

Senate Engrossed House Bill

FILED

KEN BENNETT

SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 315

HOUSE BILL 2201

AN ACT

AMENDING SECTION 44-336, ARIZONA REVISED STATUTES; RELATING TO UNCLAIMED PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 44-336, Arizona Revised Statutes, is amended to
3 read:

4 44-336. Private holder rulings; holder information rulings;
5 request; revocation or modification; definitions

6 A. The department may issue private holder rulings to unclaimed
7 property holders and potential unclaimed property holders on request. Each
8 request shall be in writing and shall:

9 1. State the name, address and, if applicable, identifying number of
10 the holder or potential holder who requests the ruling.

11 2. Describe all facts that are relevant to the requested ruling.

12 3. State whether, to the best knowledge of the holder or potential
13 holder, the issue or related issues are being considered by the department in
14 connection with an active audit, protest or appeal that involves the holder
15 or potential holder and whether the same request has been or is being
16 submitted to another governmental authority for a ruling.

17 4. Be signed by the holder or potential holder who makes the request
18 or by an authorized representative of the holder or potential holder.

19 B. A HOLDER RULING REQUEST THAT COMPLIES WITH SUBSECTION A,
20 PARAGRAPHS 2 AND 3 OF THIS SECTION AND THAT IS SIGNED BY A REPRESENTATIVE OF
21 A HOLDER OR POTENTIAL HOLDER SHALL BE CONSIDERED A REQUEST FOR A HOLDER
22 INFORMATION RULING INSTEAD OF A REQUEST FOR A PRIVATE HOLDER RULING.

23 ~~B.~~ C. A private holder ruling OR HOLDER INFORMATION RULING may be
24 revoked or modified by either:

25 1. A change or clarification in the law that was applicable at the
26 time the ruling was issued, including changes or clarifications caused by
27 legislation, adopted administrative rules and court decisions.

28 2. Actual written notice by the department to the last known address
29 of the holder or potential holder of the revocation or modification of the
30 private holder ruling OR HOLDER INFORMATION RULING IF THE HOLDER IDENTIFYING
31 INFORMATION HAS BEEN DISCLOSED TO THE DEPARTMENT PURSUANT TO SUBSECTION E OF
32 THIS SECTION. IF HOLDER IDENTIFYING INFORMATION HAS NOT BEEN DISCLOSED,
33 WRITTEN NOTICE BY THE DEPARTMENT TO THE LAST KNOWN ADDRESS OF THE HOLDER
34 REPRESENTATIVE WHO REQUESTED THE RULING WILL CONSTITUTE NOTICE TO THE HOLDER
35 OR POTENTIAL HOLDER.

36 ~~C.~~ D. With respect to the holder or prospective holder to whom the
37 private holder ruling was issued, the revocation or modification of a private
38 holder ruling shall not be applied retroactively to unclaimed property
39 periods or years before the effective date of the revocation or modification,
40 and the department shall not demand any penalty or interest attributable to
41 erroneous advice that it furnished to the holder or potential holder in the
42 private holder ruling if:

1 1. The holder reasonably relied on the private holder ruling.
2 2. The penalty or interest did not result either from a failure by the
3 holder to provide adequate or accurate information or from a change in the
4 information.
5 E. SUBSECTION D OF THIS SECTION APPLIES TO A HOLDER INFORMATION RULING
6 IF THE HOLDER OR POTENTIAL HOLDER PROVIDES ITS NAME, ADDRESS, IDENTIFYING
7 NUMBER, IF APPLICABLE, AND AUTHORIZATION PURSUANT TO SECTION 44-315,
8 SUBSECTION A, FOR THE REPRESENTATIVE OF THE HOLDER OR POTENTIAL HOLDER BEFORE
9 THE DATE THE DEPARTMENT PUBLISHES THE RULING. THE DEPARTMENT SHALL NOTIFY
10 THE REPRESENTATIVE OF THE HOLDER OR POTENTIAL HOLDER OF THE PROPOSED
11 PUBLICATION DATE. IF THE DIRECTOR HAS DETERMINED THAT THE HOLDER INFORMATION
12 RULING SHOULD NOT BE PUBLISHED PURSUANT TO SUBSECTION L OF THIS SECTION,
13 SUBSECTION D OF THIS SECTION APPLIES IF THE HOLDER OR POTENTIAL HOLDER
14 PROVIDES THE IDENTIFYING INFORMATION BEFORE THE DATE SPECIFIED BY THE
15 DEPARTMENT ON ISSUING THE HOLDER INFORMATION RULING TO THE REPRESENTATIVE.
16 IF THE HOLDER OR POTENTIAL HOLDER DOES NOT PROVIDE THE DEPARTMENT WITH THE
17 IDENTIFYING INFORMATION AND REPRESENTATIVE AUTHORIZATION BEFORE THE PROPOSED
18 PUBLICATION DATE OR, FOR AN UNPUBLISHED RULING, THE DATE SPECIFIED BY THE
19 DEPARTMENT, THE HOLDER INFORMATION RULING IS NOT BINDING ON THE DEPARTMENT
20 FOR THE PURPOSE OF ABATING INTEREST, PENALTY OR HOLDER LIABILITY.
21 ~~D.~~ F. A private holder ruling OR HOLDER INFORMATION RULING shall not
22 be relied on, cited or introduced into evidence in any proceeding by a holder
23 other than the holder who has received the private holder ruling OR HOLDER
24 INFORMATION RULING.
25 ~~E.~~ G. A holder may ~~apply for~~ REQUEST an administrative hearing to
26 determine the propriety of a retroactive application of a revoked or modified
27 private holder ruling by filing a written petition with the department
28 pursuant to title 41, chapter 6, article 10 within forty-five days after
29 receiving written notice of the department's intent to retroactively apply a
30 revoked or modified private holder ruling. THIS SUBSECTION APPLIES TO A
31 HOLDER INFORMATION RULING IF THE HOLDER HAS DISCLOSED THE HOLDER'S
32 IDENTIFYING INFORMATION PURSUANT TO SUBSECTION E OF THIS SECTION.
33 ~~F.~~ H. A private holder ruling OR HOLDER INFORMATION RULING
34 constitutes the department's interpretation of the law or rules only as they
35 apply to the holder making, and the particular facts contained in the
36 request.
37 ~~G.~~ I. A private holder ruling OR HOLDER INFORMATION RULING may be
38 issued only if no unclaimed property liability has accrued with respect to
39 the transactions, events or facts contained in the request. The department
40 may issue a private holder ruling OR HOLDER INFORMATION RULING addressing a
41 holder's ongoing business activities, except that the ruling applies only to
42 transactions that occur or unclaimed property liabilities that accrue from
43 and after the date the holder receives the ruling.

1 H. J. The department shall attempt to issue private holder rulings OR
2 HOLDER INFORMATION RULINGS within forty-five days after receiving the written
3 request and on receiving the facts that are relevant to the ruling. If the
4 ruling is expected to be delayed, the department shall notify the requestor
5 of the delay and the proposed date of issuance.

6 I. K. ~~Within thirty days after being issued,~~ The department shall
7 maintain the private holder ruling OR HOLDER INFORMATION RULING as a public
8 record and make it available at a reasonable cost for public inspection and
9 copying. The text of private holder rulings AND HOLDER INFORMATION RULINGS
10 is open to public inspection subject to the confidentiality requirements
11 prescribed by title 42, chapter 2, article 1.

12 L. AT THE TIME OF MAKING A PRIVATE HOLDER RULING REQUEST OR HOLDER
13 INFORMATION RULING REQUEST, A HOLDER OR POTENTIAL HOLDER MAY SUBMIT A WRITTEN
14 REQUEST THAT THE RULING NOT BE PUBLISHED DUE TO CONCERNS ABOUT
15 CONFIDENTIALITY OR OTHER DISCLOSED REASONS. IF THE DIRECTOR DETERMINES THAT
16 THE RULING SHOULD NOT BE PUBLISHED, THE RULING SHALL BE DEEMED CONFIDENTIAL
17 FOR THE PURPOSE OF SECTION 39-121.01, SUBSECTION D, PARAGRAPH 2. IF THE
18 DIRECTOR DETERMINES THAT THE RULING SHOULD BE PUBLISHED, THE HOLDER MAY
19 WITHDRAW THE RULING REQUEST AND THE DEPARTMENT SHALL NOT PROCEED WITH A
20 RULING IF THE REQUEST IS WITHDRAWN. NOTWITHSTANDING SECTION 41-1092.02, THE
21 DECISION OF THE DIRECTOR TO PUBLISH IS NOT AN APPEALABLE AGENCY ACTION AS
22 DEFINED IN SECTION 41-1092 AND IS NOT SUBJECT TO APPEAL BY THE HOLDER.

23 J. M. For THE purposes of this section, — :

24 1. "HOLDER INFORMATION RULING" MEANS A WRITTEN DETERMINATION BY THE
25 DEPARTMENT ISSUED ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
26 SECTION THAT INTERPRETS AND APPLIES ANY PROVISION OF THIS CHAPTER AND ANY
27 APPLICABLE ADMINISTRATIVE RULES THAT THE DEPARTMENT HAS ADOPTED TO THE
28 SPECIFIC PROSPECTIVE FACTS DESCRIBED IN A REQUEST FOR A HOLDER INFORMATION
29 RULING.

30 2. "Private holder ruling" means a written determination by the
31 department THAT IS issued on or after January 1, 2001 AND that interprets and
32 applies ~~one or more statutes contained in this title~~ ANY PROVISION OF THIS
33 CHAPTER and any applicable administrative rules that the department has
34 adopted to the specific prospective facts described in the request for a
35 private holder ruling.

APPROVED BY THE GOVERNOR APRIL 28, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 29, 2011.

Passed the House February 22, 20 11

Passed the Senate April 12, 20 11

by the following vote: 60 Ayes,

by the following vote: 28 Ayes,

0 Nays, 0 Not Voting

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Cheryl Laube
Chief Clerk of the House

Charmine Bellert
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2201

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 19, 2011,

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
20 day of April, 2011,

at 8:30 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 28th day of

April, 2011,

at 7:08 o'clock P. M.

[Signature]
Governor of Arizona

H.B. 2201

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 29th day of April, 2011,

at 8:41 o'clock a M.

[Signature]
Secretary of State