



## A Dash of SALT

# How Entire Classes of Taxpayers May Achieve Relief Under Arizona's Taxpayer Bill of Rights

Last month's state and local tax (SALT) column summarized some of the general provisions of Arizona's Taxpayer Bill of Rights, and how the Problem Resolution Officer can assist taxpayers in unusual situations. This month's column focuses on how entire classes of taxpayers who misunderstood or misapplied any tax law administered by the Arizona Department of Revenue (Department) may receive relief under the Taxpayer Bill of Rights.

### The Department May Abate Some, or Even All, Tax, Penalties, and Interest Due

An obscure, but important provision of Arizona's Taxpayer Bill of Rights allows the Department to grant relief to entire classes of taxpayers in situations where there was an "extensive misunderstanding or misapplication" of any of the tax laws administered by the Department. Relief may come in the form of the abatement of some, or all, of the tax, penalties, and interest that would have been due.

The Taxpayer Bill of Rights provides that an "extensive misunderstanding or misapplication" occurs when the Department determines that more than 60 percent of the taxpayers in an affected class "failed to properly account for their taxes owing to the same misunderstanding or misapplication of the tax laws," and defines "affected class" as "taxpayers who are similarly situated and directly affected by the Department's position in a tax matter."

### How the Process Works

The class relief process may be initiated by one or more taxpayers, by their representatives, by a group to which the taxpayers belong, or by the Department. The Department is charged with making a determination regarding the proposed definition of the class and whether there has been an extensive misunderstanding or misapplication of the laws.

If the Department determines that

there may have been an extensive misunderstanding or misapplication of the tax laws by a class of taxpayers, then it must notify the public and conduct a hearing regarding the extent of the misunderstanding or misapplication of the tax laws, and regarding the definition of the affected class.

After the hearing, if the Department determines that there was an extensive misunderstanding or misapplication of the tax laws by a class of taxpayers, with the Arizona Attorney General's approval, the Department must issue and publish a tax ruling announcing its findings and the relief that members of the affected class are entitled to in terms of the abatement of some, or all, of the tax, penalties, and interest that otherwise would have been due for a particular period.

After issuing the ruling and, again, with the AG's approval, the Department must offer each taxpayer in the affected class the opportunity to enter into a closing agreement. Such agreements entitle members of the affected class who properly accounted for their tax obligations to a refund of, or a credit for, the tax they paid for the relevant period so that each member of the affected class is treated in like fashion. All members of the class who enter into these closing agreements are required to properly account for and pay the subject taxes in the future, and those who fail to do so may be liable for any tax, penalties, and interest that were



abated under the closing agreement.

If, after the public hearing, the Department determines that there was not a misunderstanding or misapplication of the tax laws, the party who filed the request for relief may appeal the Department's determination.

**Practice Tip!** – CPAs who discover that one or more of their clients were confused over a tricky provision in one of Arizona's tax laws should consider whether the entire class of taxpayers subject to tax under that provision may be able to obtain relief under Arizona's Taxpayer Bill of Rights.

And, sometimes the Department is willing to grant some form of relief to groups of taxpayers under less formal procedures using other tools available to it when it discovers that numerous taxpayers have been making the same mistake but are willing to voluntarily pay the tax on a prospective basis. **AZ CPA**

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