



Summary of 2013 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 both houses of Arizona’s Legislature and signed by Governor Brewer. Except as noted below, most of the bills are effective on September 13, 2013.

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 1168: Internal Revenue Code Conformity. Laws 2013, Chapter 65.

Provides for retroactive conformity to most provisions in the Internal Revenue Code in effect on January 3, 2013, including most of the provisions of the FAA Modernization and Reform Act (P.L. 112-95), and all of the provisions of the Moving Ahead for Progress in the 21st Century Act (P.L. 112-141) and the American Taxpayer Relief Act of 2012 (P.L. 112-240) -- some of which are retroactive to one or more previous tax years.

However, Arizona did not conform to the retroactive provisions of the FAA Modernization and Reform Act (P.L. 112-95) for tax years 2002 through 2011. Instead, the Legislature created a new, refundable credit to be claimed on original, timely filed 2013 individual returns by taxpayers who would have received a refund of Arizona income tax if Arizona conformed to the retroactive provisions. The credit is equal to the reduction in Arizona taxes that would have occurred for tax years 2002 through 2011 if Arizona conformed to the federal law.

Additions and subtractions created in prior years when Arizona did not fully conform to I.R.C. changes for issues such as bonus depreciation and increased I.R.C. § 179 expenses are still in place, except as explained under the summary for HB 2531 below.

SB 1179: Ignition Interlock Devices; TPT Exemption. Laws 2013, Chapter 236.

Increases the amount that may be subtracted from Arizona gross income, retroactive to January 1, 2013, for contributions to colleges savings plans established pursuant to § 529 of the IRC to the extent that the contributions were not deducted when computing federal adjusted gross income. For single individuals and heads of households, the amount increased from \$750 to \$2,000. For married couples filing jointly, the amount increased from \$1,500 to \$4,000.

Permits individuals to claim the \$200/\$400 credit for contributions to qualifying charitable organizations even if they do not itemize their deductions.

Allows qualifying universities with multistate income the option to apportion income from certain types of tuition and fees based on the destination of their customers (market approach) rather than to the state where the greater portion of their income producing activity occurred (income approach) based on costs of performance. For universities that make this election, the market sales approach will be phased in as follows: (1) for tax year 2014: 85% market, 15% income, (2) for tax year 2015: 90% market, 10% income, (3) for tax year 2016: 95% market, 5% income, and (4) for tax year 2017: 100% market.

(Also changes Arizona's sales and property tax laws as summarized below.)



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SB 1313: Tax Corrections. Laws 2013, Chapter 114.

Makes numerous technical corrections, and even some substantive changes, to Arizona's tax laws. Income tax provisions include clarifications and minor changes to Arizona's individual and/or corporate income tax credits for the following: increased research activities, installing commercial or industrial solar energy devices, locating or expanding qualified renewable energy operations in the state, and investing in or adding qualifying net new full-time employment positions at qualifying manufacturing, headquarters, or research facilities. For example, this bill requires the Arizona Commerce Authority to establish a preapproval process for individuals and companies that claim commercial solar energy income tax credits and eliminates statutory references to Arizona's credit for motion picture production costs that expired at the end of 2010. (Also changes Arizona's property and other tax laws as summarized below.)

SB 1417: Reviser's Technical Corrections; 2013. Laws 2013, Chapter 168.

This technical correction bill repeals a duplicative 2012 amendment to the individual and corporate income tax credits for increased research activities retroactive to the August 2, 2012 effective date for the 2012 amendment.

SB 1447: ADE; School Finance Revisions. Laws 2013, Chapter 251.

Changes the name of the fund taxpayers may contribute any portion of their Arizona income tax refund to from a contribution for "state aid to public schools" to a contribution for "funding solutions teams assigned to schools."

HB 2009: 2013-2014; Revenue; Budget Reconciliation. Laws 2013, Chapter 9.

Doubles the maximum individual income tax credit taxpayers may claim, from \$200/\$400 to \$400/\$800, for contributions to qualifying charitable organizations if the organization is a qualifying foster care charitable organization. Retroactive to January 1, 2013. (Also changes Arizona's sales tax laws as summarized below.)

HB 2531: Income Tax; Instant Depreciation. Laws 2013, Chapter 256.

Provides that, effective January 1, 2013, individuals and corporations who claim deductions under I.R.C. § 179 are no longer required to add back amounts in excess of \$25,000. Thus, for tax year 2013, subject to existing limitations, individuals and corporations may claim § 179 deductions for up to \$500,000 on both their federal and Arizona income tax returns.



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B. Transaction Privilege (“Sales”) and Use Tax Legislation

Important information about this section

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 do adopt changes to their municipal tax codes that parallel changes to the state’s sales and use tax laws.

SB 1179: Ignition Interlock Devices; TPT Exemption. Laws 2013, Chapter 236.

Provides an exemption from Arizona’s state and local personal property rental taxes, retroactive to September 1, 2004, but with strict limits on refunds, for proceeds from leasing or renting certified ignition interlock devices. Clarifies, retroactive to January 1, 2002, that qualified destination management companies are not subject to sales tax on their proceeds from contracts to provide destination management services.

Updates the definition of “eligible grocery business” for purposes of the exemption from Arizona’s retail sales tax for sales of qualifying food items. Eliminates the requirement for the Department to annually publish lists of tax exempt food items and repeals the statute granting the Department permission to issue administrative rulings regarding the taxability of food items. Prohibits the Department from classifying medicines or dietary supplements, such as vitamins and protein supplements, as tax exempt food. Clarifies that all ready-to-drink, nonalcoholic beverages intended for human consumption that are contained in closed or sealed bottles, cans, or cartons are tax exempt food items.

(Also changes Arizona’s income tax laws as summarized above and Arizona’s property tax laws as summarized below.)

SB 1286: Nursing Facility Provider Assessments. Laws 2013, Chapter 37E.

Excludes Arizona Veterans’ Homes from the “quality assessment” (tax) on health care items and services provided by nursing facilities. The assessment was enacted during the 2012 legislative session in order to obtain additional federal funding for Arizona’s Medicaid program, the Arizona Health Care Cost Containment System, and is administered by the Department using most of the same rules and procedures that govern the administration of sales taxes. Retroactive to October 1, 2012.

HB 2009: 2013-2014; Revenue; Budget Reconciliation. Laws 2013, Chapter 9.

Provides that, effective September 1, 2013, owners, operators, and qualified colocation tenants of certified computer data centers are not subject to state or local sales or use tax on qualifying equipment purchases for ten years (twenty years for “sustainable development projects”). Tax relief granted under this program may be recaptured from the owner or operator of the data center if minimum investment requirements are not met on or before the fifth anniversary of certification. Grants the Department and the Arizona Commerce Authority a one-year exemption from the Administrative Procedure Act for purposes of implementing these provisions. (Also changes Arizona’s income tax laws as summarized above.)



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HB 2111: Transaction Privilege Tax Changes. Laws 2013, Chapter 255.

Implements some of the changes recommended by Governor Brewer's Transaction Privilege Tax Simplification Task Force. The provisions of this bill, all of which will go into effect on January 1, 2015, may be categorized as follows:

Administrative Changes and General Provisions: (1) requires the Department to administer an online portal as a single point for taxpayers to obtain all state and local sales tax licenses, file and pay all state and local sales, use, severance, rental occupancy, and jet fuel excise taxes, (2) prohibits municipalities from conducting audits for such taxes unless the taxpayer is only engaged in business in the municipality conducting the audit or the municipality is authorized by the Department to conduct the audit, (3) specifies that all audits of such taxes must be conducted in accordance with procedures outlined in the Department's audit manual by auditors trained in such procedures, (4) requires the Department to issue any assessments resulting from such audits for all jurisdictions in a single notice to the taxpayer, (5) provides that any appeals of such assessments must be directed to the Department, (6) requires the Department to notify all affected municipalities before entering into any compromise, closing, settlement, or other agreement with a taxpayer related to taxes levied by the municipality, (7) authorizes the Department to adopt emergency rules as necessary to implement the changes required by this bill, and (8) explains that, with this bill, the Legislature intended to simplify the administration of Arizona's transaction privilege taxes in order to promote voluntary compliance.

Retail Sales Tax Provisions: (1) provides that retail sales taxes are sourced to the seller's business location if the seller receives the order at a business location in Arizona and, otherwise, to the purchaser's location, (2) changes the statutory language of Arizona's retail sales tax exemption for sales to nonresidents of the state for use outside the state if the vendor ships or delivers the product outside the state so that it only applies to sales of motor vehicles, and (3) eliminates the statutory language of Arizona's retail sales tax exemption for sales of tangible personal property that is shipped or delivered directly to a destination outside of the U.S. for use in that foreign country. (See also the retail sales tax provisions relating to construction contractors summarized below.)

Personal Property Rental Tax Provision: Provides that Arizona's sales tax on proceeds from leasing or renting personal property shall be sourced to the lessor's business location if the lessor has a business location in Arizona and, otherwise, to the lessee's address.

Provisions Relating to Construction Contractors: (1) clarifies that machinery and equipment or other tangible personal property used by a contractor in the performance of a contract normally is subject to retail sales or use tax, (2) provides a deduction from Arizona's state prime contracting tax and municipal construction contracting taxes for proceeds from contracts with owners of real property that only require the contractor to maintain, repair, or replace existing property, (3) requires such contractors who only maintain, repair, or replace existing property to pay sales tax on tangible personal property used on contracting jobs that are not subject to sales tax, (4) specifies that construction contracts that include design phase services or professional services must separately state the terms, conditions, and prices for such services in writing in order to qualify for the deduction from Arizona's prime contracting tax, but provides that such terms, conditions, and prices do not have to be in contracts separate from the construction contracts, (5) officially eliminates Arizona's owner builder tax (but not municipal taxes on owner-builders), and (6) states that, with this bill, the Legislature did not intend to provide an exemption for contractors engaged in the modification of real property as part of a major remodel project.

County Transportation Excise Tax Provision: Alters the calculation of the maximum tax rate for county transportation excise taxes on sales of jet fuel.



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HB 2259: Orthodontic Devices; Transaction Privilege Tax. Laws 2013, Chapter 120.

Clarifies that orthodontic devices dispensed by licensed dental professionals to their patients are not subject to state or local sales tax. Retroactive to October 1, 2007.

HB 2267: Public Consignment Auction Dealer; Requirements. Laws 2013, Chapter 40.

Requires public consignment auction dealers to notify both the Department and the Arizona Department of Transportation within fifteen days of selling a motor vehicle and to begin submitting exemption certificates to the Department when selling motor vehicles to nonresidents for use outside the state in addition to retaining such certificates in case of audit.

HB 2324: Commercial Lease Exemption. Laws 2013, Chapter 27.

Expands existing exemptions from state and local sales taxes for leases of real property between affiliated corporations to apply to leases of real property between affiliated “companies, businesses, persons or reciprocal insurers.” For purposes of these exemptions: (1) “affiliated” means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, an affiliated entity holds a controlling interest in both the lessor and the lessee, or an unrelated party holds a controlling interest in both the lessor and lessee, and (2) “controlling interest” means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business, or person other than a corporation.

HB 2336: Taxation; Retail Classification; Cash Equivalents. Laws 2013, Chapter 233.

Clarifies that the sale of “cash equivalents,” like gift cards, gift certificates, traveler’s checks, money orders, etc. are not subject to sales tax when purchased, but that prepaid calling cards are still subject to sales tax when purchased. Retroactive to January 1, 1999 with strict limits on refund claims.

HB 2535: Independent Functional Utility. Laws 2013, Chapter 153.

Provides that contracts to install, assemble, repair, or maintain qualifying tax exempt machinery and equipment, or other personal property, that has independent functional utility are not subject to Arizona’s prime contracting tax or municipal construction contracting taxes. Explains that it is the Legislature’s intent that the benefit of qualifying sales and use tax deductions should not be diminished by contracting activities. Retroactive to July 1, 1997, with strict limits on refund claims.



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C. Property Tax Legislation

SB 1169: Proposition 117; Conformity. Laws 2013, Chapter 66.

Changes terminology used in Arizona property tax statutes to conform to the constitutional amendments required by Proposition 117, which limits valuation increases on locally assessed real property to five percent (5%) or less beginning in tax year 2015 and establishes a single limited property value as the basis for calculating all property taxes. Effective dates for some provisions of this bill are tax year 2014 while other provisions are not effective until tax year 2015.

SB 1179: Ignition Interlock Devices; TPT Exemption. Laws 2013, Chapter 236.

Extends class 6 property tax status, with its five percent (5%) assessment ratio, through December 31, 2023 for property used specifically and solely to manufacture qualifying biodiesel fuel or qualifying motor vehicle biofuel. (Also changes Arizona's income and sales tax laws as summarized above.)

SB 1313: Tax Corrections. Laws 2013, Chapter 114.

Makes numerous technical corrections, and even some substantive changes, to Arizona's tax laws. Property tax provisions include clarifications relating to requirements for class 6 properties used as headquarters or in manufacturing operations for qualified renewable energy companies. (Also changes Arizona's income tax laws as summarized above and Arizona's other tax laws as summarized below.)

HB 2344: Property Tax Penalty Waiver. Laws 2013, Chapter 9.

Allows county treasurers, in consultation with county boards of supervisors, to waive penalties imposed on homeowners who fail to respond to requests for information concerning whether their property is used as their qualifying primary residence or as the residence of a qualifying family member. Retroactive to July 1, 2012, but only in effect until June 30, 2014.

HB 2346: Valuation; Rural Electric Cooperatives. Laws 2013, Chapter 226.

Provides a special method for valuing property owned by member-owned nonprofit electric distribution cooperative corporations. Effective for valuation years beginning January 1, 2014.



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D. Other Tax & Tax-Related Legislation

SB 1286: Nursing Facility Provider Assessments. Laws 2013, Chapter 37E.

Excludes Arizona Veterans' Homes from the "quality assessment" (tax) on health care items and services provided by nursing facilities. The assessment was enacted during the 2012 legislative session in order to obtain additional federal funding for Arizona's Medicaid program, the Arizona Health Care Cost Containment System, and is administered by the Department using most of the same rules and procedures that govern the administration of sales taxes. Retroactive to October 1, 2012.

SB 1312: Tobacco Product Manufacturers; Cigarette Machines. Laws 2013, Chapter 222.

Authorizes the Department to seize illegal tobacco product rolling vending machines and all related supplies and tobacco products, which must be forfeited to the state. Provides that such forfeited tobacco products, and any tobacco products that are illegally ordered, purchased, or transported, shall be deemed contraband and destroyed.

SB 1313: Tax Corrections. Laws 2013, Chapter 114.

Makes numerous technical corrections, and even some substantive changes, to Arizona's tax laws, including clarifications and minor changes to the "quality assessment" (tax) levied on health care items and services provided by nursing facilities. For example, the bill eliminates the penalty that the Department was required to assess on nursing facilities that failed to timely pay the full amount assessed. (Also changes Arizona's income and property tax laws as summarized above.)

HB 2111: Transaction Privilege Tax Changes. Laws 2013, Chapter 255.

Implements some of the changes recommended by Governor Brewer's Transaction Privilege Tax Simplification Task Force. As described in connection with the summary of sales tax changes implemented by this bill, this bill also affects other miscellaneous taxes. For example, it: (1) requires the Department to administer an online portal as a single point for taxpayers to file and pay all state and local severance, rental occupancy, and jet fuel excise taxes, (2) prohibits municipalities from conducting audits for such taxes unless the taxpayer is only engaged in business in the municipality conducting the audit or the municipality is authorized by the Department to conduct the audit, (3) specifies that all audits of such taxes must be conducted in accordance with procedures outlined in the Department's audit manual by auditors trained in such procedures and issued by the Department for all jurisdictions in a single notice to the taxpayer, (4) provides that any appeals of such assessments must be directed to the Department, (5) requires the Department to notify all affected municipalities before entering into any compromise, closing, settlement, or other agreement with a taxpayer related to taxes levied by the municipality, (6) alters the calculation of the maximum tax rate for county transportation excise taxes on sales of jet fuel, and (7) authorizes the Department to adopt emergency rules as necessary to implement the changes required by this bill. All changes are effective January 1, 2015. (Also changes Arizona's sales tax laws as summarized above.)