

## Summary of 2016 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 6, 2016.

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 1137: Schools; CPR Instruction. Laws 2016, Chapter 216.**

Requires public and charter schools to begin training high school students to administer CPR on or before July 1, 2019. Expands the scope of the income tax credit available (for up to \$200 for a single individual or head of household/\$400 for a married couple filing joint return) for contributions to support extracurricular activities, etc., to include contributions for CPR training. Retroactive to January 1, 2016.

### **SB 1216: Charitable Donations; Tax Credit Amounts. Laws 2016, Chapter 109.**

Doubles the amount of credit taxpayers may claim for contributions to qualifying charitable organizations other than qualifying foster care organizations from \$200 to \$400 for a single individual or head of household and from \$400 to \$800 for a married couple filing jointly. Provides that, in addition to the credit for contributions to qualifying charitable organizations, taxpayers may claim a credit for contributions to qualifying foster care charitable organizations not to exceed \$500 for single individuals or heads of households or \$1,000 for married couples filing joint returns. Retroactive to January 1, 2016.

### **SB 1217: Charitable Tax Credit; Contribution Date. Laws 2016, Chapter 309.**

Provides that taxpayers who make eligible contributions to qualifying charitable organizations or qualifying foster care charitable organizations on or before the fifteenth day of the fourth month following the close of the taxable year may claim a credit for the contribution in either the current year or the preceding year. Retroactive to January 1, 2016.

### **SB 1288: Internal Revenue Code Conformity. Laws 2016, Chapter 155.**

Provides for retroactive conformity to most provisions in the Internal Revenue Code in effect on January 1, 2016, including the specific adoption of all federal retroactive effective dates. However, some additions and subtractions created in prior years when Arizona did not fully conform to I.R.C. changes, for items such as bonus depreciation, are still in place. Conforms Arizona's due date for filing partnership returns to the new federal due date for filing partnership returns. Outlines reporting and payment requirements for partnerships that get audited and assessed by the IRS under the new federal partnership audit rules.

### **SB 1289: 2016 Tax Corrections Act. Laws 2016, Chapter 156.**

Makes numerous technical corrections to Arizona's tax laws, but no substantive changes to Arizona income tax provisions. (Also affects Arizona sales tax, property tax, and miscellaneous tax laws as summarized below.)

**HB 2190: Education Omnibus. Laws 2016, Chapter 331.**

Expands the scope of the income tax credit available for contributions to support extracurricular activities at public schools to apply to contributions for the support of extracurricular activities whether or not students are required to pay a fee to participate in the activity. Retroactive to January 1, 2016.

**HB 2388: Qualified Disability Expenses; Eligible Individuals. Laws 2016, Chapter 214.**

Requires Arizona taxpayers, when computing Arizona adjusted gross income, to add the amount of a withdrawal that is not a qualified disability expense from an Achieving a Better Life Experience (ABLE) Act account to the extent the amount is not included in computing FAGI, and to subtract the amount of any qualified disability expense that is distributed from a qualified ABLE program that is included in FAGI. Retroactive to January 1, 2016.

**HB 2449: Taxation; Self-Reported Errors; Injured Spouses. Laws 2016, Chapter 197.**

Extends the exemption from late-payment penalties to taxpayers who voluntarily file an amended return even if they substantially understated their tax liability. (This exemption still does not apply to taxpayers under audit or whose amended return was filed on demand or request by the Arizona Department of Revenue ("Department").) Permits innocent and injured spouses, at the time of filing a joint return, to apply for protection for their share of any overpayment or refund from offset for past due state taxes, child support, spousal maintenance, or other obligations of the taxpayer's spouse that are ordered by a court or owed to an agency of this state. Effective July 1, 2016.

**HB 2666: Governor's Economic Opportunity Office; Consolidation. Laws 2016, Chapter 372.**

Establishes the Governor's Economic Opportunity Office (GEOO) and consolidates economic statistical analysis functions previously performed by the Arizona Commerce Authority (ACA), the Department of Economic Security, and the Arizona Department of Administration under the GEOO. Permits the ACA to qualify applicants for the refundable individual and corporate income tax credits for expanding or locating qualified manufacturing, research, or headquarter facilities in Arizona for three additional years, through December 31, 2022. Permits owners of qualifying facilities in rural locations to obtain these credits if at least 51 percent of the net new full-time employment positions pay wages equal to just 100 percent of the median annual wage for production occupations in the state. Retains the 125 percent threshold for owners of qualifying facilities not in rural locations, but measures the wages against the median annual wage for production occupations rather than against the median annual wage. Permits applicants for these credits to pay just 65 percent of health insurance premiums for all employees in net new full time employment positions, rather than 80 percent. Requires taxpayers who claim these credits to reduce the amount claimed by \$4,000 for each full-time employment position that was vacant for more than 150 days from the date the full-time employment position was originally filled to the end of that tax year. Redefines "qualifying investment" and defines "rural location." Extends the repeal date for these credits from January 1, 2021 to January 1, 2024. Establishes the Arizona Finance Authority and provides that it and its income are exempt from taxation in Arizona.

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**HB 2697: Bonus Depreciation; Budget Reconciliation; 2016-2017. Laws 2016, Chapter 118.**

Increases bonus depreciation in Arizona for taxable years beginning during 2016 to the amount allowable under section 167(a) of the I.R.C. computed as if the additional allowance for depreciation had been 55 percent of the amount allowed under section 168(k) of the I.R.C. Increases bonus depreciation in Arizona for taxable years beginning during and after 2017 to the amount allowable under section 167(a) of the I.R.C. computed as if the additional allowance for depreciation had been the full amount allowed under section 168(k) of the I.R.C.

**HB 2708: Revenue; Budget Reconciliation; 2016-2017. Laws 2016, Chapter 125.**

Requires the Department to report by September 30 of each year to the Joint Legislative Budget Committee and the Governor's Office of Strategic Planning and Budgeting the amount of individual and corporate income tax credits claimed in the previous fiscal year. Allows 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 who mistakenly had state income taxes withheld from their pay between September 1, 1993 and December 31, 2005 to apply for tax refunds on or before December 31, 2017. Requires the Department to conduct an amnesty program, officially known as the "tax recovery program," for a two-month period from September 1, 2016 through October 31, 2016 under which the Department is required to waive all civil penalties and interest for tax liabilities that have been or could be assessed during the "liability period" for taxpayers who comply with the requirements of the program. The program applies to all taxes and surcharges administered or collected by the Department, except luxury and withholding taxes. For taxpayers filing annual returns, the program applies to all taxable periods ending before January 1, 2014. For all other taxpayers, the program applies to any taxable period ending before February 1, 2015. Unlike previous amnesty programs, taxpayers have up to three years to satisfy their tax liability under this program. (Also affects Arizona sales taxes and miscellaneous taxes as summarized below.)

## 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 1289: 2016 Tax Corrections Act. Laws 2016, Chapter 156.**

Makes numerous technical corrections to Arizona's tax laws. Provisions relevant to Arizona sales and use taxes include: (1) Elimination of the deduction from the state's sales tax on rentals of personal property for proceeds from renting equipment to a qualifying business that harvests or processes forest products, (2) elimination of businesses that only move manufactured buildings from the definition of "manufactured building dealer" so they are no longer subject to Arizona's prime contracting tax, and (3) addition of a state use tax exemption to clarify, as the state did with a sales tax exemption in 2013, that purchases of "cash equivalents," like gift cards, gift certificates, traveler's checks, money orders, etc. are not subject to use tax, but that prepaid calling cards are still subject to sales or use tax when purchased. (Also affects Arizona property tax and miscellaneous tax laws as described below.)

#### **SB 1310: TPT Exemption; Billboard Rentals. Laws 2016, Chapter 223.**

Clarifies that the state's sales tax on rentals of tangible personal property does not apply to proceeds from leasing or renting billboards that are designed, intended, or used to advertise or inform and that are visible from any street, road, or other highway.

#### **SB 1350: Online Lodging; Administration; Definitions. Laws 2016, Chapter 208.**

Establishes the online lodging marketplace classification, which imposes a 5.5% state sales tax and permits municipalities to impose similar sales taxes to be administered, collected, and enforced by the Department, on the business of operating an online lodging marketplace. Defines "online lodging marketplace" 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. Allows online lodging marketplaces to obtain sales tax licenses and pay state and local sales taxes levied on any online lodging transaction facilitated by the online lodging marketplace. Excludes online lodging marketplaces that have not obtained a license to collect and remit tax from the online lodging marketplace classification. Clarifies that online lodging operators are not subject to sales tax on transactions facilitated by an online lodging marketplace when the online lodging marketplace provides documentation showing that it collected the tax on the transaction. Provides that online lodging marketplaces, and online lodging operators who can document that an online lodging marketplace collected tax for them,

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are not subject to state or local sales tax on transient lodging. Permits licensed real estate brokers to obtain sales tax licenses and file electronic consolidated state and local sales tax returns for properties they manage. Prohibits the Department from disclosing any information provided by an online lodging marketplace to any agency of the state or to any county, city, town, or other political subdivision of the state. These provisions are effective January 1, 2017, but they do not affect any rights and obligations under any existing contracts to pay taxes to a taxing jurisdiction in effect before then, and they do not entitle online lodging marketplaces to a refund of any taxes paid before then. (Also affects Arizona property taxes as described below.)

**SB 1381: Wine; Direct Shipment. Laws 2016, Chapter 76.**

Permits wineries with the appropriate licenses and permits to ship wine directly to consumers and requires wineries to pay luxury privilege taxes on wine delivered directly to consumers.

**SB 1492: Taxis; Limousines; Livery Vehicles. Laws 2016, Chapter 171.**

Adds state and local sales tax exemptions for owners and drivers of properly permitted taxis, livery vehicles, and limousines for income from transporting persons for hire. Reiterates the local sales tax exemptions for transporting persons for hire by transportation network companies and their drivers. Effective September 1, 2016.

**SB 1505: Tax Exemption; Natural Gas Delivery. Laws 2016, Chapter 357.**

Provides that the state sales and use tax exemptions for proceeds from sales of electricity and natural gas used by businesses principally engaged in manufacturing or smelting operations also apply to proceeds from "gas transportation services," defined as the services of transporting natural gas to a customer or distribution facility if the gas was purchased from a supplier other than the utility. This provision also will apply to any municipality that adopts this exemption.

**HB 2025: Utilities TPT; Sales of Propane. Laws 2016, Chapter 359.**

Expands the state sales and use tax exemptions for proceeds from sales of electricity and natural gas used by businesses principally engaged in manufacturing or smelting operations to proceeds from sales of liquefied petroleum gas -- commonly referred to as propane. This provision also will apply to any municipality that adopts a corresponding exemption. Effective September 1, 2016.

**HB 2133: TPT; Exemption; Aerial Applicators. Laws 2016, Chapter 181.**

Provides a state sales and use tax exemption for new agricultural aircraft used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. "Agricultural aircraft" means aircraft built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding. Retroactive to April 17, 1985, but with significant limitations on refunds.

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**HB 2326: Agricultural Feed; Sales; Tax Exemption. Laws 2016, Chapter 361.**

Clarifies the scope of the state and local sales tax exemptions for sales and purchases of "food products," including agricultural products, animal products, and animal feed grown or raised by the producer and sold as feed for animals purchased or raised for slaughter, production, or use. Provides an exemption from the state retail sales tax for sales of livestock and poultry to persons engaged in the business of farming, ranching, or producing livestock or poultry. Expands the exemption for sales of livestock and poultry feed, salts, vitamins, and other additives to persons engaged in producing livestock, poultry, or livestock or poultry products to include sales of such products to persons for use or consumption by their own livestock and to use or consumption in noncommercial boarding of livestock.

**HB 2533: Charter Aircraft; Tax Exemption. Laws 2016, Chapter 367.**

Expands the state sales tax deduction and use tax exemption for aircraft, navigational and communications instruments, and other accessories and related equipment sold to persons or entities with particular certifications to transport persons or property for hire, and includes sales of such items to those that will lease or otherwise transfer operational control of the aircraft or equipment for at least fifty percent of the aircraft's flight hours in the sales tax deduction and the use tax exemption. Effective July 1, 2017, and then retroactive to June 1, 1998 -- but with significant limitations on refunds.

**HB 2536: Fine Art; TPT Exemption. Laws 2016, Chapter 368.**

Adds an exemption from the state's retail sales tax for sales of statutorily defined "works of fine art" to nonresidents at an art auction or gallery in Arizona for use outside the state if the vendor ships or delivers the work of art to a destination outside Arizona. Effective September 1, 2016.

**HB 2584: Data Center Tax Relief; Qualification. Laws 2016, Chapter 369.**

Allows owners, operators, and colocation tenants of data centers to include the cost of improvements in order to meet the minimum investment requirements necessary to qualify for state and local sales and use tax exemptions for purchases of qualifying equipment. Grants the Arizona Commerce Authority exclusive authority to determine whether particular data centers should be certified because they meet the minimum investment requirements, to determine whether particular data centers constitute qualified sustainable redevelopment projects, and to revoke computer data center certifications. Defines key terms. Eliminates the requirement that qualifying parties present their certificate of qualification when purchasing qualifying data center equipment in order to purchase it tax free. Retroactive to September 13, 2013.

**HB 2635: Municipalities; Taxes and Fees; Notification. Laws 2016, Chapter 335.**

Prohibits municipalities from increasing most existing taxes or fees, or imposing new taxes, without first preparing a schedule of the taxes or fees, a report or data supporting the taxes or fees, and publishing a notice of intent to establish or increase taxes, along with the schedule and report or data on the municipality's website and distributing it using the municipality's social media accounts and other electronic communication tools, if any.

**HB 2674: TPT Exemption; Amateur Races. Laws 2016, Chapter 373.**

Adds a deduction from the amusement classification of Arizona's state and municipal sales taxes for proceeds from entry fees paid by participants for events that consist of a run, walk, swim, or bicycle ride or a similar event, or any combination of these events. Effective March 1, 2017, such proceeds are only exempt if the events are operated or conducted by a 501(c)(3) nonprofit organization. Applies retroactively to operators and conductors of past events who did not collect amounts from participants necessary to pay sales tax under the amusement classification.

**HB 2676: Utilities; Manufacturing; Smelting; TPT. Laws 2016, Chapter 374.**

Alters the definition of "manufacturing" used to determine whether a business qualifies for the state sales tax deduction and the state use tax exemption for purchases of electricity and natural gas by a qualifying manufacturing or smelting business. Eliminates the requirement that manufacturers and smelters must use at least 51 percent of the electricity in manufacturing or smelting operations in order to qualify for the deduction and the exemption. Defines "qualifying manufacturing or smelting business." Requires utility companies who claim the deduction to report the name and address of each customer who claims this deduction. These changes also will apply to any municipality that adopts this sales tax deduction and use tax exemption. Effective January 1, 2017.

**HB 2708: Revenue; Budget Reconciliation; 2016-2017. Laws 2016, Chapter 125.**

Requires the Department to conduct an amnesty program, officially known as the "tax recovery program," for a two-month period from September 1, 2016 through October 31, 2016 under which the Department is required to waive all civil penalties and interest for tax liabilities that have been or could be assessed during the "liability period" for taxpayers who comply with the requirements of the program. The program applies to all taxes and surcharges administered or collected by the Department, except luxury and withholding taxes. For taxpayers filing annual returns, the program applies to all taxable periods ending before January 1, 2014. For all other taxpayers, the program applies to any taxable period ending before February 1, 2015. Unlike previous amnesty programs, taxpayers have up to three years to satisfy their tax liability under this program. (Also affects Arizona income taxes as summarized above and miscellaneous taxes as summarized below.)



### C. Property Tax Legislation

#### **SB 1157: Small Property Tax Balance Delinquency. Laws 2016, Chapter 144.**

Extends the delinquency date for annual property tax bills totaling less than \$100, from 5:00 p.m. on November 1 to 5:00 p.m. on December 31.

#### **SB 1289: 2016 Tax Corrections Act. Laws 2016, Chapter 156.**

Makes numerous technical corrections to Arizona's tax laws. Provisions relevant to Arizona property taxes include allowing the Department's Director the option of designating someone to serve on Arizona's Property Tax Oversight Commission instead of personally serving in that role. (Also affects Arizona sales tax laws as summarized above and miscellaneous Arizona tax laws as described below.)

#### **SB 1350: Online Lodging; Administration; Definitions. Laws 2016, Chapter 208.**

Amends class three to include real and personal property that is owned and occupied as the primary residence of the owner who also uses the property to lease or rent to lodgers. Amends class four to include real and personal property and improvements that are used for residential purposes and leased or rented to lodgers but not occupied by the owner as the owner's primary residence and classified as class three property and not used for commercial purposes and classified as class one property. Effective January 1, 2017. (Also affects Arizona sales taxes as described above.)

#### **SB 1432: Conservation Easements; Tax Classification; Registry. Laws 2016, Chapter 168.**

Designates real property and improvements burdened by a conservation easement as class two property subject to a fifteen percent assessment ratio. Requires county assessors to establish and maintain a public digital registry of each parcel of property that is classified as class two property because it is burdened by a conservation easement. Effective January 1, 2017.

## D. Other Tax & Tax-Related Legislation

### **SB 1008: VLT; Fee Exemptions; First Responders. Laws 2016, Chapter 12.**

Expands Arizona's vehicle license tax and registration fee exemptions for surviving spouses and dependents of deceased law enforcement officers, firefighters, and ambulance attendants to include volunteer first responders who were killed in the line of duty or who died from injuries suffered in the line of duty while acting in an official capacity on behalf of a governmental entity that is involved in an emergency or law enforcement response. This emergency measure went into effect when Governor Ducey signed it on March 14, 2016 and is retroactive to January 1, 2016.

### **SB 1289: 2016 Tax Corrections Act. Laws 2016, Chapter 156.**

Makes numerous technical corrections to Arizona's tax laws. Provisions relevant to miscellaneous taxes include: (1) allows the Department's Director the option of designating someone to serve on Arizona's Economic Estimates Commission instead of personally serving in that role, (2) defines and redefines terms used in Arizona's statutes governing luxury taxes imposed on liquor and tobacco products, and (3) prohibits the distribution or transfer of tobacco products unless Arizona's luxury tax has been paid. (Also affects Arizona sales tax and property tax laws as summarized above.)

### **HB 2002: Insurance Premium Tax Reduction. Laws 2016, Chapter 358.**

Accelerates the previously scheduled reduction in insurance premium tax rates by five years. The premium tax rates for all types of insurance, except fire, disability, and health care insurance plans, will gradually drop from 2.0% to 1.7% beginning with premiums received in calendar year 2016. The rates will now drop to 1.7% by tax year 2021 instead of by tax year 2026.

### **HB 2114: Declaration; Independent Business Status. Laws 2016, Chapter 231.**

Provides that any employing unit may create a rebuttable presumption of an independent contractor relationship by having the independent contractor execute a declaration of independent business status in substantially the form prescribed by the legislature and by acting in a manner substantially consistent with the declaration.

### **HB 2153: VLT Exemption; Military Members; Spouses. Laws 2016, Chapter 213.**

Expands Arizona's vehicle license tax and registration fee exemptions for surviving spouses and dependents of deceased first responders to include surviving spouses and dependents of deceased members of the U.S. military who were killed in the line of duty or who died from injuries suffered in the line of duty.

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**HB 2239: Premium Tax Credit; Reciprocal Insurers. Laws 2016, Chapter 360.**

Eliminates the deadline to claim the insurance premium tax credit for net increases in full-time employees hired to fill qualified employment positions in Arizona. Provides that reciprocal insurers and their attorney-in-fact are considered to be the same entity for purposes of calculating the credit. Retroactive to January 1, 2016.

**HB 2343: Unclaimed Property; Auditor Contingency Contracts. Laws 2016, Chapter 239.**

Requires the Department of Revenue to: (1) develop procedures and metrics to evaluate the performance of unclaimed property auditors, including contract contingent fee auditors, and the accuracy of their recommendations, (2) provide holders of unclaimed property with a notice of their rights, and (3) explore the feasibility of contracting for unclaimed property audits that are not contingent on the auditor recovering unclaimed property.

**HB 2387: Racing; Hardship Tax Credit; Elimination. Laws 2016, Chapter 247.**

Eliminates the hardship tax credit that offset the 5.5% tax on all monies handled in pari-mutuel pools for dog racing. Does not impact credits lawfully earned before the May 13, 2016 effective date of this act.

**HB 2652: Independent Contractors; Criteria. Laws 2016, Chapter 210.**

Provides that Qualified Marketplace Contractors (QMC) shall be treated as independent contractors for all purposes under state and local laws in Arizona, including unemployment insurance laws and workers' compensation laws, if: (1) all or substantially all payments are related to payments for services, and (2) the services performed are governed by a written contract executed between the QMC and a Qualified Marketplace Platform (QMP) that covers all of the statutorily required provisions. Generally defines QMC as any person or entity that enters into an agreement with a QMP to use the QMP's platform to provide services to third parties seeking those services. Generally defines QMP as an entity that operates a website or smartphone application that facilitates the provision of services by QMCs to individuals or entities seeking such services and that only accepts service requests from the public through its website or smartphone application.

**HB 2708: Revenue; Budget Reconciliation; 2016-2017. Laws 2016, Chapter 125.**

Alters the rates tobacco distributors must pay to purchase tobacco stamps from the Department. Requires the Department to conduct an amnesty program, officially known as the "tax recovery program," for a two-month period from September 1, 2016 through October 31, 2016 under which the Department is required to waive all civil penalties and interest for tax liabilities that have been or could be assessed during the "liability period" for taxpayers who comply with the requirements of the program. The program applies to all taxes and surcharges administered or collected by the Department, except luxury and withholding taxes. For taxpayers filing annual returns, the program applies to all taxable periods ending before January 1, 2014. For all other taxpayers, the program applies to any taxable period ending before February 1, 2015. Unlike previous amnesty programs, taxpayers have up to three years to satisfy their tax liability under this program. (Also affects Arizona income and sales taxes as summarized above.)