

## **Arizona Tax Changes to Welcome the Sharing Economy**

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In this article, Busby summarizes recent Arizona tax law changes enacted to encourage the growth of the sharing economy in the state, including a sales tax exemption for drivers for, and operators of, online ride-sharing businesses such as Uber Technologies Inc. and Lyft Inc., and a streamlined method for collecting sales tax on short-term rentals of residential properties through an online lodging marketplace such as Airbnb Inc. or HomeAway.com Inc.

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Since he took office in 2015, Arizona Gov. Doug Ducey (R) has promoted tax policies to welcome the sharing economy. Last month, after California regulators shut down Uber Technologies Inc.'s self-driving cars, Ducey welcomed them to the state saying, "California may not want you, but we do."<sup>1</sup>

### No Sales Tax on Ride-Sharing Businesses

In 2015 Arizona passed legislation prohibiting state and local tax authorities from imposing sales taxes on "transportation network companies," such as Uber and Lyft Inc., and drivers providing "transportation network services," 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.<sup>2</sup>

<sup>1</sup>Office of the Gov. Doug Ducey, news release (Dec. 22, 2016).

<sup>2</sup>Laws 2015, Ch. 235

### Collecting Sales Taxes on Short-Term Rentals

In 2016 Arizona passed a law streamlining the sales tax collection process for owners of residential properties rented on a short-term basis to others through an online lodging marketplace such as Airbnb Inc. or HomeAway.com Inc. — but only if the online lodging marketplace collects and pays sales taxes levied on transactions facilitated by the online lodging marketplace.<sup>3</sup>

Effective for proceeds received beginning January 1, 2017, online lodging marketplaces can pay those taxes through the newly established online lodging marketplace classification, a 5.5 percent state sales tax on proceeds from the business of operating an online lodging marketplace. "Online lodging marketplace" is defined as a digital platform for compensation through which an unaffiliated third party offers to rent lodging accommodations not classified as commercial or industrial property to an occupant.

The law clarifies that owners of residential properties rented through online lodging marketplaces are not subject to state sales tax on proceeds from the rentals as long as the online lodging marketplace provides them with documentation showing that tax was remitted on all short-term rental transactions.

While the law authorizes Arizona municipalities to enact corresponding sales taxes on proceeds from short-term rentals through online lodging marketplaces that would be administered, collected, and enforced by the Department of Revenue, to date no Arizona municipality has done so. Rather, Arizona municipalities require owners of residential properties that are rented on a short-term basis to be registered to collect and report sales taxes each month as if they were a hotel. Perhaps Arizona municipalities will set up a system for online lodging marketplaces to collect and remit city sales taxes on proceeds from short-term rentals of residential properties after they resolve their outstanding litigation with online travel companies over whether the fees those companies collect are subject to municipal hotel taxes.

### Potential Alternative Taxes on Short-Term Rentals

Online lodging marketplaces that do not have nexus with Arizona are not required to collect and report Arizona sales tax. Thus, registration to collect and report sales tax under

<sup>3</sup>Laws 2016, Ch. 208.

Arizona's online lodging marketplace classification is optional for most online lodging marketplaces. However, Arizona tax authorities may attempt to collect state sales taxes under the state's transient lodging classification, as well as city sales taxes under the cities' hotel classification, from online lodging marketplaces or owners for proceeds from short-term residential property rentals if an online lodging marketplace did not collect and report state tax under the state's new online lodging marketplace classification and city taxes under the cities' hotel classification on the gross rental amount, including all accompanying fees.

**Practice Tip!**

Arizona's 5.5 percent state tax rate for the online lodging marketplace classification is the same as the state tax rate for the transient lodging classification. So for the sake of convenience, owners of residential properties who rent them out on a short-term basis may want to rent them exclusively through an online lodging marketplace that will collect and report the appropriate state and city sales taxes so the owner does not have to worry about reporting sales tax or getting audited by Arizona's tax authorities. ■

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