Senate Engrossed

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 262

SENATE BILL 1170

AN ACT

AMENDING SECTIONS 29-857 AND 42-1107, ARIZONA REVISED STATUTES; REPEALING TITLE 42, CHAPTER 4, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1332, ARIZONA REVISED STATUTES; RELATING TO ESTATE AND GENERATION SKIPPING TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 29-857, Arizona Revised Statutes, is amended to read:

29-857. Taxation

A limited liability company established under this chapter or a foreign limited liability company transacting business in this state pursuant to this chapter shall pay the taxes that are imposed by the laws of this state or any political subdivision of this state on domestic and foreign limited partnerships on an identical basis, except that, for purposes of ~~title 42, chapter 4 and~~ title 43, a domestic or foreign limited liability company and its members shall be taxed as if the limited liability company is either a partnership or a corporation or is disregarded as an entity as determined pursuant to the internal revenue code as defined in section 43-105.

Sec. 2. Section 42-1107, Arizona Revised Statutes, is amended to read:

42-1107. Extension of time for filing returns

A. The department may, pursuant to administrative rule, grant an automatic extension of time for filing an income tax return under title 43 if at least ninety per cent of the tax liability disclosed by the taxpayer's return for the reporting period is paid and if the request for extension is received or mailed on or before the date the return is otherwise due to be filed. If at least ninety per cent of the tax liability disclosed by the taxpayer's return for the reporting period has not been paid at the time of filing for the extension, the taxpayer is subject to a penalty of one-half of one per cent of the tax not paid for each thirty day period or fraction of a thirty day period elapsing between the date the return is otherwise due to be filed and the date the tax is paid, not to exceed a total of twenty-five per cent. If a taxpayer is subject to both of the penalties prescribed under this section and section 42-1125, the maximum combined penalty that may be imposed on the taxpayer under both sections shall not exceed twenty-five per cent of the tax found to be remaining due. If in its judgment good cause exists, the department may grant a further extension or extensions of time for filing the return pursuant to administrative rule. No extension or extensions granted under this subsection may aggregate more than six months from the due date provided for the filing of returns.

B. If the taxpayer has been granted an extension or extensions of time within which to file a federal income tax return for any taxable year, the taxpayer is deemed to have been granted the same extension of time for filing the Arizona income tax return if the taxpayer has paid at least ninety per cent of the tax liability disclosed by the taxpayer's return for the reporting period. If at the time the taxpayer has been granted a federal extension or extensions the taxpayer is required to make the payment of at least ninety per cent under this section, the payment shall be in a manner prescribed by the department.

~~C. If a personal representative of an estate has obtained an extension of time for filing a federal estate tax return, the filing required by section 42-4002 shall be similarly extended until the end of the time period granted in the extension of time for filing the federal estate tax return. On obtaining the extension of time for filing the federal estate tax return the personal representative shall provide the department with a true copy of the instrument providing for the extension.~~

~~D.~~ C. The department, for good cause, may grant a reasonable extension of time for filing an Arizona estate tax return. ~~The extension granted under this subsection shall not be for more than six months from the date for filing the return provided by section 42-4002.~~ A request for extension shall be in a form prescribed by the department.

~~E.~~ D. The department, for good cause, may extend the time for making any other return required by chapter 5, articles 1, 4 and 5 of this title, and may grant such reasonable additional time in which to make the return as it deems proper, but the time for filing the return shall not be extended beyond the first day of the third month next succeeding the regular due date of the return.

Sec. 3. Repeal

Title 42, chapter 4, Arizona Revised Statutes, is repealed.

Sec. 4. Section 43-1332, Arizona Revised Statutes, is amended to read:

43-1332. Subtractions from Arizona gross income; estates and trusts

In computing Arizona taxable income of an estate or trust, the following shall be subtracted from Arizona gross income:

1. The estate or trust's share of the fiduciary adjustment to the extent that the amount determined pursuant to section 43-1333 decreases the estate or trust's Arizona gross income.

2. In the case of a trust that is established as a medical savings account pursuant to section 43-1028, income earned by the trust during the taxable year to the extent the income is included in the trust's Arizona gross income.

3. IN THE CASE OF AN ESTATE, THE AMOUNT OF FEDERAL ESTATE TAXES PAID IN THE CURRENT TAXABLE YEAR.

Sec. 5. Effective date

This act applies retroactively to taxable years beginning from and after December 31, 2005.

APPROVED BY THE GOVERNOR MAY 8, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2006.