

## Summary of 2015 Arizona Tax Legislation

### Important Information About This Summary

This document briefly summarizes recent substantive changes to Arizona's tax laws. The bills addressed herein were approved by Arizona's Legislature and signed by Governor Ducey. Except as noted below, most of the bills were effective on the general effective date for the legislative session, July 3, 2015.

To limit the size of this document, the descriptions of these bills are brief and not intended to be comprehensive. If you believe that one or more of the following bills may impact the amount of tax that you, your clients, or the company that you work for must pay, you should carefully review the bill and/or contact a state and local tax professional for assistance.

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**A. Income Tax Legislation****SB 1103: Charitable Tax Credit; Foster Children. Laws 2015, Chapter 250.**

Expands the scope of the income tax credit available (for up to \$400 for single or head of household/\$800 for married filing joint return) for contributions to qualifying foster care charitable organizations to include donations to qualifying charitable organizations that spend at least fifty percent of their budget on, and provide services to, at least 200 persons less than twenty-one years of age who participate in a qualifying transitional independent living program.

**SB 1188: Internal Revenue Code Conformity. Laws 2015, Chapter 227.**

Provides for retroactive conformity to most provisions in the Internal Revenue Code in effect on January 1, 2015. However, some additions and subtractions created in prior years when Arizona did not fully conform to I.R.C. changes, for items such as bonus depreciation, are still in place.

**SB 1216: 2015 Tax Corrections Act. Laws 2015, Chapter 230.**

Makes numerous technical corrections to Arizona's tax laws. Provisions relevant to Arizona income tax include a clarification regarding last year's amendment providing that any report, claim, tax return, statement, payment, deposit, or other material dealing in any way or manner with taxation, other than petitions or notices of appeal, that is required or authorized to be filed with or made to Arizona or any agency or political subdivision thereof but does not contain a postmark or other official mark of the United States Post Office stamped thereon shall be considered timely if "performed by the taxpayer" within five business days after the due date of the filing meant "received" by the taxing authority within five business days after the due date of the filing. (Also affects Arizona sales, property, and other tax laws as summarized below.)

**SB 1471: Revenue; Budget Reconciliation; 2015-2016. Laws 2015, Chapter 10.**

Requires the Arizona Department of Revenue (Department) to conduct an amnesty program, officially known as the "tax recovery program," for a two-month period from September 1, 2015 through October 31, 2015 under which the Department is required to waive all civil penalties and interest for tax liabilities that have been or could be assessed during the "liability period" for taxpayers who comply with the requirements of the program. For taxpayers filing annual returns, like income tax returns, the program applies to all taxable periods ending before January 1, 2014. (Also affects Arizona sales and other tax laws as summarized below.)

**HB 2001: Income Tax Brackets; Inflation Index. Laws 2015, Chapter 91.**

Provides that Arizona's income tax brackets will continue to be indexed for inflation as they were for the first time last year.

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**HB 2066: Public Schools Tax Credit; Testing. Laws 2015, Chapter 47.**

Expands the scope of the income tax credit available (for up to \$200 for single or head of household/\$400 for married filing joint return) for contributions to support extracurricular activities or character education programs at public schools to include contributions for preparation courses, materials, and fees for standardized testing for college credit or readiness, and for career and technical education certifications. Retroactive to January 1, 2015.

**HB 2131: Tax Adjudications; Attorney Fees. Laws 2015, Chapter 234.**

Increases the amount of professional fees taxpayers may recover when they prevail in tax disputes with state, county, or municipal taxing authorities and, going forward, requires Arizona's Attorney General to adjust such limits based on inflation. For administrative proceedings involving tax cases brought by or against the Department, the hourly cap increased from \$100 per hour to \$350 per hour and the overall cap on fees in such proceedings increased from \$20,000 to \$75,000. For cases that go to court, the hourly cap increased from \$175 per hour to \$350 per hour and the overall cap on fees in each court level increased from \$30,000 to \$75,000. (Also applies identically to sales, property, and other tax cases.)

**HB 2153: Tax Credits; STOs; Preapproval; Entities. Laws 2015, Chapter 301.**

Extends existing corporate income tax credits for contributions to school tuition organizations by an S corporation to shareholders of the corporation as long as the corporation contributes an aggregate of at least \$5,000 in the tax year. Permits shareholders of such corporations to claim pro rata shares of the credit and to carry forward unused portions of the credit for up to five years. Prohibits school tuition organizations from awarding educational scholarships or tuition grants to students that are simultaneously enrolled in a district school or charter school and a qualified school. Retroactive to January 1, 2015.

**HB 2274: Emergency and Military Affairs Omnibus. Laws 2015, Chapter 208.**

Eliminated the National Guard Relief Fund and the requirement for the Department to provide a space on Arizona's individual income tax return form for taxpayers to contribute to the fund.

**HB 2483: School Tax Credit; Classroom Expenses. Laws 2015, Chapter 217.**

Permits individuals who make qualifying contributions to public schools on or before the fifteenth day of the fourth month following the close of the taxable year to claim a credit for the contribution in either the current year or the preceding year.

**HB 2670: International Operations Centers. Laws 2015, Chapter 6.**

Increases the amount of the individual and corporate income tax credits available per taxpayer from \$1 million to \$5 million per year for investments in new renewable energy facilities that produce energy for self-consumption using renewable sources, and expands the credits to include taxpayers that use the energy primarily for international operations centers, as well as taxpayers that use the energy primarily for manufacturing operations. Among other requirements, to qualify as an

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international operations center, the owner or operator of the facility must: (1) invest at least \$1.25 billion in new capital assets including the cost of land, buildings, and equipment within ten years of certification, and (2) make a minimum annual investment of \$100 million in new capital assets, including the cost of land, buildings, and equipment for ten consecutive years -- although excess investments in prior years can be carried forward as credits in future years to meet this threshold. Retroactive to January 1, 2015. (Also affects Arizona sales tax laws as summarized below.)

## B. Transaction Privilege ("Sales") and Use Tax Legislation

### Important Information About This Section

Most of the following changes are applicable to Arizona's sales and use tax laws, and to the county excise taxes that "piggy back" Arizona's sales taxes. Unless otherwise specified below, Arizona municipalities have not adopted these changes. However, Arizona municipalities often adopt changes to their municipal tax codes that parallel changes to the state's sales and use tax laws.

### **SB 1216: 2015 Tax Corrections Act. Laws 2015, Chapter 230.**

Makes numerous technical corrections to Arizona's tax laws. Provisions relevant to Arizona sales tax include: (1) a clarification regarding last year's amendment providing that any report, claim, tax return, statement, payment, deposit, or other material dealing in any way or manner with taxation, other than petitions or notices of appeal, that is required or authorized to be filed with or made to Arizona or any agency or political subdivision thereof but does not contain a postmark or other official mark of the United States Post Office stamped thereon shall be considered timely if "performed by the taxpayer" within five business days after the due date of the filing meant "received" by the taxing authority within five business days after the due date of the filing, (2) clarification that sales tax payments for taxpayers authorized to file quarterly (those with an annual liability between \$2,000 and \$8,000) are due on or before the twentieth day of the month next succeeding the quarter in which the tax accrues and are delinquent if not received on or before the business day preceding the last business day of the month or, for taxpayers who are required or elect to file and pay electronically, by the last business day of the month, (3) clarification that sales tax payments for taxpayers authorized to file annually (those with an annual liability of less than \$2,000) are due on or before the twentieth day of January next succeeding the year in which the tax accrues and are delinquent if not received on or before the business day preceding the last business day of January or, for taxpayers who are required or elect to file and pay electronically, by the last business day of January. (Also affects Arizona income tax laws as described above and Arizona property and other tax laws as summarized below.)

### **SB 1446: TPT Reform; Contractors. Laws 2015, Chapter 4E.**

Amends and clarifies legislation enacted in 2013 and 2014 to reform Arizona's method of taxing construction contractors. See my article published in the June 1, 2015 edition of *State Tax Notes* for more details regarding when construction contractors are required to pay Arizona sales tax on the construction materials they purchase and when they are required to pay prime contracting tax on sixty-five percent of their gross receipts instead as a result of these amendments to Arizona's method of taxing construction contractors. Retroactive to January 1, 2015.

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**SB 1471: Revenue; Budget Reconciliation; 2015-2016. Laws 2015, Chapter 10.**

Requires the Department to: (1) assess and collect fees from cities, towns, and counties not to exceed \$20,755,835 in any fiscal year to recover a portion of the cost of collecting sales taxes for them, and (2) conduct an amnesty program, officially known as the "tax recovery program," for a two-month period from September 1, 2015 through October 31, 2015 under which the Department is required to waive all civil penalties and interest for tax liabilities that have been or could be assessed during the "liability period" for taxpayers who comply with the requirements of the program. For sales taxes, the program applies to any taxable period ending before February 1, 2015. (Also affects Arizona income tax laws as summarized above and other tax laws as summarized below.)

**HB 2131: Tax Adjudications; Attorney Fees. Laws 2015, Chapter 234.**

Increases the amount of professional fees taxpayers may recover when they prevail in tax disputes with state, county, or municipal taxing authorities and, going forward, requires Arizona's Attorney General to adjust such limits based on inflation. For administrative proceedings involving tax cases brought by or against the Department, the hourly cap increased from \$100 per hour to \$350 per hour and the overall cap on fees in such proceedings increased from \$20,000 to \$75,000. For cases that go to court, the hourly cap increased from \$175 per hour to \$350 per hour and the overall cap on fees in each court level increased from \$30,000 to \$75,000. (Also applies identically to income, property, and other tax cases.)

**HB 2135: Transportation Network Companies. Laws 2015, Chapter 235.**

Prohibits state and local taxing authorities from imposing sales or similar taxes on transportation network companies and transportation network company drivers for transactions in which the driver is providing transportation network services, which are defined as the transportation of a passenger between points chosen by the passenger and arranged with the driver using the transportation network company's digital network or software application.

**HB 2147: TPT; Municipal Tax; Pole Attachment. Laws 2015, Chapter 72.**

Adds exemptions from the sales taxes state and local taxing authorities impose on utility companies, telecommunications companies, and companies engaged in the business of leasing tangible personal property or commercial property for leasing or renting space to make attachments to utility poles.

**HB 2670: International Operations Centers. Laws 2015, Chapter 6.**

Adds state sales and use tax exemptions, and the option for cities and towns to add sales and use tax exemptions, for purchases of electricity and natural gas by a qualified international operations center. Among other requirements, to qualify as an international operations center, the owner or operator of the facility must: (1) invest at least \$1.25 billion in new capital assets including the cost of land, buildings, and equipment within ten years of certification, and (2) make a minimum annual investment of \$100 million in new capital assets, including the cost of land, buildings, and equipment for ten consecutive years (although excess investments in prior years can be carried forward as credits in future years to meet this threshold). Effective August 1, 2015. (Also affects Arizona income tax laws as summarized above.)

## C. Property Tax Legislation

### **SB 1135: Tax Liens; Delinquency; Partial Payments. Laws 2015, Chapter 322.**

Permits parties with an interest in properties in Maricopa County, beginning in 2016 for tax year 2014, to make partial payments toward delinquent property tax obligations as long as the partial payment is for at least 25 percent of the tax, interest, and fees due for the oldest remaining year of delinquency and as long as the holder of a certificate of purchase has not notified the treasurer that it began proceedings to foreclose the right to redeem the tax lien. Upon making a partial payment, interest will only accrue on the unpaid principal balance. To redeem a certificate of purchase, a party with an interest in the property must pay all outstanding tax, interest, and fees before a treasurer's deed is delivered to the holder of the certificate of purchase; otherwise the treasurer must refund all partial payment amounts to the party who made the payments or their heirs or assigns.

### **SB 1216: 2015 Tax Corrections Act. Laws 2015, Chapter 230.**

Makes numerous technical corrections, and some substantive changes, to Arizona's tax laws. Provisions relevant to Arizona property tax include a clarification regarding last year's amendment providing that any report, claim, tax return, statement, payment, deposit, or other material dealing in any way or manner with taxation, other than petitions or notices of appeal, that is required or authorized to be filed with or made to Arizona or any agency or political subdivision thereof but does not contain a postmark or other official mark of the United States Post Office stamped thereon shall be considered timely if "performed by the taxpayer" within five business days after the due date of the filing meant "received" by the taxing authority within five business days after the due date of the filing. (Also affects Arizona income and sales tax laws as described above, and other tax laws as summarized below.)

### **HB 2108: Property Tax; Class Nine; Conventions. Laws 2015, Chapter 233.**

Provides that, going forward, privately owned convention facilities on government owned land must be used exclusively for convention activities, rather than primarily for convention activities, in order to qualify for class nine property tax treatment.

### **HB 2128: Leased Religious Property; Class Nine. Laws 2015, Chapter 49.**

Allows for class nine property tax treatment for the portion of any property, building, and fixtures that are leased to a nonprofit religious institution and used primarily for religious worship, and outlines the process one must go through to obtain such treatment. Clarifies that property, buildings, and fixtures that are owned by an educational, religious, or charitable organization but leased to a nonprofit religious institution and used primarily for religious worship are exempt from property tax.

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**HB 2131: Tax Adjudications; Attorney Fees. Laws 2015, Chapter 234.**

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**HB 2653: Tax Liens; Delinquency; Partial Payments. Laws 2015, Chapter 324.**

Eliminates the statutory provisions, which only were applicable in Maricopa County, that funded the Elderly Assistance Fund by requiring payment of interest at the rate of 16%, regardless of the rate that the lien holder bid to purchase the lien on a property, when the property taxes were not timely paid for the property.

**HB 2661: Multi-County Water Districts; Storage Tax. Laws 2015, Chapter 224.**

Extends the termination of the property tax assessed by the Central Arizona Water Conservation District on properties located in Maricopa, Pima, and Pinal counties from January 1, 2017 to January 1, 2030, but reduces the maximum levy from \$0.04 to \$0.03 per \$100 of assessed value beginning January 1, 2025. Proceeds may be used for operations and maintenance of Central Arizona Project infrastructure, for repayment of the federal government for the cost of construction, and to fund underground storage of water.

**D. Other Tax & Tax-Related Legislation****SB 1216: 2015 Tax Corrections Act. Laws 2015, Chapter 230.**

Makes numerous technical corrections to Arizona's tax laws. Provisions relevant to miscellaneous Arizona taxes include a clarification regarding last year's amendment providing that any report, claim, tax return, statement, payment, deposit, or other material dealing in any way or manner with taxation, other than petitions or notices of appeal, that is required or authorized to be filed with or made to Arizona or any agency or political subdivision thereof but does not contain a postmark or other official mark of the United States Post Office stamped thereon shall be considered timely if "performed by the taxpayer" within five business days after the due date of the filing meant "received" by the taxing authority within five business days after the due date of the filing. (Also affects Arizona income, sales, property tax laws as summarized above.)

**SB 1240: Tobacco Tax Statutes. Laws 2015, Chapter 85.**

Amends, reorganizes, and renumbers Arizona's statutes relating to the taxation of tobacco products to separate the treatment of cigarettes from other tobacco products.

**SB 1471: Revenue; Budget Reconciliation; 2015-2016. Laws 2015, Chapter 10.**

Requires the Department to conduct an amnesty program, officially known as the "tax recovery program," for a two-month period from September 1, 2015 through October 31, 2015 under which the Department is required to waive all civil penalties and interest for tax liabilities that have been or could be assessed during the "liability period" for taxpayers who comply with the requirements of the program. The program applies to all taxes and surcharges administered or collected by the department, except luxury and withholding taxes. For taxpayers filing annual returns, the program applies to all taxable periods ending before January 1, 2014. For all other taxpayers, the program applies to any taxable period ending before February 1, 2015. (Also affects Arizona income and sales taxes as summarized above.)

**SB 1473: Government; Budget Reconciliation; 2015-2016. Laws 2015, Chapter 12.**

Reduced funding for the state's Job Creation Withholdings Clearing Account, which helps fund the Arizona Commerce Authority Fund and the Arizona Competes Fund, from \$31.5 million to \$26.5 million for fiscal year 2015-2016 and to \$21.5 million in future fiscal years.

**HB 2131: Tax Adjudications; Attorney Fees. Laws 2015, Chapter 234.**

Increases the amount of professional fees taxpayers may recover when they prevail in tax disputes with state, county, or municipal taxing authorities and, going forward, requires Arizona's Attorney General to adjust such limits based on inflation. For administrative proceedings involving tax cases brought by or against the Department, the hourly cap increased from \$100 per hour to \$350 per hour and the overall cap on fees in such proceedings increased from \$20,000 to \$75,000. For cases that go to court, the hourly cap increased from \$175 per hour to \$350 per hour and the overall cap on fees in each court level increased from \$30,000 to \$75,000. (Also applies identically to income, sales, property tax cases.)

**HB 2568: Insurance Premium Tax Reduction. Laws 2015, Chapter 220.**

Gradually reduces the insurance premium tax rate for all types of insurance, except fire, disability, and health care insurance plans, from 2.0% to 1.7% beginning with premiums received in calendar year 2016. Defines what portions of various types of insurance premiums are considered fire insurance premiums for purposes of the tax.