

The seal of the State of Arizona is a large, faint watermark in the background. It is circular with the text "SEAL OF THE STATE OF ARIZONA" around the top and "1912" at the bottom, flanked by two stars. In the center is a shield depicting a landscape with a mountain, a river, and a sun.

2013 Legislative Summaries

**State of Arizona
Department
of Revenue**

This document contains summaries of 2013 legislation from the Fifty First Legislature – First Regular Session and First Special Session.

2013 Legislative Summaries

The following is intended to give a brief summary of the 2013 tax-related legislation impacting the Department of Revenue (DOR) and not intended to discuss the details of any specific enactment. Detailed summaries 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 Special Session is September 12, 2013 and First Regular Session is September 13, 2013. All legislation will have this effective date unless otherwise noted in the summary.

To go to the complete bill, CTRL + click on the chapter number (hyperlink to Internet).

Income Tax

HB 2009, 1st Special Session, (Chapter [9](#))

Budget; brb; revenue; FY2013-2014

See Multiple Tax Types

HB 2531 (Chapter [256](#))

Income tax; instant depreciation

Beginning in tax year 2014, taxpayers are no longer required to include amounts greater than \$25,000 for property for which an expense deduction was taken pursuant to Section 179 of the Internal Revenue Code as part of Arizona adjusted gross income.

SB 1168 (Chapter [65](#))

Internal revenue code conformity

Incorporates the federal changes made in 2012 into Arizona's definition of "internal revenue code."

SB 1179 (Chapter [236](#))

Tax incentives; omnibus

See Multiple Tax Types

SB 1313 (Chapter [114](#))

Tax corrections

See Multiple Tax Types

SB 1447 (Chapter [251](#))

ADE; school finance revisions

The State Board of Education is required to distribute monies in the Assistance for Education Fund to the Department of Education (ADE) to fund solutions teams for schools with a D or F label. The income tax check-off box for state aid for public schools is renamed to reflect the new distribution of Fund monies.

Transaction Privilege Tax/Use Tax

HB 2009, 1st Special Session, (Chapter 9)

Budget; brb; revenue; FY2013-2014

See Multiple Tax Types

**HB 2111 (Chapter 255)
transaction privilege tax changes**

Prime Contracting Changes

The prime contracting classification of the transaction privilege tax (TPT) is modified to exempt contracts with a property owner for maintenance, repair, or replacement of existing property. Contracts that are not subject to TPT cannot include modification activities. Each contract or project is independent from other contracts, and a contractor who has non-taxable contracts remains taxable on any contracts that include modification activities. Transactions involving tangible personal property sold to service contractors on exempt projects are taxable.

The Department is required to issue project-specific exemption certificates that certain contractors can use to purchase tangible personal property without paying tax at retail. To qualify for a project-specific exemption certificate, the contractor may not work directly for the owner of the real property, may only use the exemption certificate for material that will be incorporated into a taxable construction project, may not have a delinquent tax balance and must submit documentation to the Department showing that it meets these conditions.

The prime contracting exemption for pre-construction services is modified so that the terms, conditions, and pricing for the design phase

services or professional services need only be separately stated from those for construction phase services in the contract rather than being contained within a separate contract.

The Owner Builder Sales classification is repealed.

Audits

Requires DOR and the cities and towns that levy TPT to enter into agreements to provide for unified or coordinated licensing, collection and auditing programs. The agreements must include denial criteria for city and town requests to audit multi-jurisdictional taxpayers.

All TPT audits must be conducted in accordance with the DOR manual and performed by a DOR certified auditor. All state, city and third party auditors must be trained in accordance with DOR policies. In most instances, audits of multi-jurisdiction taxpayers must be conducted by DOR. Cities and towns may audit single-jurisdiction taxpayers and any other taxpayer authorized by DOR. All audits must include all taxing jurisdictions, regardless of who conducts the audit. Audit assessments will be issued to taxpayers by DOR in a single notice and appeals of the audit assessments must be directed to DOR.

Tax Administration

The Department is required to provide a coordinated electronic method of collecting state and municipal TPT. Taxpayers who are required to pay municipal TPT to a city or town without a DOR agreement (Non-Program City) may file and pay the tax through a DOR administered online portal. A taxpayer who does not file and pay required returns and tax liabilities through the portal must instead pay taxes to DOR, provided DOR has developed electronic and non-electronic means to capture data with sufficient specificity to meet taxing jurisdictions' needs.

By January 1, 2015, the Department is required to modify the online portal for the Non-Program Cities in order for taxpayers to pay any and all state, county, or municipality TPT and affiliated

excise taxes online. The Department is responsible for administering the online portal and the Non-Program Cities are responsible for the costs.

The expanded online portal must contain a single point for licensing, filing a single tax return, and paying all TPT, consolidate data in a manner compatible with DOR data systems, capture data with sufficient specificity to meet taxing jurisdictions' needs and allow for proper identification of the correct taxing jurisdiction and tax rate.

Miscellaneous

The sourcing rules for transactions involving tangible personal property are clarified to specify that gross receipts from retail sales are sourced to the seller's business location if the seller receives the order at a business location in Arizona or to the purchaser's location in Arizona if the seller receives the order at a business location outside of Arizona.

Gross receipts from leasing or renting tangible personal property are sourced to the lessor's business location if the lessor has a business location in Arizona or to the lessee's address if the lessor does not have a business location in Arizona.

The exemption for sales of tangible personal property to a non-resident of Arizona if the property is shipped or delivered to the purchaser outside Arizona for use outside the state is modified to apply only to sales of motor vehicles. The exemption for sales of tangible personal property shipped directly to a destination outside of the United States for use in a foreign country is repealed.

The Department is authorized to adopt emergency rules necessary to administer this legislation.

The effective date for HB 2111 is January 1, 2015.

HB 2259 (Chapter [120](#)) Orthodontic devices; transaction privilege tax

Retroactive to taxable periods beginning October 1, 2007, exempts orthodontic devices dispensed to a patient by a licensed dental professional from the retail classification of the transaction privilege tax (TPT) and municipal transaction privilege taxes.

HB 2267 (Chapter [40](#)) Public consignment dealer; requirements

Requires a public consignment auction dealer to submit a valid exemption certificate to the Department of Revenue (DOR) in order to establish entitlement to the TPT deduction for auction sales of motor vehicles to nonresidents for use outside Arizona.

Allows DOR to additionally disclose confidential information to the Department of Transportation for its use in administering statutory-prescribed penalties.

HB 2324 (Chapter [27](#)) tpt exemption; leases; affiliated companies

Exempts the leasing of real property between "affiliated companies, businesses or persons," from the commercial lease classification of the TPT, which is defined as the lessor owning at least 80 percent interest in the lessee, the lessee owning at least 80 percent interest in the lessor, or an affiliated entity or unrelated person owning at least 80 percent interest in both, or leasing real property by a "reciprocal insurer".

Municipalities and special taxing districts may not levy a transaction privilege or use tax on gross

income derived from leasing real property between affiliated companies, businesses or persons, or by a reciprocal insurer.

**HB 2336 (Chapter [233](#))
taxation; retail classification; cash equivalents**

Retroactive to tax period beginning January 1, 1999, exempts the sale of "cash equivalents," from the retail classification of the TPT. Cash equivalents are defined as items or intangibles through which a value denominated in money is purchased in advance, including gift cards, vouchers, traveler's checks, and money orders or other instruments.

The gross proceeds of sales or gross income derived from the redemption of any cash equivalent as a means of payment for taxable goods or services is subject to TPT.

Taxpayers are permitted to apply for a refund of TPT based on the retroactive application of this statutory change. The total amount of TPT that can be refunded is limited by an aggregate cap of \$10,000 and claims must be submitted by December 31, 2013.

**HB 2535 (Chapter [153](#))
independent functional utility**

Retroactive to tax periods beginning July 1, 1997, the deduction for prime contracting activity under the retail classification of the TPT is modified to provide that the deduction applies to gross receipts from activities on tangible property that is deductible for retail TPT or exempt from use tax and has "independent functional utility".

The previous language provided that the deduction applies to gross receipts from activities on tangible personal property that is either deductible for retail TPT or exempt from use tax and does not

become a "permanent attachment" to real property.

Taxpayers are permitted to apply for a refund of TPT based on the retroactive application of this statutory change. The total amount of TPT that can be refunded is limited by an aggregate cap of \$10,000 and claims must be submitted by December 31, 2013.

**SB 1179 (Chapter [236](#))
Tax incentives; omnibus**

See Multiple Tax Types

**SB 1313 (Chapter [114](#))
Tax corrections**

See Multiple Tax Types

Property Tax

**HB 2344 (Chapter [9](#))
property tax penalty waiver**

Retroactive to July 1, 2012, allows a county treasurer, in consultation with the board of supervisors, to waive the penalty imposed on an owner of a primary residence for failure to respond to a request for information about classification of residential property for good cause.

**HB 2346 (Chapter [226](#))
rural electric cooperatives; valuation**

Prescribes the formula to be used by the Department of Revenue to determine the valuation of distribution cooperatives, beginning with the 2014 valuation year. The valuation is the product of a property's value multiplied by the standard

market value factor, which is determined by comparing specific standard factors of the investor-owned utilities and the distribution cooperatives.

SB 1179 (Chapter [236](#))
Tax incentives; omnibus

See Multiple Tax Types

SB 1169 (Chapter [66](#))
prop 117; conformity

Makes technical and conforming changes to Arizona Revised Statutes based in the passage of Proposition 117, which amended the Arizona Constitution to set a limit on the annual percentage increase in property values used to determine property taxes to no more than five percent above the previous year, and establishes a single limited property value as the basis for determining all property taxes on real property.

SB 1313 (Chapter [114](#))
Tax corrections

See Multiple Tax Types

Multiple Tax Types/Misc.

HB 2009, 1st Special Session, (Chapter [9](#))
Budget; brb; revenue; FY2013-2014

Computer Data Centers

Effective September 1, 2013, owners, operators, and colocation tenants of computer data centers (CDC's) who are certified by the Arizona Commerce Authority (ACA) are eligible for tax relief. To qualify

for tax relief, the owner or operator of a CDC must submit a certification form to the ACA, which must include the anticipated investment associated with the CDC, whether it qualifies as a sustainable redevelopment project, and affirmation that the CDC meets investment requirements. The qualification period is 10 calendar years from when the certification form is filed, except that the qualification period may then be up to 20 years for a CDC that qualifies as a sustainable redevelopment project. The ACA may only certify new CDCs until December 31, 2023.

To qualify for tax relief as a new CDC, an owner or operator must notify the ACA whether or not a CDC has created a minimum investment of \$25 Million if located in Maricopa or Pima County or \$50 Million if located in any other county.

To qualify for tax relief as an existing CDC, within 5 years of certification, an owner or operator must notify the ACA whether or not a CDC created a minimum investment of \$250 Million in the 72 months prior to September 1, 2013.

For purposes of the tax relief, computer data center equipment purchased for use in a certified CDC is exempt from the retail and prime contracting classifications of the TPT and use tax.

Navajo Technical College

Prescribes a second distribution of TPT revenues received from sources located on the same Indian reservation to a technical college located on the same Indian reservation of 5%, up to \$875,000 in a single Fiscal Year.

Qualified Foster Care Organizations

Retroactive to tax year 2013, the tax credit for a voluntary cash contribution to a qualifying charitable organization is modified to allow taxpayers to claim an increased credit for contributions to a qualifying foster care charitable organization. The amount of the credit is \$400 per single individual or head of household and \$800 for

a married couple filing a joint tax return. A qualifying foster care charitable organization is a qualifying charitable organization that each operating year provides services to at least two hundred foster children in Arizona. The charity must spend at least 50% of its budget on services to foster children in this state.

SB 1179 (Chapter [236](#))

Tax incentives; omnibus

Ignition Interlock Devices

Retroactive, to taxable periods beginning September 1, 2004, the leasing or rental of certified ignition interlock devices (IIDs) is exempted from the personal property rental classification of the TPT and municipal excise tax.

Taxpayers are permitted to apply for a refund of TPT based on the retroactive application of this statutory change. The total amount of TPT that can be refunded is limited by an aggregate cap of \$10,000 and claims must be submitted by December 31, 2013.

Qualified Destination Management Companies

Retroactive to taxable periods beginning January 1, 2002, the gross proceeds of sale or gross income derived from a qualified contract for destination management services is exempt from TPT. A Qualified Destination Management Company (QDMC) is specified as the final consumer and user of any taxable tangible personal property, activity, or service that the QDMC arranges pursuant to a qualified contract for destination management services.

A qualified destination management company is defined as a person that receives on an annual basis at least 80% of its gross proceeds of sales or gross income derived from destination management services.

Destination management services is defined as the business of coordinating, designing, and implementing the delivery by a third party at least four or more of the following: transportation, entertainment, food or beverage, recreational or amusement activity, tours, event venue, theme décor.

In order for a destination management contract to be eligible for the TPT exemption, the QDMC must receive payment from or on behalf of its client for the cost of the destination management services and the QDMC must pay the vendor supplying destination management services, including any applicable TPT or collection of use tax passed on by the vendor to the QDMC.

QDMCs are permitted to apply for a refund of TPT based on the retroactive application of this statutory change. The total amount of TPT that can be refunded is limited by an aggregate cap of \$10,000 and claims must be submitted by December 31, 2013.

Tax Exemption for Sales of Food

Retroactive to taxable periods beginning January 1, 2002, categorizes any ready-to-drink, non-alcoholic beverage contained in any closed or sealed bottle, can, or carton intended for human consumption which is intended for home consumption as tax-exempt food.

Updates Arizona's tax-exempt food statutes by replacing obsolete statutory references to the Food Stamp Program established by the Food Stamp Act of 1977 with the Supplemental Nutrition Assistance Program established by the Food and Nutrition Act of 2008.

For purposes of implementing these provisions, the Department is exempted from the statutory administrative rulemaking requirements.

Motor Vehicle Biofuel Manufacturing Facilities

Real and personal property that is used to manufacture motor vehicle biofuel and its by-products is eligible to be classified as class six property. Motor vehicle biofuel is defined as a solid, liquid or gaseous material intended for use in a motor vehicle, containing fuel additives and derived non-geologically from biological material.

The time period for existing class six property classification for real and personal property and improvements to property biodiesel fuel manufacturing facilities is until December 31, 2023.

IRC § 529 College Savings Plans

Effective January 1, 2013, the amount eligible to be deducted from gross income for contributions to college savings plans pursuant to IRC § 529 is increased from \$750 to \$2,000 for a single individual or head of household and from \$1,500 to \$4,000 for married couples filing jointly.

Qualifying Charitable Organizations

Taxpayers who claim the standard deduction on Arizona income tax forms are now eligible to claim a tax credit for contributions to a qualifying charitable organization.

Corporate Income Tax Apportionment

Effective January 1, 2014, a taxpayer who is a regionally accredited institution of higher education with at least one university campus in Arizona on which at least 2,000 students reside service may elect, for corporate income tax purposes, to receive the benefit of the service outside of Arizona to include sales in the sales factor based on market (where the customers are) rather than cost of performance.

The election is limited to the treatment of sales for educational services, which is defined as tuition and fees required for enrollment and fees required for courses of instruction, transcripts, and graduation.

Preexisting Enterprise Zone Tax Credit

Retroactive to July 1, 2011, taxpayers who claimed first year tax credits for employees hired in a qualified employment position under the Enterprise Zone statutes are not required to file a certification with the Arizona Commerce Authority in order to be eligible for second and third year tax credits.

SB 1286 (Chapter [37](#)) nursing facility provider assessments

An emergency measure that, retroactive to September 30, 2012, exempts the Arizona Veterans' Homes from the nursing facility provider assessment statutes.

SB 1312 (Chapter [222](#)) tobacco product manufacturers; cigarette machines

Prohibits the possession, use or making available for commercial purposes a tobacco product rolling vending machine. Any machine located in a nonresidential premise is presumed to be possessed, used or available for use for commercial purposes unless the machine is for sale.

This does not include machines used exclusively for the owner's personal consumption or use and not located on a retail or other business premises and tobacco product manufacturers that have obtained a current federal manufacturer of tobacco products permit.

The Department of Revenue has the authority to seize unlawful machines and all related tubes, papers, tobacco products and materials, which must be forfeited to the state. All forfeited tobacco products must be destroyed.

It is a class 3 misdemeanor for a knowing violation and prescribes the following penalties: (1) Revocation or termination of a distributor's license to sell or distribute tobacco products. (2) A civil penalty not to exceed \$50,000 for each violation. (3) An injunction to restrain a threatened or actual violation. (4) Recovery by the state of the cost of any investigation related to a violation, the cost of the action related to a violation and reasonable attorney fees.

SB 1313 (Chapter [114](#))

Tax corrections

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