Lower Thresholds Now in Place for Arizona's Electronic Filing and Payment Requirements

by James G. Busby, Jr., CPA

In this month's state and local tax (SALT) column, Busby explains Arizona's new electronic filing and payment requirements. The requirements were enacted in 2017 under H.B. 2280 and the Arizona Department of Revenue's amendment to A.A.C. R15-10-302(D).

In 2017, at the Department of Revenue's request, the Arizona legislature began phasing in electronic filing and payment requirements for almost all Arizona taxpayers.

The department pursued this legislation in order to improve efficiencies and increase fraud prevention capabilities. According to the department, at the time, 80 percent of Arizona individual income tax returns were filed electronically, but only 31 percent of Arizona sales tax returns were filed electronically.

The Bill's Broad Reach and Phased Approach

H.B. 2280 applies to taxpayers required to file tax returns and make payments regarding state and local sales and use taxes; jet fuel excise and use taxes; severance taxes; telecommunications service excise tax; the municipal water delivery system tax; the prepaid wireless telecommunications E911 excise tax; and government property lease excise tax.

The bill also applies to orders for the tax stamps required to lawfully sell tobacco products. But, contrary to the dates and dollar thresholds outlined below, all returns, reports, and payments of any amount related to tobacco stamps must have been submitted electronically since July 1, 2015. Then, beginning on the effective date of the bill, August 9, 2017, all tobacco tax license applications and requests for refunds or rebates of taxes paid on tobacco products had to be submitted electronically.

Taxpayers who conduct business in two or more locations or under two or more business names in the state have been required to file their returns electronically since January 1, 2017, and beginning January 1, 2018, the department expected businesses that paid $20,000 or more in sales taxes in the previous year to pay their sales taxes via electronic funds transfer (EFT).

These taxpayers are required to file and pay electronically if they had an actual tax liability in the previous calendar year, or reasonably anticipate a tax liability in the current year, of at least the amounts set forth below — regardless of the number of locations they have in the state:

- $10,000 beginning January 1, 2019;
- $5,000 beginning January 1, 2020; and
- $500 beginning January 1, 2021.

James G. Busby, Jr., CPA, is a state and local tax attorney at The Cavanagh Law Firm. Busby previously worked in the SALT departments at Arthur Andersen and Deloitte & Touche. Before entering private practice, Busby was in charge of all transaction privilege (sales) tax audits at the Arizona Department of Revenue. If you have any questions, please contact the author. He can be reached at (602) 322-4146 or JBusby@CavanaghLaw.com.

The Effect on Income Tax Returns

The department is still prohibited from requiring individual income tax payers to pay electronically, but the new law will affect corporate income tax, partnership and fiduciary returns. The department can require corporate income tax payments to be made electronically under the schedule outlined earlier. But because the department has not implemented an electronic filing system for corporate income tax, partnership and fiduciary returns, those returns do not have to be filed electronically until 2021, or when the electronic filing system is implemented, whichever comes later.

Caution to Tax Return Preparers

H.B. 2280 requires individual income tax preparers who prepare more than ten original income tax returns that are timely filed for tax year 2018 or later to electronically file all individual income tax returns for that tax year and all subsequent years unless taxpayers elect to file a paper return. The bill also prohibits individual income tax return preparers from charging the taxpayer a separate fee to file a return using the department's electronic filing program.

Bingo Licensees and Luxury Taxes on Alcohol

In addition, the bill applies to all reports and returns filed by bingo licensees and by wholesalers of cider, malt, spirituous or vinous liquors for resale within the state; and by farm wineries, microbreweries and craft distillers selling liquor at retail or to a retail licensee within the state. However, because no electronic filing system for these taxpayers is in place yet, these reports and returns do not have to be filed electronically until 2020, or when the department implements the electronic filing system, whichever comes later.

Annual Waivers Available

Taxpayers who do not have a computer or internet access, or who satisfy other circumstances that the department director deems worthy, may file an application on or before December 31 of each year to obtain an annual waiver of the electronic payment and filing requirements. In circumstances beyond the taxpayer's control, including situations in which the taxpayer was instructed by the department or the IRS to file paper returns, waivers are not required.

Sticks and Carrots to Encourage Compliance

All Arizona taxpayers who are required to file or make a payment electronically but fail to do so may be subject to a five percent penalty per occurrence, and all penalties will be at least $25, even if the taxpayer had zero tax liability.

On the other hand, as an incentive to encourage electronic filing by businesses subject to Arizona's sales and severance taxes – regardless of whether they are required to file electronically yet – the state increased the credit available to those taxpayers for their accounting and reporting expenses. For taxpayers who file electronically, the credit increased from 1 percent of tax due not to exceed $10,000 in any calendar year to 1.2 percent of tax due not to exceed $12,000 in any calendar year. This change was effective August 9, 2017. ■