting party wishes the ruling to be confidential, the Department must keep the ruling confidential. If the Director determines that the ruling should be published and the requesting party desires the ruling to be confidential, the requesting party may withdraw the ruling request and the Department is prohibited from proceeding with the request.³

H.B. 2879 becomes effective 91 days after the legislative session ends.⁴

Get in touch

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Footnotes

¹H.B. 2879, 55th Leg., 1st Reg. Sess. (Ariz. 2021), <https://www.azleg.gov/legtext/55leg/1R/bills/HB2879S.pdf>.

² Ariz. Rev. Stat. § 42-2080, as added by H.B. 2879, 55th Leg., 1st Reg. Sess. (Ariz. 2021).

³ Ariz. Rev. Stat. § 42-2101, as amended by H.B. 2879, 55th Leg., 1st Reg. Sess. (Ariz. 2021).

⁴ Arizona's legislative assembly session has been extended past its statutory sine die date and the legislature is still in session. H.B. 2879 will become effective 91 days after the legislative session adjourns.

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