

LEGISLATIVE SUMMARY

The general effective date is September 18, 2003

INCOME TAX

HB 2057 (Internal Revenue Code Conformity)

This is the annual bill which conforms the Arizona statutory definition of the Internal Revenue Code (IRC) for the 2003 tax year to the federal IRC as of January 1, 2003, including provisions that became effective in 2002, but excluding any provisions that become effective after January 1, 2003.

HB 2058 (income tax credit review schedule)

Laws 2002, Chapter 238 established the Committee for a review of various corporate and individual income tax credits that are set forth in an income tax credit review schedule.

HB2058:

- Requires income tax credits that are recommended by the Committee to be retained or amended to be returned to the Committee's schedule and be reviewed in five years.
- Reassigns income tax credits reviewed in 2002 for review in 2007 as follows:
 - Individual and corporate defense contracting (A.R.S. § 43-1077, 43-1078, 43-1165 & 43-1166).
 - Individual and corporate military reuse zone (A.R.S. § 43-1079 & 43-1167).
 - Individual and corporate environmental technology facility (A.R.S. § 43-1080 & 43-1169).
- Requires the Committee to provide a copy of its report to the Arizona State Library, Archives and Public Records.

A.R.S. § 43-1076 allows an individual income tax credit for placing recycling equipment in service in the amount of ten percent of the cost of installing recycling equipment. The Committee reviewed the recycling equipment income tax credit in its December meeting and discussed the repeal of this credit. A similar credit existed for corporate taxpayers, but this was eliminated in 1999 when the corporate rate was reduced.

HB 2058 repeals retroactive to tax years beginning January 1, 2003, the recycling equipment income tax credit but allows a taxpayer to continue to carry

forward existing amounts. Makes technical and conforming changes to statutory provisions that refer to the recycling credit.

HB 2059 (2003 tax corrections act)

HB 2059 is the annual bill that makes technical, conforming and clarifying changes to the Arizona tax statutes.

HB 2396 (school tax credit; reporting requirements)

The bill amends A.R.S. § 43-1089 (credit for contributions to school tuition organizations) to require a school tuition organization (STO) to file an annual report with the Department of Revenue, if the organization receives a voluntary cash contribution pursuant to subsection A of the statute. It amends A.R.S. § 43-1089.01 (credit for public school fees and contributions) to require a public school to file an annual report with the Department of Revenue, if the school receives a voluntary cash contribution pursuant to subsection A of the statute.

HB 2396 requires a STO or public school to submit this report to the department by February 28th of each year.

HB 2421 (school tax credit; classroom instruction)

HB 2421 amends A.R.S. § 43-1089-01 (credit for public school fees and contributions).

The bill adds a subsection that states that a public school site council or a charter school's principal, director or chief administrator determine how undesignated contributions received through the tax credit are used.

It also includes in the definition of "extracurricular activities" in-state or out-of-state competitive event trips, but excludes senior trips or recreational, amusement or tourist activities.

HB 2444 (redevelopment area; financing, definition)

An emergency measure that expands the definition of designated area by bringing it into conformity with federal law. The definition will include any area that is designated by state statute as an enterprise zone or any area designated by the U.S.

Department of Housing and Urban Development as an empowerment zone or enterprise zone.

SB1019 (wheels to work program; repeal)

The Wheels to Work Program through the Department of Economic Security, Jobs Administration ended in fiscal year 2002 (legislative appropriation was line item vetoed).

This bill removes the wheels to work program statute (§ 46-142) and removes the individual and corporate tax credit for donating a motor vehicle to the program (§ 43-1090.01 & §43-1177).

TRANSACTION PRIVILEGE TAX

HB 2322 (sales tax; solar contractor's exemption)

It expands the solar energy device exemption that already exists in the TPT contracting class to include the mark up and installation of the devices which would be included in the contractor's Gross proceeds or Gross income from the contract. It changes the deduction limit from "\$5,000/device" to "\$5,000/contract." The industry has stated that they have always believed that the installation was exempt and have not paid tax on it. Therefore the fiscal impact will be very slight to the state. The change in the "per device" to "per contract" limit could decrease the amount that can be taken if several devices are on a single contract.

SB 1066 (sales tax increase; preexisting contracts)

Stipulates how an increase in the transaction privilege (sales) tax rate is applied to prime contracting activities. Specifically, the bill requires:

- That any contracts or written bids entered into by prime contractors on or before the effective date of legislation or the date of the election be exempt from transaction privilege tax rate increases imposed as a result of these measures.
- The prime contractor must maintain records as required by the department.

SB 1231 (hospital districts; facilities)

A new subsection is added to A.R.S. § 48-1910 providing that the board of directors of a county-wide hospital district may request the county's board of supervisors to place on a county election ballot the question of imposing county transaction privilege tax (TPT) to support the hospital district.

This could occur in counties that meet certain population and property valuation levels.

The tax could be in effect for up to five years, and could be renewed.

The department will collect the approved TPT and remit revenues therefrom to the county treasurer for dispersal to the hospital district.

PROPERTY

HB 2112 (property tax appeals)

Under Title 12 (Courts and Civil Proceedings) and Title 42 (Taxation), provides for increases in the maximum limits on a given property's full cash value, which are used to determine whether or not a valuation or classification appeal qualifies for small claims court and for determining how many State Board of Equalization hearing officers are required to hear an appeal.

HB 2348 (electric generation, transmission and distribution facilities valuation)

Laws 2000, Ch. 384 created a two-year transition period for a new valuation methodology for electric generation facilities. Because of the complexity of the changeover to the new methodology, in 2002, H.B. 2063 froze the valuations for existing electric generating facilities for one year, and clarified the combined allocation method for distributing valuations among Arizona counties for Tax Year 2003. HB 2063 also; created a timetable for repealing existing sections of 2000's Session Laws; specified the subsequent delayed repeal of certain sections of 2002's Session Laws; and provided for a retroactively effective date of 12-31-2001. For 2003, under Title 42 (Taxation), H.B. 2348 clarifies the framework the department is to utilize to value electric generating facilities; specifies the allocation method for distributing valuations among Arizona counties; amends the Session Laws of 2000 regarding the effective repeal dates of certain provisions; and amends § 42-12001 to include "gas distribution companies, electric transmission companies, electric distribution companies, combination gas and electric transmission and distribution companies, companies engaged in the generation of electricity, and electric cooperatives." This bill has a retroactively effective date of December 31, 2002, making it applicable to Valuation Year 2003.

HB 2461 (truth in taxation)

Under Title 15 (Education), amends the language specified in the Truth in Taxation notice for K-12 public school districts budgeting.

Effective: May 12, 2003 as an Emergency Measure.

SB 1049 (mobile home landlords and tenants)

Amends several statutes under Title 33 regarding various provisions of the Mobile Home Landlord and Tenant Act, and one statute under Title 41 that is related by subject matter. Only the following statute is directly relevant to property tax assessment.

SB 1069 (property tax liens; treasurers procedures)

Amends or adds statutes under Title 11 (Counties), Title 33 (Property) and under Title 42 (Taxation) relating to the procedures of County Treasurers and to holders of property tax lien certificates of purchase.

OTHER

HB 2533 (budget reconciliation; public finances)

HB2533 is an omnibus reconciliation bill (ORB) that accompanies the general appropriations bill. This bill was lengthy; however, two tax issues were part of this bill.

Withholding Tax

- As permanent law, requires a minimum \$5 per month of state withholding per employee.
- As permanent law, alters state income tax withholding rates to offset federal reductions. The 10% rate only applies to those with an income of \$15,000 or less.

| Current rates | New rates |
|---------------|-----------|
| 10.0 % | 10.0 % |
| 18.0 % | 18.2 % |
| 21.0 % | 21.3 % |
| 23.0 % | 23.3 % |
| 29.0 % | 29.4 % |
| 34.0 % | 34.4 % |

- Provides session law to direct employers to increase withholding amounts for employees. The increase is based on the current percentage

the employee now has withheld from their paychecks.

- Non of the changes will preclude employees from changing the percentage of withholding tax if they so choose.

Tax Amnesty

- As session law, establishes a tax amnesty program, allowing the director of the department to abate or waive all or part of civil penalties and to impose interest at a reduced rate for tax liabilities for all qualifying taxpayers. States that as a qualification for amnesty, the taxpayer must pay at least one-third of the total amount due by October 31, 2003, with the total balance due by May 1, 2004. This provision is repealed after June 30, 2004.

SB 1310 (tobacco; non-participating manufacturers)

Makes clarifications to the existing Tobacco Master Settlement Agreement. It establishes a directory of cigarette products that are allowed to be sold in Arizona, gives the Attorney General (AG) the ability to verify information reported by tobacco product manufacturers and requires non-resident or foreign non-participating manufacturers to appoint an agent for service of process.

GENERAL

SB 1348 (tax return preparers; penalties)

Specifies that the civil penalty, imposed on a tax preparer for understating a taxpayer's liability, can be imposed only if:

- a) there was not a realistic possibility that the preparer's position would be sustained.
- b) The preparer's position was undisclosed to the department.

Clarifies that a tax preparer is required to pay 85 percent of a penalty if the payment is made within 30 days from the receipt of notification.

Clarifies that the 30 day time period currently allowed to appeal a department penalty starts with the date of the receipt of notification.

Expands the initial date used regarding statutory requirements for the amount of time to keep tax documents filed electronically (or otherwise) to

include the date the tax documents were presented to the taxpayer for signature.

BILLS VETOED BY THE GOVERNOR

SB 1314 (department; procedures and appeals)

Permitted a taxpayer that has received an assessment in corporate income, sales or use tax to appeal directly to tax court after an informal conference.

Added adverse private taxpayer rulings to the list of actions of the department that can be appealed by the taxpayer to the Board of Tax Appeals

Required the department to post redacted Director's decisions on taxpayer appeals as public records on the department's website.

Governor Napolitano felt that all appeals should exhaust administrative remedies before going to the

courts. We will be working to place director's decisions on our website and don't need the legislation to do that.

SB 1305 (cigarettes; delivery sales)

Placed new restrictions on cigarette manufacturers and distributors who sell cigarettes via the Internet or U.S. mail.

Governor Napolitano supported the primary goal of the bill but felt some of the provisions were not consistent with this goal. The Governor agrees that legislation is needed and would like to see an improved version of this bill in the future.
