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The summaries contained herein are not intended as legal advice on any particular question of law. If you have any questions or concerns about these or related developments, please contact our state and local tax lawyers.

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OVERVIEW

The following update provides an overview of Arizona tax developments that occurred in 2017, with a focus on the year's tax legislation and court cases. We trust that you will find this annual compilation of Arizona tax developments useful and interesting. Past editions of our Arizona Tax Update are also available on our website at www.steptoel.com/aztaxupdates.

SALES AND USE TAX DEVELOPMENTS

2017 LEGISLATION

Senate Bill 1152, Chapter 332. Elections to Approve City and County Tax Authorization Must be Held at a General Election. This bill mandates that elections for the approval or authorization of the assessment of transaction privilege taxes (TPT) by a county or municipality must be held on the first Tuesday after the first Monday in November in an even-numbered year (i.e., a statewide general election).

Senate Bill 1291, Chapter 178. Annual Tax Corrections Act. This bill made a number of technical and substantive corrections to Arizona's tax laws, including eliminating a deduction for supplies used in farming and adding a deduction for machinery and equipment used to build qualified environmental technology facilities to the use tax and clarifying that the online lodging marketplace classification adopted in 2016 applies to the rental of accommodations located in Arizona.

Senate Bill 1416, Chapter 30. Aircraft Exemption Applies to Fractional Ownership Aircraft. This bill clarifies that the aircraft exemption (see H.B. 2533, 2016) includes aircraft sold for use in a fractional ownership program for TPT and use tax.

House Bill 2280, Chapter 60. Electronic Filing Requirements. This bill requires the online filing and payment of sales and use tax liability according to the following schedule: taxpayers with an annual liability in excess of \$20,000 are required to file online starting July 1, 2017; for annual liabilities in excess of \$10,000 by January 1, 2019; annual liabilities in excess of \$5,000 by January 1, 2020; and annual liabilities in excess of \$500 by January 1, 2021.

2017 COURT DECISIONS

Ariz. Electric Power Cooperative, Inc. v. Ariz. Dep't of Revenue, 1 CA-TX 16-0004 (Mar. 28, 2017). Coal and natural gas purchased from out-of-state vendors and used to generate electricity is subject to Arizona's use tax and is not exempt as a sale for resale. Coal and natural gas purchased for use in electricity generation is not a nontaxable purchase for resale or exempt from use tax as tangible personal property that becomes a component part of a substance or commodity for sale. Arizona Electric Power Cooperative (AEPSCO) bought coal and natural gas from out-of-state vendors to generate electricity for sale. The Arizona Court of Appeals determined that AEPSCO used and consumed the fuel in the process of generating electricity, and did not hold the fuels for resale. The court also determined that purchase of the coal and natural gas used by AEPSCO was not exempt under A.R.S. § 42-5159(A)(4) because the coal and natural gas were consumed in the electricity generation process and did not "directly enter[] into or become[] an ingredient or component part of" the electricity. The court relied on the Department of Revenue's (Department) use tax regulation, Ariz. Admin. Code R15-5-121

which says, “The sale of fuel used or consumed in a manufacturing process is taxable” and “[t]he fuel is not considered to be incorporated into the manufactured product.”

APS v. City of San Luis, 1 CA-TX 16-0009 (August 3, 2017). Taxing authorities must comply with constitutional due process requirements when providing notice of amendments to tax codes and laws—in other words there can be no “secret” tax laws. The city of San Luis violated APS’s due process rights when it failed to provide reasonable notice reflecting the repeal of a franchise fee credit. The city adopted Ordinance No. 253, which repealed a franchise fee credit paid by utility providers. The city, however, failed to send notice of the ordinance to the League of Arizona Cities and Towns, the Municipal Tax Code Commission, or the Department of Revenue. The city also failed to amend its own tax code on file with the city clerk or to attach copies of the ordinance to the tax code. The city audited APS and assessed additional tax based on the ordinance. The Court of Appeals affirmed the Tax Court’s judgment for APS because the city failed to provide reasonable notice of the ordinance by not making the change in any publically-available source except town council meeting minutes.

2017 DEPARTMENT OF REVENUE TAXPAYER INFORMATION RULINGS

THE FOLLOWING DEPARTMENT OF REVENUE STATEMENT ACCOMPANIES ALL PRIVATE TAXPAYER RULINGS: “This response is a private taxpayer ruling and the determination herein is based solely on the facts provided in your request. The determination in this taxpayer ruling is the present position of the department. This determination is subject to change should the facts prove to be different on audit. If it is determined that undisclosed facts were substantial or material to the department’s making of an accurate determination, this taxpayer ruling shall be null and void. Further, the determination is subject to future change depending on changes in statutes, administrative rules, case law or notification of a different department position.”

LR17-002 (Jan. 3, 2017). A homebuilder that owned the land and had homes constructed by third party trade contractors was not subject to the prime contracting TPT when the homes were sold. The taxpayer was a home builder and the parent of an affiliated group of entities that build and sell new homes through its subsidiaries. The taxpayer’s subsidiaries owned the underlying land

and marketed and sold the completed home and lot to the final customer. The subsidiaries were also responsible for the offsite improvements, lot development, and vertical (new house) construction. The subsidiaries did not perform any actual construction work; they instead contracted with third-party trades to complete the work. After the new homes were sold to customers, the subsidiaries contracted with third-party trades for any necessary warranty work. The subsidiaries had construction managers that oversaw the work of the trade contractors. The construction managers were paid the taxpayer’s affiliate payroll master company and leased to the subsidiaries. The construction managers were responsible for managing the homebuilding process and ensuring that the projects are completed with quality standards. The Department of Revenue held that under *Ariz. Dep’t of Revenue v. Ormond Builders, Inc.*, 216 Ariz. 379 (Ct. App. 2007), the construction managers are the prime contractors for TPT purposes because they are supervising and coordinating the completion of the construction projects. Normally, the subsidiaries would be considered the prime contractors because the managers are the de facto employees of the subsidiaries. However, A.R.S. § 42-5075(R)(10) allows an exemption from TPT under the prime contracting classification if the person owns the land on which the modification activity is being conducted and does not perform any of the modification work themselves, but instead hires third-party contractors to do so. The taxpayer must maintain records proving the actual work was completed by unrelated third-parties. Additionally, taxpayers may not use Form 5000, purchase construction materials tax exempt, or use any other TPT exemptions. Taxpayers also may not issue a Form 5005 to the other contractors on the project indicating that it will be responsible for the TPT (A.R.S. § 42-5075(E)) or receive consideration for modifications it performs after title passes to the customer (A.R.S. § 42-5075(Q)). This ruling does NOT affect the Department of Revenue’s marketing arm/construction arm policy.

LR 17-003 (Jan. 9, 2017). Taxpayer not subject to prime contracting TPT on the fabrication of equipment it sells unless it also installs the equipment. If the taxpayer only sells the equipment and does not install it, the sale is subject to the retail TPT. The taxpayer designed and fabricated equipment that it sold to its client. After the equipment was fabricated, it was permanently attached to real property at the client’s location for the duration of its useful life. The taxpayer sometimes installed the equipment; other times its

clients hired a contractor to install the equipment. The equipment was often installed in new buildings but may also be installed in existing buildings. The taxpayer billed clients a lump-sum amount for all equipment and services rendered (including installation, if applicable). Taxpayer's invoices separately stated charges for services and property furnished. The Department of Revenue held that when a taxpayer constructs equipment for sale, but does not install it, the taxpayer is not subject to Arizona's TPT for income derived from construction. The sale of equipment is still taxable retail sale, unless the sale is to an out-of-state consumer and qualifies for the interstate sale exemption. However, when the taxpayer constructs and installs equipment, it may be subject to TPT for income from installing the equipment depending on the circumstances.

Installation is taxable construction activity when the equipment is installed in a new building because the equipment will remain in place for the duration of its useful life. Installation is non-taxable alteration activity when the equipment is installed in an existing building unless the installation work exceeds the statutory caps on alteration work. Finally, a taxpayer may purchase materials exempt for use in fabricating the equipment as materials to be incorporated into a fabricated product or a contracting or maintenance, repair, replacement or alteration (MRRA) project.

2017 PROCEDURAL GUIDANCE

The purpose of a tax procedure is to provide procedural guidance to the general public. It is a written statement issued by the Department of Revenue to assist in the implementation of tax laws, administrative rules, and tax rulings issued by delineating procedures to be followed in order to achieve compliance with the law.

TPP 17-1 (April 1, 2017). Guidance on Use of Exemption Certificates. This transaction privilege tax procedure (TPP) contains extensive guidance regarding the use of Arizona exemption certificates, including Forms 5000 (Transaction Privilege Tax Exemption Certificate), 5000A (Arizona Resale Certificate), 5000M (Non-TPT Licensed Contractor Certificate (MRRA Project)), and 5005 (Contractor's Certificate). The guidance also addresses the Department of Revenue's position on non-departmental certificates.

PROPERTY TAX DEVELOPMENTS

2017 LEGISLATION

House Bill 2011, Chapter 212. In Computing the Secondary Property Tax Levy, Cities are Precluded from Sitting on Large Cash Reserves.

This bill requires the annual secondary property tax levy to be net of all cash in excess of 10% of the amount required for debt service payments in the following year to prevent cities from sitting on cash that otherwise could be used for debt service payments rather than increasing the levy amount. The bill also allows cities that have accumulated large reserves a two-year window to return excess to taxpayers. Large cities with a population over 500,000 (*i.e.*, Phoenix) have a six-year window.

House Bill 2231, Chapter 120. Government Property Lease Excise Tax Abatement.

This bill modifies the Government Property Lease Excise Tax (GPLET), reducing the lease term from 25 years to eight years if abatement of the tax is involved. In such cases, the property will be added back to the property tax rolls in year nine and subject to full property taxation. Previously, when the GPLET was abated, when the eight-year abatement period expired, the property was subject to the GPLET tax for the remainder of the 25-year lease term. The 25-year lease term still applies if no tax abatement is involved. This change applies to prospective agreements only.

House Bill 2286, Chapter 198. Truth in Taxation Notice Must State How Much More Property Tax will be Paid if a Ballot Measure is Approved to Issue Bonds.

This bill simplifies the Truth in Taxation notice required of taxing entities proposing an increase in property taxes because of a voter-approved of bond issuance. The revised language states how much a taxpayer is expected to pay in property taxes both with and without the proposed increase. The bill also extends the same oversight by the Property Tax Oversight Commission to the operating levies of county-wide special taxing districts that currently applies to counties, community colleges, cities, and towns.

House Bill 2366, Ch. 232. Agricultural Property and Decrease in Available Water Supply.

Under this bill, for land within an irrigation district in a county with a population of less than 900,000 persons, when classifying property as used for agricultural purposes

for property tax purposes, a temporary reduction or transfer of the available water supply or irrigation district water allotments (which allows agricultural property to be inactive or partially inactive and keep the agricultural classification) must be verified by an official certification from the irrigation district to the county assessor that confirms the reduction or transfer. However, if land is located in an active management area and does not have an irrigation grandfathered groundwater right, the land is not eligible as cropland. A certification for partial reduction is not valid for full inactivity of the farm unit for more than one year.

Senate Bill 1062, Chapter 65. Property Tax Oversight Commission’s Life Extended. This bill extends the property tax oversight commission through July 1, 2025. The commission provides oversight of the budgeting and taxation process of counties, municipalities, school districts, and community college districts.

Senate Bill 1326, Chapter 220. Accelerated Depreciation for Qualifying Broadband Infrastructure. This bill provides accelerated depreciation (the same as Class 1 and Class 2 property) to the qualifying broadband infrastructure of telecom companies. Broadband cable depreciable life goes from 15 years to 10 years. “Qualifying Broadband Infrastructure” is cable, telecom equipment and other tangible personal property capable of being used in connection with the transmission of data at a rate that is at least equal to four megabits per second in at least one direction.

Senate Bill 1416, Chapter 340. Accelerated Depreciation for Class 6 (Foreign Trade Zone) Property. This bill allows Class 6 real and personal property located within a foreign trade zone or a military reuse zone to be assessed with the same additional depreciation values as Class 1 and Class 2(P) property as long as all of the following apply: (1) the property is acquired during or after tax year 2017; (2) the property is initially classified as Class 6 property during or after tax year 2018; and (3) the property is used in a manufacturing application pursuant to statute.

2017 COURT DECISIONS

***Solarcity Corp. et al. v. Ariz. Dep’t of Revenue*, 1 CA-TX 15-0008 (May 18, 2017).** Department of Revenue had no statutory basis to value solar panels leased or sold to taxpayer’s customers primarily for self-consumption, and statute

providing such solar devices have no value and add no value to the property is constitutional. Taxpayers challenged the Department’s determination that the solar panels leased or sold to their customers could be valued for property taxation purposes. The taxpayers were not in the business of operating an electric generation facility; rather, their solar panels primarily provided energy only for on-site consumption. The Arizona Court of Appeals held that the Department cannot centrally assess the taxpayers’ solar panels because the panels do not fit within the electric generation statute (A.R.S. § 42-14151) because the panels did not generate power “to be delivered to customers through a transmission and distribution system” as required by the statute. Additionally, the renewable energy equipment valuation statute (A.R.S. § 42-14155) did not apply because the panels were not “electrical generation facilities” and the energy derived from the panels was intended for self-consumption by taxpayer’s customers.

Furthermore, the court held that the solar energy systems statute (A.R.S. § 42-11054(C)(2)), which provides that solar energy devices (e.g., roof top units) have no value and add no value to the property, did not violate the Arizona Constitution because the statute neither exempts property from taxation nor treats similarly situated property different under tax law. The Court of Appeals reversed the Tax Court and found that the statute was constitutional as a permitted legislative directive to assess and tax a specific property class a particular way, not an unpermitted exemption. The statute provides that solar energy systems designed to produce energy primarily for on-site consumption have or add no value to the property on which they sit. The Court of Appeals further disagreed with the Tax Court’s finding that A.R.S. § 42-11054(C)(2) violated the Arizona Constitution’s Uniformity Clause because the statute did not lead to non-uniform taxation for three reasons: (1) taxpayers were not the functional equivalents to traditional utility providers and electric generation facilities; (2) taxpayers leased or sold solar panels to be installed on rooftops, which is a different service than that provided by local utilities and electric generators that use the equipment governed by the solar energy and electric generations statutes to provide electricity; and (3) the property used by local utilities and electric generators to generate electricity not intended for self-consumption is different property than taxpayers’ solar panels, which provide electricity intended for self-consumption.

Ariz. Electric Power Co-op, Inc. v. State of Ariz. et al. Dep't of Revenue, 1 CA-TX 16-0013 (Oct. 31, 2017). Subsequent decision is a new “final decision” for purposes of calculating deadline for appeal from the State Board of Equalization to Tax Court if it materially changes the substance of a previous decision. Under A.R.S. § 42-16203(C), a party dissatisfied with a property tax valuation may appeal to the tax court within 60 days of the mailing of the State Board of Equalization “final decision.” In this case, the State Board issued a final decision to the taxpayer, but this decision misstated the full cash value of the taxpayer’s property. The State Board then issued a second “amended” decision that corrected the full cash value but contained other typographical errors. Finally, the State Board issued a third amended decision that corrected the errors in the second decision. The court held that an amended decision is only a new “final decision” for purposes of calculating the period for appeal if the amended decision materially changes the substance of the previous decision. The court further held that correcting the full cash value was a material change, but that a typographical error was not; thus the deadline to file an appeal was 60 days from the date of the second decision.

Loma Mariposa L.P. v. Santa Cruz Cty., 1 CA-TX 15-0007 (Nov. 22, 2016). The county failed to respond to the taxpayer’s notice of claim within the 60-day period and thus the county was deemed to have consented to the claim. In a case related to *Loma Mariposa II, L.P. v. Santa Cruz Cty.*, 1 CA-TX 15-0007 (Nov. 22, 2016) but involving a different taxpayer, the taxpayer challenged a property tax assessment by filing a claim with the county assessor under A.R.S. § 42-16254. The assessor had 60 days to provide a written response to the claim, either consenting to or disputing the error. A failure to respond within the 60-day period operated as consent to the notice of claim under the statute. The assessor prepared a response but mistakenly mailed it to the wrong address, and the taxpayer did not receive the response until after the statutory period had run. The Court of Appeals affirmed the Tax Court’s decision that the county consented to the notice of claim. The court also found that “Arizona... does not recognize a ‘good-cause exception’ for administrative filings absent explicit statutory authority.”

INCOME TAX DEVELOPMENTS

2017 LEGISLATION

House Bill 2158, Chapter 215. Native American Veterans Tax Settlement Refund Period Extended. This bill extends the deadline for qualifying Native American veterans who had state income taxes erroneously withheld to apply for a refund from December 31, 2017 to December 31, 2019. The bill also changes the date for withholdings to be eligible for refund from payments that were withheld after July 1, 1993, to payments that were withheld after July 1, 1977.

House Bill 2191, Chapter 319. Angel Investor Tax Credit Cap Increased. This bill permits the Arizona Commerce Authority to authorize additional individual income tax credits for qualified investments in small businesses. The credit cap is increased to \$10 million per fiscal year (up from \$2.5 million) plus any unused credit capacity from previous fiscal years for the fiscal years between July 1, 2017 and June 30, 2021.

House Bill 2214, Chapter 278. Income Tax Subtraction for ADA Expenditures. This bill allows an individual and corporate deduction for eligible expenditures incurred during the tax year in order to comply with the Americans With Disabilities Act (ADA). The deduction applies to expenses to retrofit real property placed in service 10 or more years ago, as well as expenditures for interpreters, readers, and other equipment to come into compliance. Expenditures required to cure a violation of the ADA or related Arizona law are not eligible for the deduction.

House Bill 2280, Chapter 60. Electronic Filing Requirements. This bill allows the Arizona Department of Revenue to require electronic payment of corporate income tax, partnership, and fiduciary returns. However, because the Department has not yet implemented an electronic filing system, electronic filing is not required until 2021 or when the Department implements such system, whichever is later. The bill also prohibits the Department from requiring electronic payment of individual income taxes.

House Bill 2438, Chapter 127. Change in an Entity’s Status is a Nontaxable Event. This bill specifies that a change in the organizational structure of a corporation, limited liability company, or partnership is not a taxable event for Arizona

purposes if there is no change among the owners, ownership interests, or assets of the organization.

House Bill 2528, Chapter 299. Personal Exemption Amount Increased and Indexed for Inflation; Rarely Used Credits Repealed. This bill increases the personal exemptions for Arizona individual income tax for the 2017 and 2018 tax years, and then indexes the exemption to inflation starting with the 2019 tax year. The bill also repeals several rarely-utilized tax credits, including the individual income tax credits for healthy forest enterprises, military reuse zones, renewable energy operations, solar liquid fuel, and solar water heater stub-outs and electric vehicle recharge outlets, and establishes a procedure to repeal tax credits when they go unused for at least four years. The bill also clarifies that the repeal of a credit will not affect the validity of the carry-forward of that credit as allowed by prior law. Finally, the bill amends the individual and corporate credits for investments in renewable energy facilities that produce energy for self-consumption to limit the credit to where the power is used in an international operations center and not in a manufacturing facility.

Senate Bill 1290, Chapter 2. Annual Internal Revenue Code Conformity. This bill provides for the retroactive conformity to most provisions of the Internal Revenue Code, including the specific adoption of all federal retroactive effective dates, in effect as of January 1, 2017. The bill also moves up employers' deadline to file annual withholding returns from February 28 to January 31, but extends the deadline for employers to provide employees with a copy of the withholding statement by one day, from January 30 to January 31. Finally, the bill also provides that partnerships with no Arizona income, deductions, or credits are not required to file a partnership return for that year.

Senate Bill 1291, Chapter 178. Annual Tax Corrections Act. This bill makes technical corrections to Arizona's tax laws, including limiting the credit for individual income taxes paid to another state to the year in which the income was subject to tax; limiting individuals who files composite tax returns to credits for taxes paid to other states to just those taxes imposed on and paid by the individual taxpayer; defining net income for purposes of credits for individual income taxes paid to foreign countries; and requires taxpayers to use the foreign currency conversion rate in effect as of the date the taxes are paid to the foreign country.

Senate Bill 1416, Chapter 340. Quality Jobs Incentives Credits Extended. This bill extended the individual and corporate income tax credits for making qualifying capital investments and adding qualifying employment positions from July 2017 to July 2025. It also reduces the minimum capital investment requirement for businesses that create higher-paying jobs. The bill added a provision allowing businesses that qualify for the credit for investments in manufacturing, research, and headquarters facilities to claim all five annual installments of the credit, even if it is repealed or terminated. Finally, the bill also temporarily increases the amount of individual and corporate income tax credits for increased investment in qualified research expenses for the tax years 2018 through 2021.

Senate Bill 2014, Chapter 316. Legal Tender Exchange Gains Not Taxable. This bill provides that any capital gains or capital losses incurred in the exchange from one form of legal tender to another may be subtracted from Arizona income.

OTHER TAXES

2017 LEGISLATION

House Bill 2064, Chapter 50. Municipal Jet Fuel Excise Tax Limited to First 10 Million Gallons Purchased. This bill limits the municipal tax on jet fuel to the first 10 million gallons per purchaser per year, and requires that revenues generated by public airports must be expended exclusively on capital or operating costs of the airport, airport system, or other local airport facilities owned or operated by the municipality.

House Bill 2280, Chapter 60. Electronic Filing Requirements. This bill requires the electronic filing and payment of tax provided the taxpayer had an actual liability in the prior tax year or reasonably anticipates a liability in the coming year equal to or above the following thresholds: \$20,000 beginning July 1, 2017; \$10,000 beginning January 1, 2019; \$5,000 beginning January 1, 2020; and \$500 beginning January 1, 2021. The provision applies to the following taxes: jet fuel excise and use taxes, severance tax, telecommunications services excise tax, municipal water delivery system tax, prepaid wireless telecommunication E911 excise tax, government property lease excise tax, and tax stamps for tobacco sales. The bill also requires bingo licensees, wholesalers of cider, malt, spirits, or vinous liquors, and farm wineries, microbreweries, and craft distillers to electronically file all required

reports and returns as so January 1, 2020 or when the Department of Revenue establishes an electronic filing system, whichever comes later. The bill waives the electronic filing requirement for certain taxpayers who lack Internet or computer access, but imposes a 5% penalty on other taxpayers who fail to comply. Finally, the bill increases the credit for accounting and reporting expenses from 1% up to \$10,000 per year to 1.2% up to \$12,000 per year.

House Bill 2069, Chapter 153. Insurance Premium Tax Reporting. This bill increases the threshold for monthly filing of insurance premium tax returns from \$2,000 to \$5,000 of tax in the previous calendar year. The bill also allows the Department to require insurers to file reports electronically.

Senate Bill 1058, Chapter 7. Regional Attraction District Legislation Repealed. This bill repealed a 2008 law that permitted municipalities to create “regional attraction districts” that could raise up to \$750 million with negotiable revenue bonds financed by a sales tax levy of up to 10% on top of existing rates.

Senate Bill 1416, Chapter 340. Quality Jobs Incentives and Tax Credits. This bill increases the amount of state-shared sales tax revenue that Arizona counties and municipalities who are required to make public infrastructure improvements to support qualifying manufacturing investments can commit to pay for such improvements from 20% to 100%. The bill also extends the insurance premium tax credit for businesses that make qualifying capital investments and add qualifying jobs from July 2017 to July 2025.

Senate Bill 1291, Chapter 178. Annual Tax Corrections Act. This bill makes technical corrections to Arizona’s tax laws, including requiring tobacco distributors to notify the Department in writing within 30 days of any change to 50% or more of the ownership interests in a single transaction; clarifying that tobacco products held or stored for sale in the state may not be kept at a residence; and modifying the withholding requirements such that individuals must always withhold an amount that reasonably reflects their Arizona income tax liability, eliminating the option to withhold an amount equal to 10%, 15%, or 20% of the amount paid to the IRS as estimated tax.

CASES

***BSI Holdings, LLC v. Ariz. Dep’t of Transportation*, 1 CA-TX 16-0003 (July 13, 2017). “Day” for purposes of determining the aircraft license tax rate includes any fraction of a day.** Arizona imposes an annual aircraft license tax on aircraft based in the state pursuant to A.R.S. § 28-8335. The tax is imposed at a graduated rate depending on the total number of days the aircraft is based in Arizona during the calendar year. Vacating the opinion of the Tax Court and adopting the interpretation offered by the Arizona Department of Transportation, the Court of Appeals held that “days” for purposes determining the appropriate rate means “any calendar day during which the aircraft was on the ground in Arizona for any period of time” and not a 24-hour period as argued by the taxpayer.

2017 DEPARTMENT OF REVENUE TAX RULINGS

The purpose of a tax ruling is to provide the public with a written statement of the Department of Revenue’s position interpreting the Arizona tax law and applying the law to a specific set of facts or a particular tax situation. It is a position statement which provides interpretation, details or supplementary information regarding the application of law.

Fiduciary Tax Ruling FTR 17-1 (Jan. 31, 2017). Arizona to conform to the federal 5 ½ month extension period allowed for estates and trusts filing federal Form 1041. In July 2015, Public Law 114-41 was signed into law which provides an automatic 5 ½ month filing extension for estates and trusts filing a federal income tax return (Form 1041). If the taxpayer is granted an extension of time within which to file the federal income tax return for any taxable year, under Arizona law the taxpayer is automatically deemed to have been granted the same extension of time for filing the Arizona income tax return if at least 90% of the tax liability disclosed by the taxpayer’s return for the reporting period is paid on or before the original due date. Therefore, if a taxpayer is granted an automatic 5 ½ month extension of time for filing federal Form 1041, the taxpayer will automatically be deemed to have been granted a 5 ½ month extension of time in which to file Arizona Form 141AZ. A fiduciary that did not request a federal extension to file Form 1041 but wants to request an Arizona extension to file Form 141AZ, must complete and timely file Form 141AZ-EXT by the estate or trust’s original due date.

Luxury Tax Ruling LTR 17-1 (July 28, 2017). Whole Leaf Tobacco Considered “Smoking Tobacco.” Whole leaf tobacco may be considered “smoking tobacco” for the purposes of Arizona luxury privilege taxes if it meets the criteria of “any tobacco that, because of its appearance, type, packaging, labeling or promotion, is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes or otherwise consumed by burning.” Distributors of such products are required to obtain a license from the Department of Revenue and adhere to all applicable reporting and payment requirements.

Luxury Tax Ruling LTR 17-2 (July 28, 2017). Vehicle or Residence Cannot be Used to Store, Sell or Distribute Tobacco Products. Licensed tobacco distributors may not hold or store tobacco products for sale or distribution at a residential location or in a vehicle as a condition of their licensure. With limited exceptions, no person may use a vehicle as a place of business for selling, transferring or distributing tobacco products.

Luxury Tax Ruling LTR 17-3 (Dec. 18, 2017). Explains Department of Revenue’s Position on the Tobacco Tax, Including Sales to Consumers on Tribal Lands within Arizona. This ruling discusses the Department’s position on the application of various tobacco taxes, including the use of the four Arizona tax stamps: the general tobacco tax stamp (blue), the Indian Reservation Tobacco Tax (IRTT) stamp (red), the tribal tobacco tax stamp (yellow), and the tribal tax-free stamp (green).

STATE AND LOCAL TAX GROUP

The foregoing summaries are not intended as legal advice on any particular question of law. If you have any questions or concerns about these or related developments, please contact our state and local tax lawyers.



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