Senate Engrossed House Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 244

HOUSE BILL 2712

AN ACT

AMENDING SECTION 12-163, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-2077; RELATING TO ADMINISTRATIVE AND JUDICIAL TAX DECISIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 12-163, Arizona Revised Statutes, is amended to read:

12-163. Assignment to tax court

A. Except as provided in subsection B of this section, if it appears from the pleadings or other pleadings filed with the superior court that an action involves the imposition, assessment or collection of a tax, including all questions of law and fact relating to disputes about taxes, OR THE PROVIDING OF TAX DECISIONS, arising under title 5, chapter 1, 2, 3 or 4, title 23, chapter 4 or 6 or title 20, 28, 42, 43 or 48, or disputes between political subdivisions of this state regarding taxes, except for criminal cases which involve any of the foregoing, the presiding judge of the superior court shall assign the action to the tax court. Actions involving appeals to the superior court concerning taxes imposed or collected by local jurisdictions shall also be assigned by the presiding judge to the tax court.

B. An action involving the imposition, assessment or collection of a tax, including questions of law or fact relating to a dispute about taxes, arising under title 42, chapters 11 through 16 may be filed in either the tax court or the superior court.

C. The supreme court shall adopt rules regarding the identification and assignment of actions to the tax court including a requirement that any action involving matters to be assigned to the tax court under subsection A of this section be identified as a tax court matter at the time of filing, by captioning the pleading "in the Arizona tax court".

D. If any order not amounting to a judgment has been entered by the superior court prior to assignment of the matter to the tax court, the tax court ~~may~~, on application of any party or on its own motion within thirty days after the assignment, MAY reconsider any order so entered.

Sec. 2. Title 42, chapter 2, article 2, Arizona Revised Statutes, is amended by adding section 42-2077, to read:

42-2077. Distribution of tax decisions; definitions

A. BEGINNING OCTOBER 1, 2006, THE AGENCIES LISTED IN THIS SECTION SHALL PROVIDE TAX DECISIONS TO THE LAW LIBRARIES OF MARICOPA COUNTY, THE ARIZONA STATE UNIVERSITY COLLEGE OF LAW, THE UNIVERSITY OF ARIZONA COLLEGE OF LAW, THE STATE LAW LIBRARY AND THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS AS FOLLOWS:

1. EACH REDACTED TAX DECISION ISSUED DURING THE PRECEDING CALENDAR QUARTER SHALL BE PROVIDED BY:

(a) THE DEPARTMENT OF REVENUE.

(b) THE OFFICE OF ADMINISTRATIVE HEARINGS.

(c) THE MUNICIPAL TAX HEARING OFFICE OR ANY OTHER CITY OR TOWN TAX HEARING OFFICE.

(d) THE DEPARTMENT OF ECONOMIC SECURITY.

(e) THE DEPARTMENT OF TRANSPORTATION.

2. EACH TAX DECISION ISSUED DURING THE PRECEDING CALENDAR QUARTER SHALL BE PROVIDED BY THE STATE BOARD OF TAX APPEALS.

B. AT THE SAME TIME AS THE DECISIONS ARE ISSUED PURSUANT TO SUBSECTION A, EACH AGENCY SHALL PUBLISH THE DECISIONS ON ITS OFFICIAL WEB SITE.

C. ANY PERSON MAY FILE AN ORIGINAL ACTION IN TAX COURT, OR IN SUPERIOR COURT IN ANY COUNTY AGAINST AN AGENCY LISTED IN SUBSECTION A, PARAGRAPHS 1 AND 2, TO ENFORCE THIS SECTION.

D. THE SUPREME COURT SHALL ADOPT RULES TO ESTABLISH A PROCEDURE TO DISTRIBUTE TAX MEMORANDUM DECISIONS TO THE GENERAL PUBLIC AND DETERMINE WHAT MEMORANDUM DECISIONS ARE APPROPRIATE FOR DISTRIBUTION. A MEMORANDUM DECISION IS A WRITTEN DISPOSITION OF A MATTER BY A COURT IN THIS STATE THAT IS NOT INTENDED FOR PUBLICATION AS DEFINED BY RULE 28(2)(4) OF THE ARIZONA RULES OF CIVIL APPELLATE PROCEDURE.

E. FOR THE PURPOSES OF THIS SECTION:

1. "REDACTED TAX DECISION" MEANS A TAX DECISION THAT HAS THE NAME, IDENTIFICATION NUMBER AND ADDRESS OF THE TAXPAYER, THE AMOUNT OF TAX, PENALTY AND INTEREST IN DISPUTE AND OTHER INFORMATION THAT WILL ALLOW IDENTIFICATION OF THE TAXPAYER DELETED FROM THE TEXT OF THE DECISION.

2. "TAX" INCLUDES ANY TAX ARISING UNDER TITLE 5, CHAPTERS 1, 2, 3 AND 4, TITLE 23, CHAPTERS 4 AND 6, TITLES 20, 28, 43 AND 48 AND THIS TITLE.

3. "TAX DECISION" MEANS A RULING, DECISION, OPINION, MINUTE ENTRY, UNDER ADVISEMENT RULING, MEMORANDUM DECISION OR ANY OTHER WRITTEN RESOLUTION OF A STATE, COUNTY OR MUNICIPAL TAX DISPUTE OR APPEAL THAT INVOLVES A SUBSTANTIVE OR SIGNIFICANT TECHNICAL OR PROCEDURAL ISSUE AND INCLUDES ACTIONS TAKEN BY:

(a) THE DEPARTMENT OF REVENUE HEARING OFFICER.

(b) THE OFFICE OF ADMINISTRATIVE HEARINGS.

(c) THE MUNICIPAL TAX HEARING OFFICER OR ANY OTHER CITY OR TOWN HEARING OFFICER.

(d) THE STATE BOARD OF TAX APPEALS.

(e) THE DEPARTMENT OF ECONOMIC SECURITY APPEALS BOARD.

(f) THE DEPARTMENT OF TRANSPORTATION.

Sec. 3. Compliance

If an agency listed in section 42-2077, Arizona Revised Statutes, as added by this act, does not have an official web site, it must obtain, establish and maintain a web site before January 1, 2008.

APPROVED BY THE GOVERNOR MAY 1, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2006.