2009 Legislative Summaries

State of Arizona
Department
of Revenue

This document contains summaries of 2009 legislation from the Forty-ninth Legislature – First Regular Session and Second Special Session.

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The following is intended to give a brief summary of the 2009 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 is September 30, 2009. All legislation will have this effective date unless otherwise noted in the summary.

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

Income Tax

House Bill 2083 (Chapter 33)

2009 tax corrections act

See summary under Multiple Tax Types.

Senate Bill 1185 (Chapter 2)

Technical correction; disincorporation (NOW: conformity; internal revenue code)

- SB 1185 updates Arizona's definition of internal revenue code to include all Internal Revenue Code provisions that were in effect as of January 1, 2009.

- Tax year 2008 includes all Internal Revenue Code provisions passed with retroactive federal effective dates between December 31, 2007 and December 31, 2008 which includes the Economic Stimulus Act of 2008, the Heartland, Habitat, Harvest and Horticulture Act of 2008, the Heroes Earning Assistance and Relief Tax Act of 2008, the Housing Assistance Tax Act of 2008, the Emergency Economic Stabilization Act of 2008, and the Worker, Retiree, and Employer Recovery Act of 2008.

- The following withholding percentages apply for the period from May 1, 2009 to December 31, 2009:
    - Employees with annual wages less than $15,000 can elect to withhold 0%, 11.5%, 21.9%, 26.5%, 28.8%, 35.7%, or 42.6% of federal withholding.
    - Employees with annual wages of $15,000 or more can elect to withhold 0%, 21.9%, 26.5%, 28.8%, 35.7%, or 42.6% of federal withholding.

- The following withholding percentages apply for the period from January 1, 2010 to June 30, 2010:
    - Employees with annual wages less than $15,000 can elect to withhold 0%, 10.7%, 20.3%, 24.5%, 26.7%, 33.1%, or 39.5% of federal withholding.
    - Employees with annual wages of $15,000 or more can elect to withhold 0%, 20.3%, 24.5%, 26.7%, 33.1%, or 39.5% of federal withholding.

- The 0% option is only available for those who had no state tax liability in the prior taxable year and expect to have no state tax liability for the current taxable year.

- Beginning on July 1, 2010, Arizona's withholding amounts will no longer be calculated as a percentage of federal withholding. Instead, state withholding will be determined based on withholding tables established by the Department of Revenue.

- Effective on signature of the Governor (April 9, 2009)

House Bill 2286 (Chapter 80)

Tax Credit; Charitable Organizations

HB 2286 modifies the Arizona income tax credit for contributions to charities that provide assistance to the working poor. The definition of the term "qualifying charitable organization" has been expanded to include organizations that provide qualifying services to chronically ill or physically disabled children who are Arizona residents. Taxpayers are no longer required to establish a baseline year in a year prior to the year in which the credit is claimed and the credit is restricted to taxpayer's who itemize deductions for the taxable year.

In order for an organization to receive contributions that qualify for the credit, the organization must verify it's I.R.C. § 501(c)(3) tax exempt status or that it is a designated community action agency that receives community services block grant money, provide financial data concerning the prior year's budget and the amount of that budget spent on services to Arizona residents who are TANF recipients, or who are low income Arizona residents, or who are chronically ill or physically disabled children, submit a statement that the organization will continue to spend at least 50% of its budget on low income Arizona residents, or Arizona residents that receive TANF, or chronically ill or physically disabled children.

The department is required to review charitable organizations' written certification and either approve the certification or disallow the certification. All charities that have previously self-certified must submit another written certification verifying that they meet the statutory certification requirements. The department will review the certifications and will determine whether the organization is a qualifying organization. If an organization fails to resubmit a certification, the organization will no longer be considered a qualifying organization and the department will remove that organization from its published list. However, if the organization later resubmits the information, it may be added to the list if the department determines that the organization qualifies.

House Bill 2287 (Chapter 167)

Tax Credits; Withholding Tax Reduction

HB 2287 allows employees to request that their employer reduce their withholding by the amount of the tax credit the employee intends to claim for contributions to a school tuition organization, charitable organization or public school when filing the related tax return. The employee must supply his employer with the name of the charitable organization that will be receiving the donation and the total amount he wishes to donate.

Employers may or may not agree to honor the employee's request. If employers agree to honor the employee's request, they will reduce the employee's withholding by the amount requested by the employee, but not below zero, prorated over the rest of the employee's taxable year. If the employer agrees to reduce the employee's withholding, the employer must make quarterly payments to the charitable organization on behalf of the employee and provide statements of withholding to the employee and the Department of Revenue on a calendar year basis or when employment terminates. The employer is responsible and accountable to the charitable organization, employee and Department of Revenue for actually making the required payments.

House Bill 2288 (Chapter 168)

Premium tax credit; STO contribution

See summary under Multiple Tax Types.

Senate Bill 1373 (Chapter 116)

Income tax returns; penalties

SB 1373 precludes taxpayers from being subjected to penalties for filing an extension with less than

90% of the taxes paid and the penalties for failing to pay 100% of the amount of tax that is due.

Senate Bill 1403 (Chapter 96)

Renewable, high-wage industries incentives

SB 1403 adds refundable corporate and individual income tax credits as well as special property tax rates for expanding or locating qualified renewable energy technology operations in Arizona.

Renewable energy businesses are required to submit applications to the Arizona Department of Commerce (ADOC) for certification as a qualifying business to participate in the tax incentive program. The applicant must provide records of expenditures for qualifying investments and provide information regarding the amount of tax benefits claimed each year to ADOC. The project may be subject to site visits by ADOC. ADOC is required to perform audits to verify the applicant's continuing compliance with tax incentive requirements.

To qualify for individual and corporate income tax credit, a renewable energy business is required to make new capital investment in manufacturing or in regional, national or global business headquarters, pay a wage that equals or exceeds 125% of the median annual wage in this state for 51% or more of new full-time employees (FTE's) at the qualifying facility and pay 80% or more of the premium for all FTE's health insurance coverage.

The income tax credit is a maximum of 10% of the taxpayer's total capital investment if the capital investment ratio is a manufacturing facility that creates at least 1.5 FTE positions for each $500,000 increment or a headquarters that creates at least 1 FTE position for each $200,000 increment. Qualifying projects that do not meet this employment to capital investment ratio, the credit is 10% of $500,000 per 1.5 new FTE positions in manufacturing facilities or $200,000 per 1 new FTE positions in headquarters. The tax credits are refundable and the taxpayer is required to claim the credit in five equal installments over five consecutive taxable years.

Seventy million per taxable year is eligible to be approved. Unclaimed tax credit amounts carry over to the next tax year.

A capital investment of $25 million or more in facilities, equipment, land and infrastructure qualifies an eligible renewable energy operation certified by ADOC to be designated as class 6 property with a 5% assessment ratio. A qualifying headquarters or manufacturing facility is eligible to be classified as class 6 properties for 10 years if 51% or more of the FTE's are paid 125% to 199% of the annual median wage of this state or 15 years if 51% or more of FTE's are paid 200% or more of the annual median wage of this state. Renewable energy businesses must provide annual documentation to the county assessor that the facility is engaged in renewable energy manufacturing or is a regional, national or global headquarters.

House Bill 2001, Second Special Session, (Chapter 1)

Scholarships; disabled or displaced students

HB 2001 establishes a corporate income tax credit and insurance premium tax credit for contributions made to a school tuition organization (STO) that provides educational scholarships or tuition grants to disabled students and displaced students in a foster care program.

Tax credits are limited to $5 million dollars in any fiscal year.

Transaction Privilege Tax/ Use Tax

House Bill 2371 (Chapter 103)
Tax credit; coal consumption (NOW: utilities; confidential information)

HB 2371 allows the Department of Revenue (DOR) to provide the name and address of qualifying hospitals or health care organizations to utility companies for the purpose of verifying an exemption under the utilities classification of the transaction privilege tax.

House Bill 2572 (Chapter 122)
Sports authority districts

Authorizes the Pima County Board of Supervisors to form a Sports Authority District and ask voters to approve taxing and bonding authority building and financing Cactus League and youth sports facilities in Pima County.

The excise tax would be imposed on the following activities at the following rates:

- Car rentals - .35%
- Hotels/motels - .45%
- Restaurants and bars - .25%
- Amusements and sporting events - .35%
- Retail activities - .15%

Property Tax

House Bill 2083 (Chapter 33)
2009 tax corrections act

See summary under Multiple Tax Types.

House Bill 2314 (Chapter 169)
Property valuation; telecommunications companies

HB 2314 provides a method for reducing the personal property tax valuation of telecommunications companies by decreasing the minimum percent in the valuation tables from 20% to 10%.

House Bill 2332 (Chapter 101)
School; energy contracts

HB 2332 stipulates that for property valuation purposes, grid-tied photovoltaic systems have no value and add no value to the property on which a system is installed.

Qualified energy efficient building components, renewable energy equipment and combined heat & power systems also are considered to add no value to property. Documentation must be provided to the County Assessor no later than six months before the issuance of the notice of full cash value, and must include actual acquisition and installation costs. If the component is added after September 30, the documentation is due to the County Assessor on or before March 31 of the initial valuation year.

House Bill 2346 (Chapter 87)
Charter schools; leased property

HB 2346 classifies property that is leased to a nonprofit charter school if it used for educational purposes as class nine, with an assessment ratio of one percent of assessed value. Only the property that is actually used by the nonprofit charter school for educational purposes is included as class nine. Property owners who lease to a nonprofit charter school must file an affidavit with the county assessor stating that the charter school will be the sole beneficiary of the change in property classification and that the lease rate is comparable to other tenants.

Senate Bill 1421 (Chapter 118)
Special districts; secondary levy limits:

SB 1421 establishes levy limits on secondary property taxes for fire districts not to exceed $3.25 per $100 of assessed valuation or an 8% increase over the amount levied in the preceding year plus any amounts attributable to annexations, whichever is less.

In a general election, voters may approve either a permanent override or a five-year temporary override if net assessed values decline by 20% or more over two consecutive years. A permanent override would maintain the $3.25 tax rate limit but allow annual levies without reference to the levy in the preceding year. A five-year temporary override would allow a tax rate to exceed $3.25 per $100 of assessed valuation but limit the levy to a 5% increase over the previous year's actual levy.

The Property Tax Oversight Commission (PTOC) is required to review the secondary property tax levy limits and tax revenues collected for all fire districts to determine violations. Fire Districts must report to the PTOC the assessed value of all property annexed in the preceding year. A fire district may request a PTOC hearing to resolve disputes in the Commission's findings.

Multiple Tax Types

House Bill 2083 (Chapter 33)

2009 tax corrections act

HB 2083 makes technical, conforming and clarifying changes to Arizona tax statutes.

Provisions:

- Clarify in multiple locations that the legal classification of property may be appealed, not simply the valuation of the property. This includes appeals at the Assessor, County Board of Equalization and State Board of Equalization levels.

- Correct punctuation and incorrect word in 42-13053. The word "or" is used in place of "of" making the statute confusing.

- Clarify that a personal property appeal to the State Board of Equalization should be done according to Chapter 16, article 4, title 42.

- Repeal obsolete session law. (2000, Chapter 84, Sections 8 through 18 of HB 2331, Laws 2005, Chapter 131, Section 8 of HB 2252).

- Clarifies that the increase to the research and development tax credit approved in the '08 session applies to taxable years, rather than calendar years.

- Makes other technical and conforming changes.

This bill becomes effective on the general effective date, with a retroactive provision as noted.

House Bill 2288 (Chapter 168)

Premium tax credit; STO contribution

HB 2288 allows insurers to take a tax credit against their insurance premium tax liability for donations to Student Tuition Organizations (STO). The sunset date of June 30, 2011 for the corporate income tax credit was eliminated, making the credit permanent. Originally capped at $10.0 million in FY 2007, the credit increases by 20% in each successive year.