



2015 Legislative Summaries

**State of Arizona
Department
of Revenue**

This document contains summaries of 2015 legislation from the Fifty Second Legislature – First Regular Session.

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The following is intended to give a brief summary of the major 2015 tax-related legislation impacting the Department of Revenue (DOR) and not intended to discuss the specifics of any particular enactment. Detailed summaries and the chaptered versions of these bills can also be found at www.azleg.gov. Please refer to the particular legislation for more definitive information.

The general effective date for legislation enacted during the First Regular Session is July 3, 2015. All legislation will have this effective date unless otherwise noted in the summary.

Income Tax

HB 2001 (Chapter 91)

Income tax brackets; inflation index

Beginning with tax year 2016, the income dollar amounts for each individual income tax rate bracket are required to be annually adjusted by the average annual change in the metropolitan Phoenix consumer price index.

HB 2066 (Chapter 47)

Public school tax credit; testing

Retroactive to tax year 2015, the Individual Income Tax Credit for Public School Fees and Contributions is expanded to allow cash contributions to a public school to be used for the support of standardized testing for college credit or readiness offered by a widely recognized and accepted educational testing organization, for the career and technical education industry certification assessment or for preparation courses and materials for standardized testing.

HB 2153 (Chapter 301)

Tax credits; STOs; preapproval; entities

Owners of businesses organized as S-Corporations may claim corporate income tax credits for contributions to School Tuition Organizations based on the pro rata amount of contributions to STOs to if the aggregate contribution in the tax year is at least \$5,000 and the contributions meet the statutory requirements. The claims made by co-owners of an S-Corporation cannot exceed the amount that would have been allowed a sole owner of the corporation.

An S-Corporation or a shareholder may not claim a tax credit for contributions made to an STO if the contribution is made for the benefit of a shareholder's dependent, an S-Corporation or shareholder designates a student beneficiary as a condition of making the contribution, or an S-Corporation or shareholder agrees with other taxpayers to designate reciprocal contributions for the benefit of each other's dependents.

Certified STOs are prohibited from awarding grants or scholarships to students who are simultaneously enrolled in a district or charter school and a qualifying school.

HB 2274 (Chapter 208)
Emergency and military affairs omnibus

Repeals the National Guard Relief Fund and the check off box on the income tax return form for contributions of tax refunds to the Fund.

All unexpended and unencumbered monies remaining in the Fund are transferred to the Department of Veterans' Services for distribution to a nonprofit organization that provides financial assistance to National Guard members and their families.

HB 2483 (Chapter 217)
School tax credit; classroom expenses

Specifies that cash contributions for the Individual Income Tax Credit for Public School Fees and Contributions that is made on or before April 15th may be applied to either the current or preceding tax year and is considered to have been made on the last day of that tax year.

School tuition organizations (STOs) must include on their websites, if one exists, the percentage and total dollar amount of educational scholarships and tuition grants awarded during the previous fiscal year to students whose family income meets the eligibility requirements for free or reduced-price lunches, and to students whose family income exceeds that threshold but does not exceed 185 percent of the eligibility requirements for free or reduced-price lunches. This information is required to be included in the STO's annual report to the Department of Revenue.

HB 2670 (Chapter 6)
International operations centers

See Multiple Tax Types

HB 1103 (Chapter 250)
Charitable tax credit; foster children

The definition of a qualifying foster care charitable organization is expanded to include organizations that provide services to a person who is under 21 years of age and who is participating in a transitional independent living program after being in an out-of-home placement.

SB 1188 (Chapter 227)
Internal revenue code conformity

Incorporates the federal changes made in 2014 into Arizona's definition of "internal revenue code."

SB 1216 (Chapter 230)
Tax corrections

See Multiple Tax Types

**Transaction Privilege
Tax/Use Tax**

HB 2135 (Chapter 235)
Transportation network companies

Transportation network companies that have been issued a permit by the Arizona Department of Transportation and transportation network company drivers on transactions involving transportation network services are exempted from the transporting classification of the transaction privilege tax.

HB 2147 (Chapter 72)**Municipal tax; pole attachment**

The leasing or renting of space to make attachments to utility poles by or to a person engaged in business under the utilities or telecommunications classifications or to a person that is a cable operator from the utilities, is exempted from the telecommunications, commercial lease and personal property rental classifications of transaction privilege taxes and municipal excise tax.

HB 2670 (Chapter 6)**International operations centers**

See Multiple Tax Types

SB 1216 (Chapter 230)**Tax corrections**

See Multiple Tax Types

SB 1446 (Chapter 4)**TPT reform; contractors**

A prime contractor, or subcontractor working under the control of a prime contractor, may purchase tangible personal property to be incorporated into a maintenance, repair, replacement or alteration (MRRRA) project exempt from retail TPT or use tax. The prime contractor, or subcontractor, is liable for an amount equal to any tax a seller would be required to pay. Additionally, any person who uses a canceled TPT license is liable for tax if property is purchased exempt from retail TPT or use tax and subsequently used or consumed. In the event that if a final determination concludes the project was prime contracting, a person may be entitled to an offset

for tax paid on tangible personal property believed to be for a MRRRA project.

The gross proceeds of sales or income derived from a de minimis amount of modification activity does not subject a contract or any part of a contract to TPT under the prime contracting classification. Tangible personal property incorporated or fabricated into a MRRRA project is subject to retail TPT. Each contract is independent of any other contract, except that any change order that directly relates to the scope of work of the original contract must be treated the same as the original contract regardless of the amount of modification. Change orders that do not directly relate to the scope of work of the original contract must be treated as a new contract, with the tax treatment of any subsequent change order to follow tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

Contracts with political subdivisions, with the exception of certain special taxing districts, that primarily involve surface or subsurface and vertical improvements and subject to specific highway and public building statutes are subject to TPT under the prime contracting classification without regard to whether the contract includes MRRRA activities.

For purposes of the exclusion from prime contracting, alternation is defined as an activity or action that causes a direct physical change to existing property. For existing residential property, projects are not taxable under prime contracting if the contract amount is less than 25 percent of the higher value of the most recently available full cash value as of the date of any bid or the date of the contract. For existing commercial property, contracts are not taxable under prime contracting if the contract amount is less than \$750,000, the scope of work directly relates to less than 40% of the existing square footage of the existing property or the scope of the work involves expanding the square footage of less than 10 percent of the existing property. A contract qualifies as an alteration if a project for which the owner and the person performing the work

reasonably believed, at the inception of the contract, would be treated as an alteration and if on completion the project exceeded the applicable threshold by no more than 25 percent.

Project elements may not be artificially separated from a contract to cause a project to qualify as an alteration. The Department of Revenue (DOR) has the burden of proof that project elements have been artificially separated.

A person who canceled a TPT license on or before April 30, 2015 may be subject to an amount equal to the amount of retail TPT on the value of any materials purchased tax exempt that are on hand at the time of cancellation. The person may make a reasonable estimate on the value of the materials. If the reasonable estimate of the value is \$10,000 or less, the person is not liable. If the reasonable estimate of value is more than \$10,000, the person is not liable for the retail equivalent amount on the first \$10,000, and the value in excess is subject to the retail equivalent amount under any of the following:

- If the materials are incorporated into an MRRRA project, the retail equivalent amount due is based on the purchase price of the materials and if the materials are sold or disposed, the retail equivalent amount is based on the revenue received;
- In a single payment with the tax based on the person's principal place of business; or
- In 12 equal monthly installments with the tax based on the person's principal place of business.

For any contract that was bid or entered into or for any binding obligation executed on or before April 30, 2015, a person may treat the contract as a contract that is taxable under the prime contracting classification. Contractors will be held harmless from any additional tax, penalty and interest if DOR determines, under audit, that the person's good faith treatment of the contract as,

either subject or excluded from TPT under the prime contracting classification during this time period, was incorrect.

Cities, towns and counties may no longer require a building permit applicant to have a TPT or business license as a condition for the issuance of a permit. Additionally, the requirement that an applicant possess a TPT license in order to obtain or renew a Registrar of Contractor's license has been eliminated.

Property Tax

HB 2108 (Chapter 233)

Property tax; class nine; conventions

Improvements located on federal, state, county or municipal property and owned by the lessee of the property may only qualify for the class 9 property tax classification if the improvements become the property of the government on termination of the leasehold interest in the property and if both the improvements and the property are used exclusively for convention activities.

HB 2110 (Chapter 98)

Taxing district boundaries; deadline extensions

The deadline Department of Revenue may extend for municipal, school district, community college district and other special taxing district governing bodies to file information relating to changes in boundaries and the boundaries of newly created taxing jurisdictions is shortened to December 20 of the year preceding the year in which assessments or taxes are to be levied, instead of to February 15 of the year in which the assessments or taxes are to be levied.

HB 2128 (Chapter 49)**Leased religious property; class nine**

Classifies property, buildings and fixtures, or any portion thereof, that are leased to a nonprofit church, religious assembly or religious institution and that are primarily used for religious worship as class 9 property for property tax purposes.

HB 2615 (Chapter 221)**Illegal tax levies; review; notice**

Beginning in 2016, the Property Tax Oversight Commission is required to review the secondary property tax levy of each county, city, town and community college district for the purpose of identifying violations of constitutional and statutory requirements.

The requirements relating to reporting on the issuance of government bonds, securities and incurred debt and the administration of the Debt Oversight Commission are transferred from the Department of Revenue to the State Treasurer.

SB 1216 (Chapter 230)**Tax corrections**

See Multiple Tax Types

SB 1476 (Chapter 15)**Budget; BRB; K-12 education; FY2015-2016**

Beginning in FY 2016, the amount of additional state aid required to offset primary property taxes in excess of the 1 percent cap provided to school districts from the state General Fund is limited to \$1,000,000 per county. The Property Tax Oversight Commission (PTOC) is required to evaluate each county with a school district or districts who require more than the state-funded amount and determine the proportion attributable to each taxing jurisdictions located within the affected

school district or districts. The PTOC is also required to determine the amounts each identified taxing jurisdiction must transfer to the impacted school district or districts during the fiscal year.

Multiple Tax Types/Misc.

HB 2617 regulatory relief tax credit (NOW: counties; municipalities; budgets) (Chapter 323)

Includes Councils of Governments and Regional Transportation Authorities to the political subdivisions that are assessed a fee to recover administrative and operating costs incurred by the Department of Revenue in providing administrative and collections services to local governments.

HB 2670 (Chapter 6)**International operations centers**

The gross proceeds of sales or gross income derived from sales of electricity or natural gas to a business that operates a certified international operations center is exempted from the utilities TPT classification and use tax.

Renewable energy generation facilities that produce power primarily for an international operations center may qualify for the individual or corporate tax credit for renewable energy investment and production for self-consumption.

A taxpayer is eligible for the tax credit if the power is generated primarily for a certified international operations center and the taxpayer invests at least \$100 million in one or more new renewable energy facilities in Arizona that produce energy for self-consumption using renewable energy resources, a portion of the energy produced at each renewable energy facility is used for self-consumption in Arizona and the power used for self-consumption is

used for an international operations center. A lessor of an international operations center facility that uses power for self-consumption satisfies this requirement if the lessee is an international operations center and the power is transferred as part of the lease to the lessee.

unpaid tax liabilities for any period before January 1, 2014, for annual filers, and February 1, 2015, for all other filers.

The maximum tax credit is increased from \$1 million to \$5 million per year for five years for each renewable energy facility. The amount of total aggregate tax credit an owner of an international operations center may claim is capped at \$25 million.

SB 1216 (Chapter 230)

Tax corrections

Makes numerous, technical, clarifying and conforming changes in the tax-related statutes in the Arizona Revised Statutes.

SB 1471 (Chapter 10)

Budget; BRB; K-12 education; FY2015-2016

The Department of Revenue (DOR) is required to assess and collect fees from local governments in FY 2015-2016 for costs incurred in providing administrative and collections services.

Each non-program city is assessed a fee of \$0.76 per capita in FY 2016.

Local governments may meet their cost sharing obligation from any source of revenue designated by the appropriate county, city or town and the contributions are excluded from applicable expenditure limitations.

DOR is required to establish a tax recovery (amnesty) program from September 1, 2015, through October 31, 2015, for the purposes of reducing or waiving civil penalties and interest for