2009-2010 Legislative Summaries

State of Arizona Department of Revenue

This document contains summaries of 2009-2010 legislation from the Forty-ninth Legislature – Second Regular Session and Fourth, Sixth & Seventh Special Sessions.

2009-2010 Legislative Summaries

The following is intended to give a brief summary of the 2009-2010 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 Second Regular Session is July 29, 2010. 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

House Bill 2001 (Chapter 115)

Taxpayer voluntary contribution; fund

Establishes the I Didn't Pay Enough Fund, which allows taxpayers to designate an amount on individual tax returns (either from the taxpayer's refund or as an additional contribution) as a voluntary contribution to the state. The Department of Revenue is authorized to use up to 10% of annual collections for administrative costs.

House Bill 2156 (Chapter 176)

Internal revenue code conformity

Incorporates the federal changes made in 2009 into Arizona's definition of "internal revenue code." However, HB 2156 also includes additions to and subtractions from income that have the effect of Arizona not conforming to the following changes:

1. $2400 Unemployment Compensation Exclusion
2. Itemized Deduction for Sales Tax on the Purchase of a New Motor Vehicle
3. Deduction for Cash Contributions for Haiti Earthquake Relief Made After January 11, 2010 and Before March 1, 2010
4. Discharge of Indebtedness Income From Business Indebtedness Discharged by the Reacquisition of a Debt Instrument
5. Original Issue Discount on Reacquisition of Debt Instrument
6. Special Federal Net Operating Loss Carryback Rules for 2008 and 2009 Losses

House Bill 2160 (Chapter 225)

Tax credit review committee recommendations

Authorizes the Department of Revenue to disclose statistical information gathered from confidential information to the Joint Legislative Income Tax Credit Review Committee and the Joint Legislative Budget Committee Staff (JLBC) for income tax credit review purposes.

Taxpayers qualifying for the healthy forest tax incentive are required to provide information pertaining to employment and production in an annual report to the Department of Commerce. The Department of Commerce must annually report aggregate information on the tax incentive to the JLBC.

The exemption from sales tax on fuels used to generate electricity for on-site consumption by a paper manufacturer that is qualified as an environmental technology manufacturer is extended to 20 years from the date the first paper manufacturing machine is placed in service.

House Bill 2370 (Chapter 289)

research development; production; incentive program

Beginning Jan. 1, 2011, through Dec. 31, 2021, an income tax credit is allowed for research and development (R&D) of solar liquid fuel. The credit is equal to 40% of the amount that exceeds the base amount for R&D as defined in the Internal Revenue Code.

For tax years 2016 through 2026, an income tax credit is allowed on the production of solar liquid fuel; the credit is equal to 11 cents per 100,000 BTUs produced.

For tax years 2016 through 2026, an income tax credit is allowed for costs incurred to convert gas stations for the retail sale of solar liquid fuel; the credit is equal to 30% of the costs incurred in conversion to a maximum of $20,000 per service station per year.

Solar liquid fuel is defined as fuel "generated through processes that use sunlight, carbon dioxide and water to produce infrastructure compatible liquid hydrocarbon fuels."

House Bill 2663 (Chapter 292)

STOs; corporate tax credit requirements

Any school tuition organization (STO) receiving donations for the purpose of a corporate income tax credit must be certified by the Arizona Department of Revenue. An STO must apply with ADOR for certification. ADOR will certify the STO if it meets the statutory requirements. The STO must apply for certification using the ADOR form.

ADOR is required maintain a public registry of certified STOs. The registry will be available to the public on request and must be posted on the ADOR website.

ADOR is required to notify an STO if the STO has engaged in any of the following activities:

- failing or refusing to allocate at least 90% of annual revenues for scholarships
- failing or refusing to file the required annual reports
- limiting availability of scholarships to students of only one school
- encouraging, facilitating or knowingly permitting taxpayers to engage in prohibited actions.

The STO then has 90 days to correct the violation. If the STO fails or refuses to correct the violation, ADOR will remove the organization from the list of certified STOs. An STO that is removed from the list of certified STOs must tell any taxpayer attempting to make a contribution that it is not eligible for the tax credit and offer to refund donations received after the date of removal from the list. The STO may request an administrative hearing on the certification revocation.

A qualified school cannot be a charter school nor can scholarships go to programs operated by a charter school.

Expands the annual reporting requirements to include, Total dollar amount of scholarship money being held for identified students' scholarships in future years, cost of audits and financial reviews and the names, job titles and annual salaries of the 3 employees who receive the highest annual salaries from the STO.

Each STO that received $1 million or more in total donations in the previous fiscal year is required to annually provide for a financial audit for the organization. The audit must be in accordance with GAAP and must evaluate the STO's compliance with the fiscal requirements of this Article. The audit must be conducted by an independent CPA licensed in Arizona and the CPA and the associated firm must be independent from the STO and its officers.

Each STO that received less than $1 million in total donations in the previous fiscal year is required to annually provide for a financial review of the STO. The review must be conducted in accordance with standards for accounting. The review must be conducted by an independent CPA licensed in

Arizona and the CPA and the associated firm must be independent from the STO and its officers.

Within 5 days after received the audit or financial review, the STO must file a signed copy of the audit or review with ADOR. The cost of the audit or review is excluded from the total donations received when doing the 90%/10% calculation.

House Bill 2664 (Chapter 293)

STOs; tax credit requirements

Beginning on January 1, 2011, the $1000 credit maximum for married filing joint filers and the $500 credit maximum for all other filers will be adjusted by the average annual change in the Metropolitan Phoenix Consumer Price Index published by the United State Bureau of Labor Statistics.

Any STO receiving donations for the purpose of an individual income tax credit must be certified by the Arizona Department of Revenue. An STO must apply with ADOR for certification. ADOR will certify the STO if it meets statutory requirements. The STO must apply for certification using the ADOR form.

ADOR is required maintain a public registry of certified STOs. The registry will be available to the public on request and must be posted on the ADOR website.

ADOR is required to notify an STO if the STO has engaged in any of the following activities:

- failing or refusing to allocate at least 90% of annual revenues for scholarships
- failing or refusing to file the required annual reports
- limiting availability of scholarships to students of only one school
- encouraging, facilitating or knowingly permitting taxpayers to engage in prohibited actions.

The STO then has 90 days to correct the violation. If the STO fails or refuses to correct the violation, ADOR will remove the organization from the list of certified STOs. An STO that is removed from the list of certified STOs must tell any taxpayer attempting to make a contribution that it is not eligible for the tax credit and offer to refund donations received after the date of removal from the list. The STO may request an administrative hearing on the certification revocation.

An STO may allow donors to recommend student beneficiaries but are prohibited from awarding, designating or reserving scholarships solely on the basis of donor recommendation. STOs are also prohibited from allowing donors to designate student beneficiaries as a condition of any contribution to the STO or facilitate, encourage or knowingly permit the exchange of beneficiary student designations.

An STO shall include a notice in any donation solicitation, applications for scholarships and on its website indicating the STO cannot award, restrict or reserve scholarships solely on the basis of donor recommendation.

A taxpayer may not claim a tax credit if the taxpayer agrees to swap donations with another taxpayer to benefit either taxpayer's own dependent. The taxpayer may not designate any beneficiary as a condition of the donation. The taxpayer may not participate in any agreement with another taxpayer to direct their donation for the direct benefit of the other's dependent.

A qualified school cannot be a charter school nor can scholarships go to programs operated by a charter school.

Expands the annual reporting requirements to include the total dollar amount of scholarship money being held for identified students' scholarships in future years, cost of audits and financial reviews, the total dollar amount of scholarships awarded during the previous fiscal year to students whose family income meets the economic eligibility, the total dollar amount of scholarships awarded during the previous fiscal year to students whose family income is greater than the family income needed for free or reduced price lunches but does not exceed 185% of that income threshold and the names, job titles and annual salaries of the 3 employees who receive the highest annual salaries from the STO.

Each STO that received $1 million or more in total donations in the previous fiscal year is required to annually provide for a financial audit for the organization. The audit must be in accordance with GAAP and must evaluate the STO's compliance with the fiscal requirements of this Article. The audit must be conducted by an independent CPA licensed in Arizona and the CPA and the associated firm must be independent from the STO and its officers.

Each STO that received less than $1 million in total donations in the previous fiscal year is required to annually provide for a financial review of the STO. The review must be conducted in accordance with standards for accounting. The review must be conducted by an independent CPA licensed in Arizona and the CPA and the associated firm must be independent from the STO and its officers.

Within 5 days after received the audit or financial review, the STO must file a signed copy of the audit or review with ADOR. The cost of the audit or review is excluded from the total donations received when doing the 90%/10% calculation.

House Bill 2700 (Chapter 294)

Solar energy tax incentives; extension

The income tax credit for installing commercial and industrial applications of solar energy devices is extended six years to the tax year ending Dec. 31, 2018.

The sales tax exemption for contracts to install solar energy devices is extended six years to Dec. 31, 2016.

Senate Bill 1201 (Chapter 303)

renewable energy tax incentive revisions

Makes technical and clarifying changes to property tax incentives and income tax credits for corporations and individuals that expand or locate qualified renewable energy operations in the state.

A post-approval process through the Department of Commerce is established and the time that the qualified operation must continue in business was reduced to 5 years from 10 years.

Senate Bill 1254 (Chapter 312)

research; development; production; tax credit

Effective Jan. 1, 2011, establishes a tax credit for individuals and corporations that produce electricity using renewable resources. The amount of the credit is based on the amount of kilowatt hours produced. A taxpayer may claim up to $2 million per year for ten years, and the total amount of credits available is capped at $20 million per year.

Additionally, retroactive to Jan. 1, 2010, the tax credit for research and development expenses is expanded to allow a taxpayer with fewer than 150 full-time employees to apply for a refund of 75% of the amount of the credit, rather than carry the credit forward to future tax years. The total amount authorized for refunds is limited to $5 million.

Senate Bill 1274 (Chapter 188)

STOs; contribution date

Allows a contribution to a school tuition organization made on or before April 15 to be applied to either the current or preceding taxable year.

Transaction Privilege Tax/ Use Tax

House Bill 2243 (Chapter 128)

tourism; TPT distribution; reinstatement

Re-establishes the statutory funding formula for the Office of Tourism.

House Bill 2257 (Chapter 316)

municipalities; counties; taxes; fees; notice

Any municipality or counties proposing to levy or assess any taxes or fees on businesses is required to provide written notice of the proposed charge or increased rate on the municipality's or county's website, and must issue a press release of the proposed charge or increased rate at least 60 days before the vote of the governing body. The municipality or county must demonstrate that the taxes or fees are imposed pursuant to statute. Municipal development fees, county development fees and county property tax rate increases are exempt from this requirement.

House Bill 2434 (Chapter 150)

Car rental surcharge; vanpool exception

The car rental surcharges for the Tourism and Sports Authority and for major league spring training do not apply to motor vehicles used in an employee vanpool for 7 to 14 passengers with a volunteer driver who operates the vehicle for the purpose of commuting between a residence and place of employment.

House Bill 2445 (Chapter 258)

Mining transaction privilege tax; application

For transaction privilege tax purposes, the mining classification applies to mining or producing any nonmetalliferous mineral product that has been mined, quarried or otherwise extracted within the boundaries of Arizona.

House Bill 2510 (Chapter 260)

City sales tax; corporate leases

The list of items exempt from municipal sales tax is expanded to include proceeds from a commercial lease in which a reciprocal insurer or a corporation leases property to an affiliated corporation.

House Bill 2513 (Chapter 154)

Municipal transaction privilege taxes; report

If a municipality collects its own sales tax rather than entering into a collection agreement with the Dept of Revenue, it must report to the department by September 1 each year the total amount of taxes collected in the preceding fiscal year.

House Bill 2514 (Chapter 52)

Charter schools; food; tax exemption.

Beginning October 1, 2010, the income of a charter school from food and drink sold for consumption on the premises of the charter school during school hours is added to the list of exemptions from transaction privilege and use taxes.

House Bill 2627 (Chapter 326)
County transportation excise tax; transit

Removes the prohibition on counties with a population of between 200,000 and 400,000 persons from levying both a county transportation excise tax for mass transit and a county transportation excise tax for roads.

House Bill 2700 (Chapter 294)
Solar energy tax incentives; extension

See summary under Income Tax

6th Special Session
Senate Concurrent Resolution 1001 (Prop 100)
Temporary sales tax; repeal

Proposes an amendment to the Arizona Constitution that imposes a one percent temporary transaction privilege tax on the tax base of each classification with a state rate of five percent or more and a one percent tax on the tax base of the use tax. Approved by the voters on May 18, 2010, the tax began being levied and collected on June 1, 2010. The tax will expire on May 31, 2013.

7th Special Session
House Bill 2012 (Chapter 12)
Revenues; reconciliation; 2010-2011

See summary under Multiple Tax Types.

Property Tax

House Bill 2158 (Chapter 64)
data processing for county taxes

Permits, rather than requires, the Department of Revenue to contract with a county to furnish data processing equipment or services, if the county does not own, lease, or contract with another entity for the equipment or services.

House Bill 2247 (Chapter 68)
property tax appeals to court

Codifies existing statutory language allowing new owners of property to appeal property valuation or legal classification to court in a new, separate section of statute.

House Bill 2287 (Chapter 317)
accommodation schools; levy limit recalculation

Prohibits an accommodation school governing board from levying a property tax. A property tax levied by a county in support of an accommodation school must be considered to be part of the county's primary property tax levy. Increases, for the 2010 tax year, the primary property tax levy limit for Pinal County by $3,626,600.

House Bill 2504 (Chapter 321)
GPLET; lease records and reporting

Government lessors of real estate must record a memorandum of lease with the county recorder that includes basic lease terms, names of parties, the lease term and options for renewal. The Department of Revenue must maintain a public database of all government property leases.

Establishes higher tax rates for Government Property Lease Excise Tax (GPLET) leases entered into after May 31, 2010, with some grandfathered exceptions. Additional restrictions are placed on leases of government real estate within designated slum or blighted areas. For purposes of tax abatement for government leases in a "central business district," a municipality may designate only one such district, and new restrictions are placed on the size and location of such designated districts. The Auditor General must conduct a special audit of the GPLET program in 2015, to be paid for by counties from property tax revenues received from GPLET property. By Dec. 15, 2016, the JLBC shall conclude an analysis of the effectiveness of the GPLET rates.

House Bill 2507 (Chapter 96)

property tax valuation; governmental actions

Clarifies existing statute for determining limited property value in the case of property that was split or consolidated as a result of an action initiated by a governmental entity.

Senate Bill 1005 (Chapter 158)

trap and skeet; tax exemption

The list of property exempt from taxation is expanded to include trap and skeet shooting clubs if the facility is used for education purposes and is not held or used for profit.

Senate Bill 1188 (Chapter 273)

school district monies; annual estimate

The list of entities with which a county school superintendent is required to file a copy of the estimate of the amount of school monies required by each school district for the coming year is expanded to include the Property Tax Oversight Commission. The projected estimate of the ending cash balance for each school district must be modified to account for encumbrances and payables. The county school superintendent must subtract from each district's budgeted expenditures the total amount of estimated revenues, including the ending cash balance from the previous year, in order to estimate the additional amounts needed for each district from property taxes. For fiscal year 2009-10, any May 15 budget adjustment deadline for schools is delayed until July 15.

3rd Special Session
House Bill 2011 (Chapter 12)

K-12; budget reconciliation

Makes statutory and session law changes related to K-12 education and the implementation of the FY2009-10 state budget. Prohibits a school district from increasing its primary property tax rate if: 1) at least half of the residential property in the district has a total combined primary property tax rate that exceeds the 1% State Constitutional cap, and 2) the school district’s current primary property tax rate exceeds 150% of the K-12 Qualifying Tax Rate. The Property Tax Oversight Commission must annually determine and notify the school districts that meets both criteria no later than December 31.

Multiple Tax Types/Misc.

7th Special Session
House Bill 2012 (Chapter 12)

Revenues; reconciliation; 2010-2011

Allows the Department to enter into an agreement with a vendor to conduct data matching electronically for bank levy purposes.

Eliminates the $500 collection outsourcing limit.

Increases the statute of limitations from 6 years to 10 years and removes the requirement that any related liens for tax obligations are extinguished once the tax obligation is extinguished due to the statute of limitations.

Beginning March 1, 2011, a taxpayer is assessed 5% penalty on the payment amount for not making a mandatory electronic payment.

Effective on June 1, 2011, all payroll service companies are required to file and pay electronically on behalf of their withholding tax clients. A penalty is assessed on the payroll service company of $25 per client per quarter for every client whose withholding tax return and withholding tax payment is not made electronically. A payroll service company is a person or organization that has custody or control over a client's monies for the purpose of paying the withheld taxes and filing returns of a client with the Department of Revenue.

Authorizes the Department to levy a one-time TPT license renewal fee for all licenses issued before July 1, 2009. The Department is also allowed to increase the fee for new TPT licenses through June 30, 2011. There is a legislative intent clause limiting the additional revenue generated by the TPT license renewal and new TPT license fees to $5,384,000

Reduces the threshold for businesses required to make an estimated tax payment in June from $1M in TPT liability to $100,000 for tax years 2010, 2011 & 2012.

House Bill 2282 (Chapter 288)

political subdivisions; government transparency

By January 1, 2013, local governments are required to establish and maintain an official, publicly accessible, Internet website with an electronically searchable database of all receipts and expenditures greater than $5,000. The Department of Administration (DOA) is required to establish a web portal that contains a list of all local governments with links to information pertaining to that government. Local governments must report to DOA all expenditures for communications that promote an individual elected official and that includes the official's name or likeness. DOA must maintain a searchable database of these expenditures, including the type of medium and total expenditures.

All local governments must report to the Department of Revenue (DOR) all incurred debt, including date of issuance, original amount, current balance and interest both paid to date and paid in the latest full fiscal year. DOR must maintain a searchable database of this information.

Unclaimed Property

House Bill 2111 (Chapter 119)

unclaimed property; traveler's checks

The time period after issuance that a traveler's check is presumed abandoned and becomes state property is changed to 15 years from 3 years.

House Bill 2453 (Chapter 102)

unclaimed property

Increases to three years from two years the amount of time that must pass before certain unclaimed financial assets (stocks, bonds, and the interest due on bonds) are presumed to be abandoned.

4th Special Session
Senate Bill 1003 (Chapter 3)

general revenues; 2009-2010

Establishes the DOR Administrative Fund consisting of monies from unclaimed property. Redirects unclaimed property proceeds by annually depositing the second $24.5 million of collected proceeds into the Department of Revenue Administrative Fund, effective retroactively to July 1, 2009.

Accelerates the presumption of abandonment schedule for most property types, including, stock or other equities, retirement accounts, dividends, travelers' checks and money orders and provides for a special one-time report for the accelerated abandoned property.