

Summary of 2018 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 are effective on the general effective date for the legislative session, August 3, 2018.

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**HB 2191: Military Families; Assistance; Subaccounts. Laws 2018, Chapter 258.**

Extends the sunset date for Arizona's individual income tax credit for cash contributions to Arizona's military relief fund from the end of 2018 to the end of 2026. Establishes separate Pre-9/11 and Post-9/11 Veterans Subaccounts and requires donors to designate whether they want their donation to benefit one account, the other, or both in equal amounts.

HB 2192: Military Family Relief Fund; Extension. Laws 2018, Chapter 199.

Also extends the sunset date for Arizona's individual income tax credit for cash contributions to Arizona's military relief fund from the end of 2018 to the end of 2026.

HB 2647: Internal Revenue Code Conformity. Laws 2018, Chapter 142.

Provides for retroactive conformity to provisions in the Internal Revenue Code in effect on January 1, 2017, including the specific adoption of the Disaster Tax Relief and Airport and Airway Extension Act of 2017 (P.L. 115-63), the Tax Cuts and Jobs Act (P.L. 115-97), and the Bipartisan Budget Act of 2018 (P.L. 115-123), together with their retroactive effective dates. However, conformity to the 2017 Federal Tax Reform Act applicable for tax year 2018 and forward was not included in this bill. The Arizona Department of Revenue estimated that, if the state does not make any adjustments in response to the 2017 Federal Tax Reform Act, the state will collect an additional \$250-\$300 million annually.

SB 1293: Department of Revenue; Administrative Efficiency. Laws 2018, Chapter 338.

Allows the Arizona Department of Revenue ("Department") to send specified notices and perform various actions electronically and to dispose of certain documents when taxpayers consent or do not ask for them to be returned within 30 days. Notably, in the legislative intent clause, the legislature specified that it is their intent that the Department provide taxpayers with the option of receiving notices from the Department electronically, but that they provide such notices in the manner requested by the taxpayer. Provides that the five percent penalty on taxpayers who fail to make payments electronically when required to do so is not applicable when the failure is due to reasonable cause and not due to willful neglect. Simplifies Arizona's statutes describing the types of organizations that are exempt from income tax, largely by referring to organizations that are exempt from tax under the Internal Revenue Code, and dealing with denials of exempt status. Eliminates the provision in Arizona law that prohibited taxpayers from deducting expenses for long-term health care that are paid or reimbursed from taxpayers' long-term health care savings accounts as well as the addition to Arizona gross income for amounts withdrawn from long-term health care savings accounts not used to pay taxpayer's long-term health care expenses and the subtraction from Arizona gross income for amounts deposited in such accounts by taxpayers during the tax year to the extent that the taxpayers' contributions are included in the taxpayers' federal adjusted gross income. Effective January 1, 2019. (Also affects Arizona sales tax, property tax, and miscellaneous tax laws as summarized below.)

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SB 1294: Tax Corrections Act of 2018. Laws 2018, Chapter 104.

Makes numerous technical corrections and some substantive changes to Arizona's tax laws. Provisions relevant to income tax laws include: (1) repeals Arizona statutes relating to accounting periods and changes in accounting periods and specifies that income shall be computed on the basis of the taxpayer's tax year as defined in Internal Revenue Code section 441, and (2) provides that annual adjustments to the amount of Arizona personal exemptions shall not result in decreases from the prior year. (Also affects Arizona sales tax, property tax, and miscellaneous tax laws as summarized below.)

SB 1385: Tax Appeals; Administrative Hearings; Confidentiality. Laws 2018, Chapter 218.

Defines "principal officer" in order to clarify that the chief executive officer, president, secretary, treasurer, vice president of tax, chief financial officer, chief operating officer, chief tax officer, or any other corporate officer who has the authority to bind the taxpayer on matters related to state taxes may sign the Department's power of attorney forms for corporate taxpayers. Retroactive to May 23, 2015. (Also affects sales tax and miscellaneous tax types as summarized below.)

SB 1386: High-Tech Tax Fraud. Laws 2018, Chapter 190.

Levies fines of up to \$500,000 and makes it a class 5 felony (or a class 1 misdemeanor for first time violations) for those who purchase, sell, license, install, transfer, manufacture, develop, possess or use any automated sales suppression device or service, zipper, or phantom-ware with the intent to defeat or evade any tax administered by the Department. (Also applies to sales tax and miscellaneous taxes as noted below.)

SB 1405: Corporate Income Tax Allocation; Sales. Laws 2018, Chapter 106.

Allows corporate taxpayers who derive more than 85 percent of their sales from services or intangibles provided to purchasers who receive the benefit of the services outside Arizona to opt for market-based sourcing. Defines "sales from intangibles" to include sales derived from credit and charge card receivables, including fees, merchant discounts, interchanges, interest and related revenue. Effective January 1, 2019.

SB 1529: Revenues; Budget; Reconciliation; 2018-2019. Laws 2018, Chapter 283.

Allows a subtraction from Arizona gross income for persons with benefits, annuities, or pensions received as retired or retainer pay of the uniformed services of the United States in an amount not to exceed \$2,500 for tax year 2018 and in an amount not to exceed \$3,500 beginning in tax year 2019.

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.

HB 2003: Coal Mining; TPT; Repeal. Laws 2018, Chapter 263.

Provides that proceeds from coal are not subject to Arizona's state-level taxes on proceeds from businesses engaged in retail sales or mining nonmetalliferous minerals, but adds a new county-level tax on proceeds from coal. Provides that cities, towns, and special taxing districts may not levy sales, use, or similar taxes on coal. However, these changes will not go into effect unless a new owner takes over the Navajo Generating Station on or before December 31, 2022.

HB 2416: Appropriations; Study; Prime Contracting Classification. Laws 2018, Chapter 305.

Appropriates \$75,000 to commission an independent study of the rate of noncompliance with Arizona's tax on prime contractors.

HB 2484: Local Food Tax; Equality. Laws 2018, Chapter 17.

Provides that, if a city or town imposes a sales, use, or similar tax or fee on the sale of food for home consumption, the tax must be applied uniformly on all such food. Likewise, if they impose a tax or fee on the sale of food for consumption on the premises, the tax must be applied uniformly on all such food. Also prohibits such jurisdictions from imposing such taxes or fees on: (1) the manufacture, wholesale, or distribution to or among any wholesalers, distributors, or retailers of food items intended for human consumption, and (2) any container or packaging used exclusively for transporting, protecting, or consuming food items intended for human consumption.

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SB 1120: Tax Exemption; Special Events; Nonprofits. Laws 2018, Chapter 249.

Clarifies that the deductions and exemptions from state and local sales taxes for sales or leases of tangible personal property to, and purchases of tangible personal property by, particular types of nonprofit organizations associated with a major league baseball team or a national touring professional golfing association do not apply to organizations that are owned, managed, or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted exhibition events in Arizona before January 1, 2018 that were exempt from taxation under the amusement classification. Retroactive to January 1, 2018.

SB 1293: Department of Revenue; Administrative Efficiency. Laws 2018, Chapter 338.

Allows the Department to send specified notices and perform various actions electronically and to dispose of certain documents when taxpayers consent or do not ask for them to be returned within 30 days. Notably, in the legislative intent clause, the legislature specified that it is their intent that the Department provide taxpayers with the option of receiving notices from the Department electronically, but that they provide such notices in the manner requested by the taxpayer. Provides that the five percent penalty on taxpayers who fail to make payments electronically when required to do so is not applicable when the failure is due to reasonable cause and not due to willful neglect. Effective January 1, 2019. (Also affects Arizona income tax laws as summarized above and property tax and miscellaneous tax laws as summarized below.)

SB 1294: Tax Corrections Act of 2018. Laws 2018, Chapter 104.

Makes numerous technical corrections and some substantive changes to Arizona's tax laws. Provisions relevant to sales tax laws include language clarifying that property management companies do not have to pay license fees in order to file an electronic consolidated tax return for individual properties under management on behalf of the property owners. (Also affects Arizona income tax laws as summarized above and property tax and miscellaneous tax laws as summarized below.)

SB 1382: TPT; Online Lodging Marketplace; Registration. Laws 2018, Chapter 189.

Requires all online lodging marketplaces to register with the Department to collect all state and local taxes levied on online lodging operators for transactions facilitated by the online lodging marketplace. Effective January 1, 2019. Clarifies that the tax base for the online lodging marketplace classification does not include proceeds from charges to occupy properties that are classified as commercial properties for property tax purposes.

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SB 1385: Tax Appeals; Administrative Hearings; Confidentiality. Laws 2018, Chapter 218.

Allows taxpayers an option to bypass the administrative hearing process before the Office of Administrative Hearings for disputes involving audit assessments and refund denials issued by the Department pending on or arising after December 31, 2016, except for cases involving withholding, individual, and corporate income taxes. After filing their protest and meeting with a designated appeals officer at the Department to clarify any fact or legal issues in dispute, taxpayers who exercise this option may appeal either to the Board of Tax Appeals or directly to the Arizona Tax Court. Defines “principal officer” in order to clarify that the chief executive officer, president, secretary, treasurer, vice president of tax, chief financial officer, chief operating officer, chief tax officer, or any other corporate officer who has the authority to bind the taxpayer on matters related to state taxes may sign the Department’s power of attorney forms for corporate taxpayers. The POA provisions are retroactive to May 23, 2015. (Also affects Arizona income tax laws as summarized above miscellaneous tax types as summarized below.)

SB 1386: High-Tech Tax Fraud. Laws 2018, Chapter 190.

Levies fines of up to \$500,000 and makes it a class 5 felony (or a class 1 misdemeanor for first time violations) for those who purchase, sell, license, install, transfer, manufacture, develop, possess or use any automated sales suppression device or service, zipper, or phantom-ware with the intent to defeat or evade any tax administered by the Department. (Also applies to income taxes as noted above and to miscellaneous taxes as noted below.)

SB 1390: TPT; Additional Rate; Education. Laws 2018, Chapter 74.

Extends the 0.6 percent sales and use tax used to fund educational programs that was scheduled to expire on June 30, 2021 for another twenty years. The tax generates roughly \$700 million per year. Created a refundable income tax credit available to low-income individuals for as much as \$25 per person, \$100 per household to mitigate the effects of this sales tax on such individuals. As a measure that increased taxes, pursuant to Proposition 108, this bill required the affirmative vote of at least two-thirds of the members of both houses of the legislature and became effective when Governor Ducey signed it on March 26, 2018.

SB 1409: TPT; Prime Contracting; Replacement. Laws 2018, Chapter 341.

Changes the definition of “alteration” for purposes of the exclusion from Arizona’s prime contracting tax for proceeds from contracts with owners of real property or improvements to real property that merely involve making alterations to their property. The change only applies to work performed on properties that are not residential properties. Effective January 1, 2019, projects will no longer be classified as prime contracting projects rather than as alteration projects merely because the scope of work directly relates to more than 40 percent of the existing square footage of the property or because the scope of work involves expanding the square footage of more than 10 percent of the existing property. For bids submitted or contracts entered into, or any other binding obligation executed prior to December 31, 2018, the contractor shall treat such contracts or obligations in a manner consistent with the tax requirements prior to December 31, 2018.

C. Property Tax Legislation

HB 2198: Property Tax; Delinquent Tax List. Laws 2018, Chapter 114.

Provides that county treasurers no longer are required to provide legal descriptions for properties on lists of property tax liens for sale, but requires them to include property account numbers, when available, along with parcel numbers.

HB 2385: Property Tax Appeals; Court Findings. Laws 2018, Chapter 73.

Provides that, when county assessors appeal State Board of Equalization determinations of a property's value to the Arizona Tax Court, the court's finding of value may not be greater than the full cash value the taxpayer challenged at the Board. This provision does not apply when the value of the property for the year in dispute was fixed by statute based on a reduction achieved by appealing the value of the property for the prior tax year. This provision applies retroactively to property tax appeals that were filed in court beginning January 1, 2017 and, as an emergency measure, it went into effect when Governor Ducey signed the bill on March 23, 2018.

HB 2596: Property Taxes; Procedures; Abatement. Laws 2018, Chapter 319.

Permits any person who wants to redeem a property tax lien on behalf of the owner to do so by making a charitable gift. Affords county treasurers the discretion to abate personal property tax liabilities, including interest, and remove liens on personal property when the amount is *de minimis*, the tax is more than six years past due, and the county assessor agrees.

SB 1144: Conservation Easements; Notice; Valuation. Laws 2018, Chapter 52.

Requires county assessors to maintain records regarding the value of real properties burdened by conservation easements as determined by independent appraisals prior to the creation of the easements, and to include the name of the holder of the conservation easement as well as the identity of any third-parties who have the right to enforce such easements in the registries they maintain.

SB 1293: Department of Revenue; Administrative Efficiency. Laws 2018, Chapter 338.

Allows the Department to send specified notices, including valuation notices, electronically. Notably, in the legislative intent clause, the legislature specified that it is their intent that the Department provide taxpayers with the option of receiving notices from the Department electronically, but that they provide such notices in the manner requested by the taxpayer. Clarifies that, for purposes of Arizona's exemptions for properties owned by nonprofit organizations, normally the organization's nonprofit status should be documented by providing a copy of the letter the organization received from the Internal Revenue Service recognizing their tax-exempt status. Effective January 1, 2019. (Also affects Arizona income and sales tax laws as summarized above and miscellaneous tax laws as summarized below.)

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SB 1294: Tax Corrections Act of 2018. Laws 2018, Chapter 104.

Makes numerous technical corrections and some substantive changes to Arizona's tax laws. Provisions relevant to property tax laws include language clarifying that, when a parcel has more than one assessment percentage applied to its full cash value due to multiple uses, the county assessor shall apply the percentage to the limited property value in the same proportion and in the same manner as the parcel's full cash value. (Also affects Arizona income and sales taxes as summarized above and miscellaneous tax laws as summarized below.)

D. Other Tax & Tax-Related Legislation**HB 2126: Government Property; Abatement; Slum; Blight. Laws 2018, Chapter 231.**

Limits the size of municipal central business districts, defines "geographically compact," and requires cities and towns to periodically review and either renew, modify, or terminate their designations of areas as slums or blighted for purposes of determining whether properties qualify for an abatement from Arizona's government property lease excise tax.

HB 2166: Vehicle Fees; Alternative Fuel VLT. Laws 2018, Chapter 265.

Requires the Arizona Department of Transportation to collect a highway safety fee each time an owner registers a vehicle. These fees of roughly \$18 per vehicle will raise about \$150 million per year for the state's highway patrol program. Also substantially increases vehicle license tax rates for alternative fuel vehicles beginning January 1, 2020. Tax rates for most alternative fuel vehicles will be closer to, but still less than, tax rates for standard vehicles. Tax rates for alternative fuel vehicles purchased on or after January 1, 2020 that exceed 10,000 pounds will be equal to tax rates for standard vehicles.

HB 2456: Stadium District; Extension; Rio Nuevo. Laws 2018, Chapter 138.

Extends one of the statutory termination dates, from July 1, 2025 to July 1, 2035, for distributions of sales taxes from the state general fund to benefit Tucson's Rio Nuevo District and outlines the method by which the District's board must dispose of its real property and improvements upon termination of the District. Between 2004 and 2016, the District received nearly \$140 million in sales tax distributions from the state's general fund.

SB 1101: Captive Insurers; Licensing. Laws 2018, Chapter 273.

Requires agency captive insurers that insure risks on group term life insurance, employer group disability income insurance, or reimbursement of employer health plan deductibles to pay any premium tax on such policies that is in excess of the fees described by statute.

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clause, the legislature specified that it is their intent that the Department provide taxpayers with the option of receiving notices from the Department electronically, but that they provide such notices in the manner requested by the taxpayer. Provides that the five percent penalty on taxpayers who fail to make payments electronically when required to do so is not applicable when the failure is due to reasonable cause and not due to willful neglect. Reduces the amount of information required in the annual returns tax-exempt organizations must file. Requires the MVD to collect city use tax, in addition to state use tax, when issuing titles or registering vehicles. Requires employers to file withholding returns electronically beginning January 1, 2020, or when the Department establishes an electronic filing program, whichever is later. Effective January 1, 2019. (Also affects Arizona income, sales, and property tax laws as summarized above.)

SB 1294: Tax Corrections Act of 2018. Laws 2018, Chapter 104.

Makes numerous technical corrections and some substantive changes to Arizona's tax laws. Provisions relevant to miscellaneous taxes include technical corrections to: (1) premium tax statutes, and (2) luxury tax statutes dealing with tobacco products, cigarettes, and roll-your-own tobacco. (Also affects Arizona income, sales, and property tax laws as summarized above.)

SB 1385: Tax Appeals; Administrative Hearings; Confidentiality. Laws 2018, Chapter 218.

Allows taxpayers an option to bypass the administrative hearing process before the Office of Administrative Hearings for disputes involving audit assessments and refund denials issued by the Department pending on or arising after December 31, 2016, except for cases involving withholding, individual and corporate income taxes. After filing their protest and meeting with a designated appeals officer at the Department to clarify any fact or legal issues in dispute, taxpayers who exercise this option may appeal either to the Board of Tax Appeals or directly to the Arizona Tax Court. While this change will most commonly apply to cases involving state and local tax assessments and refund denials involving sales and use tax issues, it also could apply to disputes involving severance tax, telecommunication services excise tax, and other taxes administered by the Department, including luxury tax, the taxes on water use, and the jet fuel excise and use tax, as well as to disputes involving seizures and forfeitures of tobacco products caused by luxury tax stamp issues. Defines "principal officer" in order to clarify that the chief executive officer, president, secretary, treasurer, vice president of tax, chief financial officer, chief operating officer, chief tax officer, or any other corporate officer who has the authority to bind the taxpayer on matters related to state taxes may sign the Department's power of attorney forms for corporate taxpayers. The POA provisions are retroactive to May 23, 2015. (Also affects income and sales tax laws as summarized above.)

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