

## Summary of 2017 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 9, 2017.

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 1290: Internal Revenue Code Conformity. Laws 2017, Chapter 2.**

Provides for retroactive conformity to most provisions in the Internal Revenue Code in effect on January 1, 2017, including the specific adoption of all federal retroactive effective dates. Provides that partnerships that have no Arizona income, deductions, or credits for a taxable year are not required to file a partnership return for that year. Accelerates the deadline for employers to file annual withholding returns from February 28 to January 31. Extends the deadline for employers to furnish their employees with a statement of the amount withheld by one day, from January 30 to January 31. The legislature estimated the fiscal impact of this bill to the state's general fund at \$250,000.

**SB 1291: Tax Correction Act of 2017. Laws 2017, Chapter 178.**

Makes numerous technical corrections and some substantive changes to Arizona's tax laws. Provisions relevant to income taxes include: (1) limiting the credit for individual income taxes paid to another state to the year in which the income is subject to tax in the other state, (2) limiting individuals who participate in a composite return to credits for taxes paid to other states to taxes imposed on and paid directly by the individual taxpayer, (3) defining "net income tax" for purposes of taking credits for individual income taxes paid to foreign countries, and (4) requiring taxpayers to use the foreign currency conversion rate in effect on the date they pay individual income taxes to a foreign country. (Also affects Arizona sales tax and miscellaneous tax laws as summarized below.)

**SB 1416: Quality Jobs Incentives; Tax Credits. Laws 2017, Chapter 340.**

Extends Arizona's individual and corporate income tax credits (worth up to \$9,000 for each net qualified employment position) for businesses that make qualifying capital investments and add qualifying employment positions in the state to July 2025 (the previous deadline was before July 2017), and reduces the minimum capital investment requirements for businesses that create higher paying jobs. Added a provision to protect businesses that make qualifying investments in manufacturing, research, or headquarter facilities in Arizona such that the business may claim all five annual installments of the credit (worth up to \$150 million) available to individual and corporate income tax payers even if the credit is subsequently repealed or terminated. Increases the individual and corporate income tax credits for increased investments in qualified research expenses over base amounts as determined pursuant to IRC § 41 for a limited time. For tax years 2018 through 2021, the amount of the credit increases from 20 percent to 24 percent for increased expenditures of \$2.5 million or less. For increased expenditures of more than \$2.5 million, the credit increases from \$500,000 plus 11 percent of any amount exceeding \$2.5 million to \$600,000 plus 15 percent of any amount exceeding \$2.5 million. Beginning with tax year 2022, the amount of the credit will revert to pre-2018 levels. The Joint Legislative Budget Committee estimated the static fiscal impact of this bill at \$1.4 million in fiscal year 2019 and at \$3.1 million per year by fiscal year 2021, primarily due to the changes to these income tax credits. Effective January 1, 2018. (Also affects Arizona sales tax, property tax, and other laws as summarized below.)

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**SB 2014: Legal Tender Exchange; Tax Effect. Laws 2017, Chapter 316.**

Provides that individuals and corporations may subtract from Arizona income any capital gains, and add any capital losses, incurred from the exchange of one form of legal tender for another, including specie. Defines specie as coins containing precious metals. Effective January 1, 2018.

**HB 2158: Tax Settlement; Native American Veterans. Laws 2017, Chapter 215.**

Extends the deadline for qualifying Native American veterans of the U.S. armed forces who were domiciled within the boundaries of their tribal lands, or of their spouse's tribal lands, while in active military service and who mistakenly had state income taxes withheld from their pay to apply for tax refunds from December 31, 2017 to December 31, 2019. Permits recoveries of taxes mistakenly withheld between July 1, 1977 (instead of the previous September 1, 1993 beginning date) and December 31, 2005.

**HB 2191: Angel Investor; Tax Credit Cap. Laws 2017, Chapter 319.**

Allows the Arizona Commerce Authority to authorize an additional \$10 million, up to \$2.5 million per fiscal year plus any unused credit capacity from previous fiscal years, in individual income tax credits for qualified investments in small businesses between July 1, 2017 and June 30, 2021.

**HB 2214: Income Tax Subtraction; ADA Retrofits. Laws 2017, Chapter 278.**

Allows individuals and corporations to immediately subtract from their Arizona gross income eligible reasonable and necessary expenditures incurred during the taxable year to comply with the requirements of the Americans With Disabilities Act (ADA) rather than depreciate them over multiple years. This provision only applies to expenditures to retrofit a developed real property placed in service at least ten years ago, yet expenditures for things such as interpreters, readers and other equipment qualify in addition to the expenses necessary to remove barriers. Expenditures required to cure a violation of the ADA or related Arizona laws are ineligible for the immediate expensing provision. Qualifying taxpayers are required to add to their Arizona gross income any expenditures for the same items recognized by the IRC and included in their calculation of taxable income for the current year. The Joint Legislative Budget Committee estimated the fiscal impact of this bill to the state's general fund at \$1.3 million for fiscal year 2019 and at \$1.2 million for fiscal year 2020, but observed that these amounts will be offset by revenue increases in subsequent years. Effective January 1, 2018.

**HB 2280: Department of Revenue; Electronic Filing. Laws 2017, Chapter 60.**

Permits the Arizona Department of Revenue ("Department") to require payments of corporate income tax to be made electronically but, because the Department has not implemented an electronic filing system for corporate income tax, partnership, and fiduciary returns, such returns do not have to be filed electronically until 2021, or when the Department implements the electronic filing system for them, whichever comes later. Prohibits the Department from requiring electronic payment of individual income tax. Prohibits individual income tax return preparers from charging a separate fee to file

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a return using the Department's electronic filing program, but requires individual income tax preparers who handle 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. Permits taxpayers who do not have a computer or internet access, or who satisfy other circumstances that the Department's Director deems worthy, to file an application on or before December 31 of each year to obtain an annual waiver of the electronic payment and filing requirements. All other Arizona taxpayers who are required to make a payment electronically but fail to do so may be subject to a five percent penalty. Increases the Department's fee for checks or electronic payments that are dishonored by financial institutions from \$25 to \$50.

**HB 2438: Corporations; Nontaxable Event; Status Change. Laws 2017, Chapter 127.**

Provides that a change in the organizational structure of a corporation, limited liability company, or partnership into another organizational structure is not a taxable event for Arizona income tax purposes if there is no change among the owners, their ownership interests, or the assets of the organization.

**HB 2523: Spay and Neuter; Tax Checkoff. Laws 2017, Chapter 172.**

Requires the Department to add a space on Arizona's individual income tax return for taxpayers to designate a portion of their refund, or donate an additional amount, to a fund established to spay and neuter animals. Retroactive to January 1, 2017.

**HB 2528: Index Exemptions; Unused Tax Credits. Laws 2017, Chapter 299.**

Increases the personal exemption from Arizona's individual income tax for tax year 2017 by \$50 per individual, \$100 per married couple, and \$150 per married couple with at least one dependent. Increases the personal exemption from Arizona's individual income tax for tax year 2018 by another \$50 per individual, another \$100 per married couple, and another \$150 per married couple with at least one dependent. Indexes the personal exemption from Arizona's individual income tax by inflation beginning with tax year 2019. Repeals seldom-used and unused tax credits, including the individual and corporate income tax credits for: (1) healthy forest enterprises, (2) military reuse zones, (3) renewable energy operations, (4) solar liquid fuel, and (5) solar water heater plumbing stub outs and electric vehicle recharge outlets; and the insurance premium tax credit for military reuse zones. Amends Arizona's individual and corporate income tax credits (worth up to \$25 million) for investments in new renewable energy facilities that produce energy for self-consumption so that they only apply if the power is used primarily for an international operations center and not if the power is used in a manufacturing facility. Establishes a procedure to repeal tax credits going forward whenever they go unused for four years. Clarifies that the repeal of tax credits under this bill does not affect the continuing validity of credit amounts carried forward from previous tax years for application against subsequent tax liabilities as allowed by prior law. The Joint Legislative Budget Committee estimated the fiscal impact of this bill to the state's general fund at \$3.6 million in fiscal year 2018, \$10.2 million in fiscal year 2019, and at \$16.3 million in fiscal year 2020. Except as noted above, the provisions of this bill are effective January 1, 2018.

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**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 1010: Reviser's Technical Corrections; 2017. Laws 2017, Chapter 76.**

Blends miscellaneous changes made to Arizona's sales and use tax laws last year that could not previously be blended due to the delayed effective date for some of the changes. The changes relate to the new state sales tax deduction and use tax exemption for aircraft, navigational and communications instruments, and other accessories and related equipment sold to those who will lease or otherwise transfer operational control of the aircraft or equipment to a qualifying party for at least 50 percent of the aircraft's flight hours. Retroactive to June 1, 1998, but with significant limitations on refunds.

**SB 1291: Tax Correction Act of 2017. Laws 2017, Chapter 178.**

Makes numerous technical corrections and some substantive changes to Arizona's tax laws. Provisions relevant to sales taxes include: (1) eliminating the state's use tax exemption for supplies (but not feed, salts, vitamins and other additives) sold to persons for use or consumption in the business of farming, ranching, and producing or feeding livestock or poultry or for use or consumption in noncommercial boarding of livestock, (2) permitting the Department to recommend changes to the state's model city tax code for consideration by the Municipal Tax Code Commission, and (3) extending to counties with less than 2.5 million but more than 500,000 persons the authority to impose taxes on online lodging marketplaces in addition to hotels and motels. (Also affects Arizona income tax laws as described above, and miscellaneous tax laws as described below.)

**SB 1416: Quality Jobs Incentives; Tax Credits. Laws 2017, Chapter 340.**

Extends Arizona's sales tax deduction and use tax exemption for aircraft, navigational, and communications equipment to fractional ownership programs that meet the requirements of particular federal aviation administrative regulations. Effective January 1, 2018. (Also affects Arizona income tax laws as summarized above, and Arizona property tax and other laws as summarized below.)

**SJR 1002: Phoenix-Goodyear Airport; Reuse Zone. (Senate Joint Resolution)**

Renews military reuse zone status for the Phoenix-Goodyear Airport through December 3, 2027. (There is a deduction from Arizona's sales tax on prime contractors for proceeds from a construction contract performed within an active military reuse zone for a company providing aviation or aerospace services, or for a manufacturer, assembler or fabricator of aviation or aerospace products.)

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**HB 2280: Department of Revenue; Electronic Filing. Laws 2017, Chapter 60.**

Requires taxpayers who file tax returns and make payments related to state and local sales and use taxes to file returns and pay taxes electronically if they had an actual tax liability in the previous calendar year, or reasonably anticipate a tax liability in the current year, equal to or in excess of the amounts set forth below – regardless of the number of locations they have in the state: (a) \$20,000, beginning July 1, 2017 (the Department accelerated this effective date from January 1, 2018 per A.A.C. R15-5-302(D)); (b) \$10,000, beginning January 1, 2019; (c) \$5,000 beginning January 1, 2020; and (d) \$500 beginning January 1, 2021. Permits taxpayers who do not have a computer or internet access, or who satisfy other circumstances that the Department's Director deems worthy, to file an application on or before December 31 of each year to obtain an annual waiver of the electronic payment and filing requirements. All other Arizona taxpayers who are required to make a payment electronically but fail to do so may be subject to a five percent penalty. 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 such taxpayers for their accounting and reporting expenses. For such taxpayers who file electronically, the credit increases from 1 percent of the amount 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. Modifies the 4.5 percent penalty for failure to file a return for state or local sales or use taxes by adding a \$25 minimum and changing the maximum from 25 percent of the tax to \$100 or 25 percent of the tax, whichever is greater. Increases the Department's fee for checks or electronic payments that are dishonored by financial institutions from \$25 to \$50. Permits the Department to revoke any state or local sales tax license issued to any person or business who fails for thirteen consecutive months to file a return.

### C. Property Tax Legislation

**SB 1326: Telecommunications; Broadband; Accelerated Depreciation. Laws 2017, Chapter 220.**

Provides for accelerated depreciation of qualifying broadband infrastructure owned by telecommunications companies, including but not limited to multiplexers, routers, servers, fiber optics, coaxial cable and equipment capable of being used for in or in connection with the transmission of data at a rate of at least four megabits per second in at least one direction. The Joint Legislative Budget Committee estimated the fiscal impact of this bill to the state's general fund at \$2.7 million annually due to the effect it will have on the state's share of school funding beginning in fiscal year 2020. Applicable to items first placed in service on or after January 1, 2017.

**SB 1416: Quality Jobs Incentives; Tax Credits. Laws 2017, Chapter 340.**

Extends accelerated depreciation for certain types of personal property to qualifying personal property located in foreign trade zones and in military reuse zones. Effective January 1, 2018. (Also affects Arizona income and sales tax laws as summarized above, and Arizona property tax and other laws as summarized below.)

**SJR 1002: Phoenix-Goodyear Airport; Reuse Zone. (Senate Joint Resolution)**

Renews military reuse zone status for the Phoenix-Goodyear Airport through December 3, 2027. (Real and personal property and improvements that are located in a military reuse zone may qualify for class 6 property tax status if devoted to providing aviation or aerospace services or to manufacturing, assembling, or fabricating aviation or aerospace products.)

**HB 2366: Agricultural Land; Fallowing; Property Tax. Laws 2017, Chapter 232.**

Permits one to document a temporary reduction or transfer in the available water supply for purposes of demonstrating a property's eligibility for treatment as an agricultural property by an official declaration by an official from the irrigation district to the county assessor that confirms the reduction or transfer. This provision applies in counties with a population of less than 900,000 persons (currently, everywhere except Maricopa and Pima counties).

## D. Other Tax & Tax-Related Legislation

### **SB 1058: Repeal; Regional Attraction Districts. Laws 2017, Chapter 7.**

Repeals a law enacted in 2008 that would have permitted municipalities, like Eloy, to create a Regional Attraction District that could raise up to \$750 million with negotiable revenue bonds and levy sales taxes of up to 10% on top of existing sales taxes to pay for the bonds.

### **SB 1416: Quality Jobs Incentives; Tax Credits. Laws 2017, Chapter 340.**

Provides that cities, towns, and counties that are required to make public infrastructure improvements to support qualifying investments by manufacturers to commit all of their state-shared sales tax revenue (rather than just 20 percent) from such projects to help pay for the public infrastructure improvements. Extends Arizona's insurance premium tax credit (worth up to \$9,000 for each net qualified employment position) for businesses that make qualifying capital investments and add qualifying employment positions in the state to July 2025 (the previous deadline was before July 2017), and reduces the minimum capital investment requirements for businesses that create higher paying jobs. Effective January 1, 2018. (Also affects Arizona income, sales, and property tax laws as summarized above.)

### **SB 1291: Tax Correction Act of 2017. Laws 2017, Chapter 178.**

Makes numerous technical corrections and some substantive changes to Arizona's tax laws. Provisions relevant to miscellaneous taxes include: (1) requiring tobacco distributors to notify the Department in writing within 30 days of any change in over 50 percent of the ownership interests in their business entity resulting from a single transaction, (2) clarifying that tobacco products held or stored for sale in Arizona may not be held or stored at a residential location, and (3) modifying the state's withholding requirements such that individuals must always withhold an amount that reasonably reflects their Arizona income tax liability rather than such amount or an amount equal to 10, 15, or 20 percent of the amount paid to the IRS as estimated tax. (Also affects Arizona income and sales tax laws as summarized above.)

### **HB 2064: Municipal Jet Fuel; Excise Tax. Laws 2017, Chapter 50.**

Limits the application of any municipal tax on jet fuel to the first ten million gallons per purchaser per year. Requires that, effective December 1, 2017, revenues generated from public airports must be expended exclusively on capital or operating costs of the airport, the airport system or other local airport facilities owned or operated by the municipality and substantially related to air transportation of passengers or property.



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**HB 2213: GPLET reform; K-12 Taxes. Laws 2017, Chapter 120.**

Provides that: (1) the Department must identify all properties that qualify for government property lease excise tax (“GPLET”) treatment on its website, (2) the Department must certify leases that qualify for the lower GPLET rates intended for leases that were entered into prior to June 1, 2010; (3) the government lessor, rather than the business that occupies the building, now must calculate GPLET payments due; (4) delinquent GPLET payments are subject to interest at the same rate applied to delinquent property tax payments (16 percent) rather than the rate charged by the IRS (currently 4 percent); and (5) except for grandfathered properties, (a) the lease period for properties that qualify for a tax abatement may not exceed eight years even if the lease is transferred to another party during that period, (b) the government lessor must convey the building and the underlying land to the private party within twelve months of expiration of the lease, and (c) the property shall not subsequently qualify for other favorable property tax treatment.

**HB 2280: Department of Revenue; Electronic Filing. Laws 2017, Chapter 60.**

Requires taxpayers who file tax returns and make payments related to state and local sales and use and jet fuel excise and use taxes; severance taxes; telecommunications service excise tax; municipal water delivery system tax; prepaid wireless telecommunications E911 excise tax; government property lease excise tax; and those who purchase the tax stamps required to lawfully sell tobacco products to file returns and pay taxes electronically if they had an actual tax liability in the previous calendar year, or reasonably anticipate a tax liability in the current year, equal to or in excess of the amounts set forth below – regardless of the number of locations they have in the state: (a) \$20,000, beginning July 1, 2017 (the Department accelerated this effective date from January 1, 2018 per A.A.C. R15-5-302(D)); (b) \$10,000, beginning January 1, 2019; (c) \$5,000 beginning January 1, 2020; and (d) \$500 beginning January 1, 2021. Requires bingo licensees and wholesalers of cider, malt, spirituous, or vinous liquors for resale within the state; as well as all farm wineries, microbreweries, and craft distillers selling liquor at retail or to a retail licensee within the state, to electronically file all reports and returns beginning January 1, 2020, or when the Department establishes an electronic filing program, whichever is later. Permits taxpayers who do not have a computer or internet access, or who satisfy other circumstances that the Department’s Director deems worthy, to file an application on or before December 31 of each year to obtain an annual waiver of the electronic payment and filing requirements. All other Arizona taxpayers who are required to make a payment electronically but fail to do so may be subject to a five percent penalty. On the other hand, as an incentive to encourage electronic filing by businesses subject to Arizona’s sales and severance taxes – regardless of whether or not they are required to file electronically yet – the state increased the credit available to such taxpayers for their accounting and reporting expenses. For such taxpayers who file electronically, the credit increases from 1 percent of the amount 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. Increases the Department’s fee for checks or electronic payments that are dishonored by financial institutions from \$25 to \$50.

**HB 2069: Insurance Taxes; Electronic Filing. Laws 2017, Chapter 153.**

Increases the threshold, from \$2,000 to \$50,000, of tax on net premiums received during the preceding calendar year in order to require the insurer to file premium tax returns monthly. Permits the Department of Insurance to require insurers to file reports and make payments electronically. Effective January 1, 2018.