

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 48
HOUSE BILL 2042

AN ACT

AMENDING SECTION 42-1104, ARIZONA REVISED STATUTES; RELATING TO TAX
ADMINISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-1104, Arizona Revised Statutes, is amended to
3 read:

4 42-1104. Statute of limitation; exceptions

5 A. For the taxes to which this article applies, every notice of
6 every additional tax due shall be prepared on forms prescribed by the
7 department and mailed within four years after the report or return is
8 required to be filed or within four years after the report or return is
9 filed, whichever period expires later. FOR THE PURPOSES OF THIS SECTION,
10 THE REQUIREMENT THAT THE NOTICE BE MAILED SHALL INCLUDE METHODS ALLOWED IN
11 LIEU OF MAIL UNDER SECTION 42-1108 OR 42-1109.

12 B. The following are exceptions to the general rules prescribed by
13 this section, and a deficiency assessment may be issued in any of the
14 following cases:

15 1. The department may assess the tax or begin a proceeding in court
16 for ~~the collection of~~ COLLECTING the tax at any time:

17 (a) In the case of a false or fraudulent return with the intent to
18 evade tax.

19 (b) In the case of failure to file a return FOR ANY TAX
20 ADMINISTERED UNDER THIS TITLE OTHER THAN INCOME TAX AND WITHHOLDING TAX.

21 (c) IN THE CASE OF FAILURE TO FILE AN INCOME TAX OR WITHHOLDING TAX
22 RETURN IF IT IS SHOWN THAT THE FAILURE WAS DUE TO AN INTENT TO EVADE TAX.

23 2. If a taxpayer omits from gross income, gross receipts, gross
24 proceeds of sales or Arizona adjusted gross income, as defined for
25 purposes of chapter 5 of this title or title 43, an amount ~~which~~ THAT is
26 properly includible and ~~which is in excess of~~ THAT EXCEEDS twenty-five ~~per~~
27 ~~cent~~ PERCENT of the amount of gross income stated in the return, the tax
28 may be assessed at any time within six years after the return was filed.

29 3. If a taxpayer during a taxable year sells at a gain property
30 used as the taxpayer's principal residence, the statutory period for ~~the~~
31 ~~assessment of~~ ASSESSING any deficiency attributable to any part of the
32 gain does not expire before the expiration of four years ~~from~~ AFTER the
33 date the taxpayer notifies the United States internal revenue service
34 pursuant to the United States internal revenue code.

35 4. If a claim for credit or refund relates to an overpayment on
36 account of the deductibility of a debt as one ~~which~~ THAT became worthless,
37 a loss from worthlessness of a security, an erroneous inclusion of an
38 amount attributable to the recovery of a bad debt, prior tax or
39 delinquency amount due to an adjustment of a bad debt deduction or a loss
40 deduction from worthlessness of a security, the period of limitation is
41 seven years ~~from~~ AFTER the date prescribed by law for filing the return
42 for the year with respect to which the claim is made.

43 5. If a taxpayer fails to report a change or correction by the
44 commissioner of internal revenue or other officer of the United States or

1 other competent authority or fails to file an amended return as required
2 by section 43-327, the department may assess any deficiency resulting from
3 such adjustments within four years after the change, correction or amended
4 return is reported to or filed with the United States internal revenue
5 service regardless of any previous examinations by the department.

6 6. If a taxpayer is required to report a change or correction by
7 the commissioner of internal revenue or other officer of the United States
8 or other competent authority or to file an amended return as required by
9 section 43-327 and does report the change or files the return, any
10 deficiency resulting from the adjustments may be assessed within six
11 months ~~from~~ AFTER the date the notice of amended return is filed with the
12 department by the taxpayer, or within the period provided in subsection A
13 of this section or paragraph 1 or 2 of this subsection, whichever period
14 expires last.

15 7. Except as provided in paragraph 8 of this subsection, if a
16 taxpayer agrees with the United States commissioner of internal revenue
17 for an extension or renewals of the period for proposing and assessing
18 deficiencies in federal income taxes for any year, the period for mailing
19 a notice of a proposed income tax deficiency is four years after the
20 return was filed or six months after the date of the expiration of the
21 agreed period for assessing deficiencies in the federal income tax,
22 whichever period expires later.

23 8. If a taxpayer agrees with the United States commissioner of
24 internal revenue for a limited extension or renewals of the period for
25 proposing and assessing deficiencies in federal income taxes for any year,
26 then, solely with respect to those items specifically enumerated in this
27 agreement, the period for mailing a notice of a proposed income tax
28 deficiency, or claiming a refund, is four years after the return was filed
29 or six months after the date of the expiration of the agreed period for
30 assessing deficiencies in the federal income tax, whichever period expires
31 later.

32 9. If, before ~~the expiration of~~ the time prescribed for ~~the~~ mailing
33 ~~of~~ a notice of a proposed deficiency assessment EXPIRES, the taxpayer
34 consents in writing to an assessment after that time, the assessment may
35 be made at any time before ~~the expiration of~~ the period agreed on EXPIRES.
36 The period agreed on may be extended by subsequent written agreements made
37 before ~~the expiration of~~ the period previously agreed on EXPIRES.

38 10. IF A TAXPAYER FAILS TO FILE A REPORT OR RETURN FOR INCOME TAX
39 OR WITHHOLDING TAX, THE DEPARTMENT MAY ASSESS THE TAX WITHIN SEVEN YEARS
40 AFTER THE DATE THE REPORT OR RETURN WAS REQUIRED TO BE FILED.

41 C. Notwithstanding subsection A of this section and subsection B,
42 paragraphs 1 and 2 of this section, a taxpayer who has a duty to collect
43 use tax shall not be assessed tax pursuant to chapter 5, article 4 of this
44 title for any retail sales to purchasers who were licensed pursuant to

1 section 42-5005 or registered pursuant to section 42-5154 and who filed
2 use tax returns for the reporting period in which the sale was made, if
3 the reporting period in which the sale was made is more than four years
4 from the notice of proposed deficiency. If, before ~~the expiration of~~ this
5 time limitation **EXPIRES**, the taxpayer consents in writing to an assessment
6 after that time for the transactions, a subsequent assessment may include
7 any transaction within the agreed extended period. The period agreed to
8 may be extended by subsequent written agreements made before ~~the~~
9 ~~expiration of~~ the period previously agreed to **EXPIRES**.

10 Sec. 2. Applicability

11 This act applies to assessments issued beginning on or after the
12 first day of the month following the general effective date.

APPROVED BY THE GOVERNOR APRIL 9, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2019.