

Summary of 2019 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, August 27, 2019.

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.

Table of Contents

A. Income Tax Legislation	2
B. Transaction Privilege ("Sales") and Use Tax Legislation	4
C. Property Tax Legislation	6
D. Other Tax and Tax-Related Legislation	8

FOR ADDITIONAL INFORMATION, PLEASE CONTACT:

James G. Busby, Jr.
 THE CAVANAGH LAW FIRM
 State & Local Tax Attorney and CPA
 T 602 322 4146
JBusby@CavanaghLaw.com

A. Income Tax Legislation

HB 2042: Income Tax; Statute of Limitations. Laws 2019, Chapter 48.

Allows the Arizona Department of Revenue (“Department”) to issue audit assessments and other notices of additional tax due electronically, except for notices related to individual income tax. Requires the Department to issue audit assessments and other notices of additional tax due related to income tax or withholding tax within seven years after the date the report or return was required to be filed, unless the failure was due to an intent to evade tax. Effective September 1, 2019. (Also affects Arizona sales tax and miscellaneous tax laws as summarized below.)

HB 2367: Limited Audit Review. Laws 2019, Chapter 169.

Permits the Department to issue audit assessments using an electronic portal instead of by mail if the taxpayer agrees in writing and the Department notifies the taxpayer via e-mail on the same day the notice is posted to the electronic portal. Also allows the Department to conduct limited scope reviews of individual income tax returns during which the Department may request records from taxpayers to support their returns and proposed tentative amounts of tax, interest and penalties due if the Department discovers a discrepancy between amounts reported on the returns and withholding information reported by the taxpayer’s employer. Limited scope reviews may be conducted only once per taxpayer per tax year. (Also affects Arizona sales tax and miscellaneous tax laws as summarized below.)

HB 2373: Tax Corrections Act of 2019. Laws 2019, Chapter 203.

Provides that certain adjustments the Department makes to electronically filed returns shall be treated as nonaudit adjustments. Expands the option to bypass the administrative hearing process for disputes involving audit assessments and refund denials to include cases involving withholding and corporate income taxes, but not individual 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. Repeals the individual income tax credit for companies that invest in renewable energy facilities that produce electricity for use in the companies’ own manufacturing processes or international operations centers, but clarified that the repeal does not affect the continuing validity of any amount of the credit carried forward from previous taxable years for application against subsequent tax liabilities as allowed by prior law. Adds sales of intangibles, defined as “sales derived from credit and charge card receivables, including fees, merchant discounts, interchanges, interest and related revenue” which the purchaser received the benefit of in Arizona to Arizona’s definition of “market sales” (Also affects Arizona sales tax and miscellaneous tax laws as summarized below.)

HB 2425: School Tax Credit; Contributions. Laws 2019, Chapter 164.

Expands the state’s individual income tax credit for contributions to public schools from July 1, 2019 through June 30, 2022 to include “capital items” as that term is defined by statute, including furniture, furnishings, athletic equipment and other equipment, including computer software, pupil and nonpupil transportation vehicles and equipment, including all capital

Summary of 2019 Arizona Tax Legislation

expenditures within a contract if the school district contracts for pupil transportation, textbooks and related printed subject matter materials adopted by the governing board of the school district, instructional aids, and library books; community school meal programs that take place before or after regular school days on school property; student consumable health care supplies, including tissues, hand wipes, bandages and other health care consumables that generally are used by children; and playground equipment and shade structures for playground equipment. Permits site councils to transfer undesignated contributions to any school within the same school district. The Department estimated that these changes will cost the state's General Fund roughly \$4.2 million to \$6.8 million annually in the near term.

HB 2756: Revenue; Budget Reconciliation; 2019-2020. Laws 2019, Chapter 272.

Requires escrow agents licensed by the State of Arizona to file information returns using the same form and format required by the IRS with the Department by March 31 for sales of real property that closed by December 31 of the prior year. Allows companies with more than 2,000 employees in Arizona that generate more than 85% of their sales from support services provided to a regionally accredited institution of higher learning the option to apportion their income from support services based on the billing addresses of the students to which the services relate (market approach) rather than to the state where the greater portion of their income producing activity occurred (income approach) based on the cost of performance.

HB 2757: Tax Provisions; Omnibus. Laws 2019, Chapter 273.

For tax year 2019, provides for retroactive conformity to provisions in the Internal Revenue Code in effect on January 1, 2019, together with all retroactive effective dates, but excluding any changes to the Code enacted after January 1, 2019. Eliminated personal exemptions except exemptions for blind persons and persons sixty-five years of age and older. Consolidated tax rate brackets from five to four, slightly reduced the tax rate for three of the four brackets, and provided for the brackets to adjust automatically based on inflation going forward. Eliminated the subtraction for Arizona Lottery prizes or winnings of less than \$5,000. Roughly tripled Arizona's standard deductions, created a new mid-level standard deduction for single persons who are head of their household, and specified that going forward standard deductions will adjust for inflation in the same manner that they adjust at the federal level. Established a new individual income tax credit to mitigate the costs incurred by taxpayers who care for dependents. Clarified the definition of foreign dividends for purposes of the subtraction from Arizona income for corporations.

For tax year 2018, provides for retroactive conformity to the provisions of the Internal Revenue Code in effect on January 1, 2018, including those provisions that became effective during 2017 with the specific adoption of all retroactive effective dates, and including those provisions of the Bipartisan Budget Act of 2018 (PL. 115-123) and the Consolidated Appropriations Act (P.L. 115-141) that were retroactively effective during tax year 2018.

Requires escrow agents licensed by the State of Arizona to file information returns using the same form and format required by the IRS with the Department by March 31 for sales of real property that closed by December 31 of the prior year. (Also affects Arizona sales tax laws as summarized below.)

SB 1027: Tax Credit; Charitable Organizations; Eligibility. Laws 2019, Chapter 297.

Extends the individual income tax credit for contributions to qualifying charitable organizations to include contributions to qualifying organizations that provide services to individuals (rather than just children per the former requirement) who have a chronic illness or physical disability, which means individuals whose primary diagnosis is a severe physical condition that may require ongoing medical or surgical intervention. The Joint Legislative Budget Committee estimated that this change will cost the state between \$1.2 million and \$8.5 million annually going forward. Retroactive to January 1, 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 2027: Online Lodging Marketplace; Local Taxation. Laws 2019, Chapter 124.

Limits the tax base for any tax imposed by Arizona cities or towns on proceeds from the business of operating an online lodging marketplace to the state's tax base for such businesses.

HB 2042: Income Tax; Statute of Limitations. Laws 2019, Chapter 48.

Allows the Department to issue audit assessments and other notices of additional tax due electronically, except for notices related to individual income tax. (Also affects income tax laws as summarized above and miscellaneous tax laws as summarized below.)

HB 2179: Video Service Provider. Laws 2019, Chapter 163.

Provides that the exemptions from the utilities classification, the telecommunication classification, the commercial lease classification, and the personal property rental classification for leasing or renting space to make attachments to utility poles to persons that are cable operators includes video service providers. These changes apply both at the state level and to Arizona cities and towns.

Summary of 2019 Arizona Tax Legislation

HB 2275: TPT Exemptions; Propagative Materials. Laws 2019, Chapter 288.

Clarifies that the sales and use exemptions for seeds, seedlings, roots, bulbs, cuttings and other propagative material includes seeds, seedlings roots, bulbs, liners, transplants, cuttings, soil and plant additives, agricultural minerals, auxiliary soil an plant substances, micronutrients, fertilizers, insecticides, herbicides, fungicides, soil fumigants, desiccants, rodenticides, adjuvants, plant nutrients and plant growth regulators. With limited exceptions, these provisions do not apply to propagative materials used in producing any part, including seeds, of any plant of the genus cannabis. Effective December 1, 2019. The Joint Legislative Budget Committee estimated that this bill will cost the state \$17.1 million, counties \$7 million, and cities and towns \$2.3 million annually.

HB 2360: TPT; Estimated Payments; Liability Threshold. Laws 2019, Chapter 290.

Increases the \$1 million dollar threshold that triggers Arizona's annual estimated payment obligation. The threshold is based on taxpayers' actual tax liability in the preceding calendar year or anticipated liability in the current year. Taxpayers that satisfy these thresholds must make estimated tax payments in June (i.e., before the end of the state's fiscal year) for taxes that are not actually due until July. The threshold will increase to \$1.6 million in 2020, to \$2.3 million in 2021, to \$3.1 million in 2022, and to \$4.1 million in 2023 and each year thereafter. These provisions will shift roughly \$10 million per year into future fiscal years.

HB 2367: Limited Audit Review. Laws 2019, Chapter 169.

Permits the Department to issue audit assessments using an electronic portal instead of by mail if the taxpayer agrees in writing and the Department notifies the taxpayer via e-mail on the same day the notice is posted to the electronic portal. (Also affects Arizona income tax laws as summarized above and miscellaneous tax laws as summarized below.)

HB 2373: Tax Corrections Act of 2019. Laws 2019, Chapter 203.

Provides that certain adjustments the Department makes to electronically filed returns shall be treated as nonaudit adjustments. Requires property management companies that file consolidated electronic tax returns for residential rentals to remit the tax electronically regardless of the amount of tax due in any taxable year. (Also affects Arizona income tax laws as summarized above and miscellaneous tax laws as summarized below.)

HB: 2445: TPT; Residential Rentals; Notice. Laws 2019, Chapter 53.

Requires cities and towns to notify businesses who are licensed to rent or lease real property for residential purposes by first class mail of new taxes or increased tax rates that apply to such businesses at least sixty days before the change.

Summary of 2019 Arizona Tax Legislation

HB 2672: Vacation Rentals; Short-Term Rentals; Regulation. Laws 2019, Chapter 240.

Requires online lodging operators that rent or offer for rent a lodging accommodation to have a current Arizona sales tax license and list the license number on each advertisement for each lodging accommodation the operator maintains, including online lodging marketplace postings. Imposes penalties on online lodging operators that fail to comply with such requirements at the rate of \$250 for the first offense and \$1,000 for each subsequent offense.

HB 2757: Tax Provisions; Omnibus. Laws 2019, Chapter 273.

Requires remote sellers that satisfy economic nexus standards to remit sales tax on proceeds from sales to customers in the state, implemented marketplace facilitator provisions, and preempted cities and towns from imposing retail sales taxes under their own tax codes. Effective October 1, 2019. See my articles on this topic for further details. (Also affects Arizona income tax laws as summarized above.)

SB 1019: TPT; Over The Top. Laws 2019, Chapter 189.

Provides that, for retail sales of tangible personal property, when the seller receives the order outside the state and there is no delivery address, the sale must be sourced based on the purchaser's billing address. Further provides that the gross proceeds from leasing or renting tangible personal property should be sourced to the lessee's billing address when the lessor does not have a business location in the state or an address for the lessee. Confirms that "over-the-top services" are not subject to Arizona's sales tax on proceeds from intrastate telecommunications activity and prohibits Arizona cities and towns from levying any type of tax on proceeds from such services. Defined "over-the-top services" to mean audio or video programming services that are received by the purchaser by means of an internet connection, regardless of the technology used, that include linear or live programming and that are generally considered comparable to programming provided by a radio or television broadcast station and includes related on-demand programming that is provided at no additional charge, regardless of whether the services are provided independently or packaged with other audio or video programming.

C. Property Tax Legislation**HB 2074: Treatment and Education Facilities; Exemption. Laws 2019, Chapter 208.**

Clarifies that: (1) facilities owned by a nonprofit residential treatment and education facility are exempt from property tax when used for education and not used or held for profit; and that (2) the portion of any property, building, and fixture leased to a nonprofit residential treatment and education facility and that is used for education instruction in any grade or program through grade twelve shall be classified as class 9 property. Requires property owners that lease property to a residential treatment and education facility to file an affidavit with the county assessor stating that the residential treatment and education facility shall be the sole beneficiary of the class 9 property tax status and that the lease rate that is charged to the residential treatment and education facility is consistent with the lease rates that are charged to other tenants of the property or a fair market rate. Retroactive to January 1, 2019.

Summary of 2019 Arizona Tax Legislation

HB 2094: Taxation; Agricultural Property; Partial Abatement. Laws 2019, Chapter 49.

Permits agricultural properties that have been in active production to continue to qualify for agricultural status in the event of a partial reduction or transfer of the available water supply or irrigation district water allotments for agricultural use. Permits county treasurers to enter into payment plans for up to thirty-six months for delinquent personal property taxes in excess of \$1,000.

HB 2097: Personal Property; Reporting; Exemption. Laws 2019, Chapter 225.

Prohibits county assessors from requiring owners of personal property used for agricultural purposes and owners of personal property that is used in a trade or business and exempt from taxation pursuant to Arizona's Constitutional exemption for the first \$50,000 of such property (because the exemption is indexed for inflation, the exemption was for the first \$176,000 of such property at the time this summary was created) from: (1) having to report such property; and (2) having to apply to be exempt from the normal reporting requirement for personal property.

HB 2363: Tax Lien Sales; Procedures. Laws 2019, Chapter 31.

Allows county treasurers to collect the purchase price for tax lien sales up to fifteen days after the sale instead of at the time of the sale, and to prohibit purchasers of tax liens who fail to pay for such liens from purchasing tax liens from any county within the state for up to a year.

HB 2493: Solar Energy Devices; Appraisal Methods. Laws 2019, Chapter 291.

Addresses the valuation of solar energy devices designed to produce solar energy primarily for on-site consumption due to ongoing litigation. Affirms that such devices add no value to real property on which they are installed. Explains that, if such devices are characterized as personal property and not subject to a constitutional exemption, such as the constitutional exemption for personal property owned by households and used for non-commercial purposes, they should be valued annually at their taxable original cost, less depreciation using a ten-year life as prescribed in tables adopted by the Department. Requires county assessors to adjust the depreciation schedules prescribed by the Department as prescribed by statute. Defines "taxable original cost."

HB 2556: Agricultural Property; Uses; Rural Activities. Laws 2019, Chapter 294.

Defines "agritourism" as any activity that allows members of the general public, for recreational or educational purposes, to view, enjoy or participate in rural activities, including farming, ranching, historical, cultural, u-pick, harvest-your-own produce or natural activities and attractions occurring or property defined as agricultural real property pursuant to section 42-12151 if the activity is conducted in connection with and directly related to a business whose primary income is derived from producing livestock or agricultural commodities for commercial purposes. Provides that properties devoted to agritourism qualify as agricultural real property for property tax purposes.

SB 1033: Property Tax Statements; Mortgaged Property. Laws 2019, Chapter 167.

Requires county treasurers to mail property tax bills to mortgagors automatically and, upon request, to mortgagees.

SB 1235: Possessory Improvements; Government Property; Assessment. Laws 2019, Chapter 249.

Defines "possessory improvement" as all residential, commercial and industrial buildings, together with appurtenant awnings, decks, docks, garages, carports, storage or other incidental buildings, located on federal, state, county or municipal property or the property of another political subdivision of this state and that is owned by a nongovernmental possessor thereof. Requires assessors to value possessory improvements using standard appraisal methods and techniques. Subjects limited property values for possessory improvements to the same limitations that apply to limited property values for real property. Subjects possessory improvements to the same procedures that apply in the case of delinquent taxes on real property.

SB 1236: Tax Liens; Certificate Expiration. Laws 2019, Chapter 303.

Requires county treasurers to include the value of any outstanding fees in the sales price for tax liens. Provides that, if a certificate of purchase is not redeemed and the purchaser or the purchaser's heirs or assigns fail to commence an action to foreclose the right of redemption within ten years of the last day of the month in which the original certificate of purchase, including any subsequent taxes paid, was acquired, the certificate of purchase expires and the lien is void.

D. Other Tax & Tax-Related Legislation**HB 2042: Income Tax; Statute of Limitations. Laws 2019, Chapter 48.**

Allows the Department to issue audit assessments and other notices of additional tax due electronically, except for notices related to individual income tax. (Also affects Arizona income tax and sales tax laws as summarized above.)

HB 2109: County Transportation Excise Tax. Laws 2019, Chapter 50.

Permits county regional transportation authorities to levy transportation excises taxes of up to 1% instead of up to 0.5%, if approved by qualified electors at a countywide election. Because all counties other than Maricopa County and Pima County already can levy a transportation excise tax of up to 1% and because Maricopa County is excluded, this change will only affect Pima County and any county that currently imposes a transportation excise tax of less than 0.5% but wants to levy such a tax in excess of 0.5%, but for now only Maricopa County and Pima County have regional transportation authorities. The Joint Legislative Budget Committee estimated that, if Pima County voters approve an additional 0.5% tax, the county would collect an additional \$82.5 million per year.

HB 2281: Liquor Omnibus. Laws 2019, Chapter 136.

Allows liquor licensees to appeal suspensions, revocations, or failures to renew their liquor licenses if they were not delinquent on any taxes, penalties or interest owed to the state, cities, or towns; or if they were delinquent but for less than one hundred twenty days; or if they were delinquent but in an amount that totals \$250 or less.

HB 2367: Limited Audit Review. Laws 2019, Chapter 169.

Permits the Department to issue audit assessments using an electronic portal instead of by mail if the taxpayer agrees in writing and the Department notifies the taxpayer via e-mail on the same day the notice is posted to the electronic portal. (Also affects Arizona income and sales tax laws as summarized above.)

HB 2373: Tax Corrections Act of 2019. Laws 2019, Chapter 203.

Provides that certain adjustments the Department makes to electronically filed returns shall be treated as nonaudit adjustments. Provides that certain seizure provisions apply to all tobacco products rather than just cigarettes. Provides that the Department's fee for bad checks and other forms of insufficient funds applies whether the payment was for tax, penalties, interest, or fees. (Also affects Arizona income and sales tax laws as summarized above.)