

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 with a landscape scene.

2011 Legislative Summaries

**State of Arizona
Department
of Revenue**

**This document contains summaries of 2011 legislation from the Fiftieth Legislature –
First Regular Session and Second Special Sessions.**

2011 Legislative Summaries

The following is intended to give a brief summary of the 2011 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 Regular Session is July 20, 2011. 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 2008 (Chapter [4](#))

Internal revenue code conformity

Incorporates the federal changes made in 2009 into Arizona's definition of "internal revenue code."

House Bill 2236 (Chapter [329](#))

tax set-off; political subdivisions

Allows the Department of Revenue's liability setoff program to be used to offset taxpayer debts to counties, cities and other political subdivisions.

House Bill 2332 (Chapter [128](#))

IRS; conformity policy; penalties

Penalties and interest cannot be assessed on a taxpayer if the taxpayer filed a timely return and paid taxes due, the state definition of the internal revenue code was subsequently amended to subject additional income to taxation, and with the next year's timely return, the taxpayer reports those items and pays the additional tax.

Requires taxpayers to disclose on the individual income tax form the amount of use

tax due if the person purchased tangible personal property for a nonbusiness purpose and a seller/retailer did not collect the tax.

House Bill 2384 (Chapter [55](#))

abortion; public funding prohibition; taxes

Excludes organizations that provide, pay for, promote, provide coverage of, or provide referrals for abortions from being listed as a Qualifying Charitable Organization that is able to accept contributions that qualify for the tax credit for donations to organizations that provide assistance to the working poor.

House Bill 2556 (Chapter [287](#))

health savings accounts; tax incentives

Establishes, for tax years 2012 through 2014, an individual and corporate income tax credit of \$360 per employee for employers that provides a qualified health insurance plan for its employees.

To be eligible, the employer must have paid a minimum of \$360 per employee in health insurance, offered the plan to every employee; and, in the first year that this credit is claimed, the employer must have not provided health insurance coverage for 90 days preceding the offer of coverage. Employers must add any

amount of deduction on the taxpayer's federal tax return for health insurance premiums or contributions to health savings accounts for which the credit is claimed to Arizona adjusted gross income.

Senate Bill 1616 (Chapter 28)

budget; brb; revenue; FY2011-12

Establishes a state and county tax recovery program for the period of September 1 through October 1, 2011 for tax years 2004 through 2009. All taxes administered or collected by DOR are included for recovery except estate and property taxes. If the taxpayer complies with all tax requirements all or part of the civil penalties are abated or waived and an interest at a reduced rate for tax liabilities is imposed

To qualify, taxpayers are required to submit a complete and correct application and pay the tax, plus any interest due before October 1, 2011. A taxpayer is ineligible to participate in the tax recovery if:

- an audit determination has become final with respect to the taxable period for which recovery is sought;
- the taxpayer is a party to any criminal investigation that is pending on January 1, 2011 in any court for failure to file or failure to pay, or for fraud with respect to any tax imposed;
- the taxpayer is has been the subject of a past tax-related criminal investigation, indictment or prosecution if it resulted in a conviction, guilty plea or plea of non contest;
- the taxpayer has been convicted of a crime relating to any period or assessment that is the basis of the penalty or interest with respect to the recovery period; or
- the taxpayer is a party to a closing agreement with DOR with respect to the recovery period.

The application for recovery constitutes an express and absolute waiver of all administrative and judicial rights of appeal.

The State Board of Tax Appeals or any court must dismiss any action pending before that body if it receives a notification from DOR that recovery has been granted.

Second Special Session House Bill 2001 (Chapter 1)

Arizona commerce authority; business incentives.

Establishes and individual and corporate income tax credit for new employment, which allows the owner of a business or an insurer to claim a \$3000/employee tax credit for net increases in full-time employees hired in qualified employment positions in each of the first three years of employment. The credit is only allowed in the second and third years of employment for qualified positions for which the credit was claimed and allowed in the first year. The net increase of qualified positions is limited to a maximum of 400 employees for any taxable year and no more than 10,000 new jobs for all employers in the first year.

To qualify for the credit, the owner must complete the following in the first taxable year:

- Invest at least \$5,000,000 of capital investment and create at least 25 new qualified employment positions within a city or town that has a population of at least 50,000 and that is located in a county that has a population of at least 800,000.
- Invest at least \$1,000,000 of capital investment and create at least 5 qualified employee positions in any other location.

The employer must pay compensation at least equal to the county median wage and offer health insurance for the employee of which the employer pays at least 65 percent of the premium membership cost.

HB 2001 provides an additional individual and corporate credit amount for payments made for university related research. The amount of the credit is equal to 10 percent of the basic research payments that constitute excess expenses over the base amount and the aggregate annual amount of the additional credit is limited to \$10,000,000.

The small business investment income tax credit is continued through June 30, 2016 and the cap on total allowable assets for a qualified small business is increased from \$2,000,000 to \$10,000,000 beginning in 2012. The definition of qualified small business is expanded to include a principal business that engages in retail, real estate, professional services health care services to patients, financial and investment services, personal services, mining, forestry and natural resource exploitation or other resource extraction businesses, agricultural operations, and operating an investment company or fund.

Eliminates capital gains on income derived from investments in small businesses with assets up to \$10,000,000 beginning in TY 2014.

The corporate income tax rate is phased down:

- 6.5 percent of net income in TY2014.
- 6.0 percent of net income in TY 2015.
- 5.5 percent of net income in TY 2016
- 4.9 percent of net income in TY 2017 and beyond.

The optional enhanced corporate income tax apportionment (or sales factor) formula available to multistate corporations increases:

- 85 percent of sales in TY 2014.
- 90 percent of sales in TY 2015.
- 95 percent of sales in TY 2016.
- 100 percent of sales in TY 2017.

Transaction Privilege Tax/ Use Tax

House Bill 2336 (Chapter [129](#))

city tax code; official copy

Beginning July 1, 2012, the Department of Revenue is required to maintain the official copy of the Model City Tax Code.

DOR must post the MCTC on the its official website, and all changes to the code must be reflected in the official copy on file within 10 days after approval.

House Bill 2341 (Chapter [300](#))

sales tax exemptions

Expands the transaction privilege tax exemption for sales and use taxes for sales of aircraft, navigational and communication instruments and other accessories and related equipment to foreign governments to include use within the state.

Senate Bill 1160 (Chapter [40](#))

municipal sales tax; residential rentals

Retroactive to January 1, 2011, prohibits municipalities from imposing or increasing transaction privilege taxes on renting residential property unless the increase is approved by the voters at a regular, municipal election.

Senate Bill 1165 (Chapter [66](#))

municipal taxes; auditors & collectors

Prohibits municipalities from employing auditors on a contingent fee basis for auditing transaction privilege tax levies, or from

entering into contracts with a third party for collection of a transaction privilege tax. Does not apply to contracts entered into on or before Jan. 1, 2011; however, contract renewals are prohibited.

Senate Bill 1166 (Chapter [144](#))

municipal tax exemption; commercial lease

Exempts commercial leases of real property between two corporations 80% of whose voting shares are owned by the same shareholders municipal transaction privilege or use tax.

Senate Bill 1178 (Chapter [321](#))

county judgment bonds

Authorizes County Boards of Supervisors to issue bonds to pay legal judgments against the county (including court costs and attorney fees).

Before Dec. 31, 2011, a county may by unanimous vote of the Board, levy an excise tax to provide for the bond payments.

Senate Bill 1217 (Chapter [249](#))

shared revenues; provisional community colleges

Beginning Oct. 1, 2011, includes provisional community college districts in the definition of "community college district" for purposes of the distribution of state shared sales tax revenues.

Establishes the apportionment of transaction privilege tax revenue for provisional community college districts.

Property Tax

House Bill 2552 (Chapter [8](#))

agricultural property tax classification; equine

Expands the eligibility for land to be classified as agricultural (Class 2) for property tax purposes to include land and improvements devoted to commercial breeding, raising, boarding or training equine or an equine rescue facility registered with the Department of Agriculture.

Senate Bill 1105 (Chapter [98](#))

real estate transfer affidavit; transmission

Eliminates the requirement that the Department of Revenue is the permanent repository for real estate transfer affidavits. County Recorders are required to scan original real estate transfer affidavits and transmit a copy to DOR and to the Arizona State Library, Archives and Public Records.

The original or a digital copy must also be transmitted to the County Assessor, who is required to transmit data from the affidavit to DOR. After the original document is no longer needed by the County, Recorders are required to transmit the original to the state archives.

Senate Bill 1226 (Chapter [342](#))

municipalities; levy limit override

Until December 31, 2012, municipalities with a population between 25,000 and 40,000, are authorized to call an election to ask voter approval to levy a property tax that exceeds its property tax limit.

Senate Bill 1293 (Chapter [232](#))

property tax; residential rentals

Expands the eligibility for properties that rent rooms to transient lodgers to be included in the residential rental property (Class Four) classification. The maximum number of rentable rooms at the property is increased to eight and the requirement that average annual occupancy cannot exceed 50% is eliminated.

Multiple Tax Types/Misc.

House Bill 2202 (Chapter [316](#))

department of revenue closing agreements

Modifies the process for determining cases of taxpayer misunderstanding or misapplication of law. The Department of Revenue is required make an initial determination regarding whether a class of affected taxpayer exists. After a determination that such a class exists, a hearing is required, at which, DOR must reach a decision on the nature of the misunderstanding or misapplication and on the proposed definition of the class of affected taxpayer within 60 days of the hearing.

A taxpayer who is denied relief either because of the DOR's definition of the affected class or determined ineligible for relief may appeal to the State Board of Tax Appeals within 60 days.

The definition of "affected class" is expanded to include taxpayers who directly compete with one another or taxpayers who fall under the same North American Industrial Classification Code System code.

Includes a legislative intent clause, which states the purpose is to bring entire classes of taxpayers into compliance with Arizona tax law

on a prospective basis in situations where widespread noncompliance was due to a misunderstanding or misapplication of law.

House Bill 2462 (Chapter [130](#))

JLBC; annual report; debt

By January 31 of each year, Joint Legislative Budget Committee staff is required to submit a report on state debt and obligations, including deferred rollovers, long term debt, certificates of participation, revenue bonds and general obligation bonds.

The report must also include statewide aggregate outstanding principal and payments on principal and interest, itemization by budget unit of deferred payments, per capita state debt and information on state debt for the previous ten years.

Requires all agencies of state government to report details regarding incurred debt to the Department of Revenue.

Unclaimed Property

House Bill 2201 (Chapter [315](#))

private taxpayer rulings; unclaimed property

Authorizes the Department of Revenue to issue *holder information rulings* (HIRs) which, like *private holder rulings* (PHRs) currently issued, provide specific unclaimed property determinations based on the specific fact situations of requesting holders of abandoned property.

Unlike PHRs, taxpayers can request HIRs anonymously, but must still reveal their identities to DOR after issuance if they wish for the rulings to be binding for purposes of abating interest and penalties.

Additionally, H.B. 2201 allows taxpayers to submit written requests that the Director of DOR consider withholding publication of their

PHRs or HIRs based on their unique facts and circumstances. Based on the Director's nonappealable determination on whether to publish a ruling, the holder may withdraw its ruling request.

Senate Bill 1103 (Chapter [63](#))

unclaimed property; exempt child support

Includes child support payments, collected through the support payment clearinghouse, in the list of items exempt from the definition of *property* for the purposes reporting abandoned property to the Department of Revenue.