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## House Bills

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### HB 34 Sales and Use Tax Act Revisions

Amends: 59-12-103, 59-12-208.1, 59-12-403, 59-12-703, 59-12-806, 59-12-1102, 59-12-1302, 59-12-1402, 59-12-1803, 59-12-2004, 59-12-2103, and 59-12-2209

Effective: 7/1/12

Addresses the effective date of a sales and use tax enactment or increase for purposes of a transaction for a billing period if the transaction is reported on a billing statement.

Addresses the application of a tax rate repeal or decrease for purposes of a transaction for a billing period if the transaction is reported on a billing statement.

Both changes conform statutes to the SST Agreement.

### HB 36 Sales and Use Tax Computer Software and Other Tangible Personal Property Amendments

Amends: 59-12-102, 59-12-103, and 59-12-104

Effective: 7/1/12

Provides that detaching prewritten computer software from other tangible personal property is not a repair.

Provides that if an optional computer software maintenance contract consists of taxable and nontaxable products that are not separately itemized on an invoice, the purchase of the maintenance contract is 40% taxable and 60% nontaxable.

### HB 42 Permanent Community Impact Fund Board Grants

Amends: 9-4-302, 9-4-305, 9-4-307, 59-12-205, 63I01-209, 63I-1-259

Effective: Upon Signature

For fiscal year 2011-12 only, authorizes the Permanent Community Impact Fund Board to make a grant to Wellington, including:

- Providing the maximum amount of the grant
- Providing the purposes for which a city may expend the grant and
- Providing that before the Permanent Community Impact Fund Board may make the grant, the Permanent Community Impact Fund Board shall find that the city is experiencing substantial hardship in the repayment of bonded indebtedness as a result of sales and use tax distribution reductions.

Provides that the amount of sales and use tax distributions shall be reduced by the amount of a grant and up to the hold harmless provided in 2011 SB 76.

## **HB 81 City Or Town Option Sales and Use Tax Amendments**

Amends: 59-12-2103

Effective: 7/1/16

Prohibits a city or town from imposing a tax authorized under Title 59, Chapter 12, Part 21 on or after 7/1/16 if the city or town is not imposing this tax on 6/30/16.

Provides that if a city or town imposes this tax on 6/30/16, the city or town shall repeal the tax on 7/1/16 unless, on or after 7/1/12, but on or before 6/30/16, a majority of the city or town's legislative body approves to continue to impose the tax.

If a majority of the legislative body approves the tax, it may be imposed until no later than 6/30/30.

## **HB 96 Prohibition of Sale or Use of Certain Software Programs**

Enacts: 76-6-1301, 76-6-1302, 76-6-1303

Effective: 7/1/12

- Prohibits a person from knowingly selling, purchasing, installing, transferring, using, or possessing any automated sales suppression device or phantomware with the intent to defraud.
- Provides that the penalty for a first offense is a third degree felony and any subsequent offense is a second degree felony.
- Provides an additional penalty of a fine not more than twice the amount of taxes that would otherwise have been due but for the use of the automated sales suppression device or phantomware.
- In addition, a person convicted of violating this provision is liable for all applicable taxes, penalties, and interest that would otherwise be due and shall disgorge all profits associated with the use of the device.

## **HB 157      Currency Amendments**

Amends:            13-32a-103.5, 59-1-1501, 59-1-1502, 59-1-1503, 59-10-1028, 59-12-104, and 59-12-107

Enacts:            59-1-1501.1, 59-1-1505, and 59-1-1506

Repeals:           59-1-1504

Effective:        5/8/12  
                      7/1/12 (amendments to §§59-12-104 and 59-12-107)  
                      1/1/12 (retrospective for amendments to §59-10-1028)

- Defines "specie legal tender" to mean gold or silver coin issued by the United States or other gold or silver coin if authorized by a court of competent jurisdiction or congress; provides that specie legal tender is legal tender in the state.
- Provides that a person may not compel another person to tender or accept specie legal tender except as expressly provided by contract.
- Clarifies the calculation of the income tax credit for capital gains on a transaction involving legal tender.
- Effective 7/1/12, amends the sales tax exemption for sales of coins that are not legal tender to apply to an item with a gold, silver, or platinum content of 50% (down from 80%) or more
- Indicates how a vendor that accepts payment of goods in specie legal tender shall account for those payments on the sales tax return.

## **HB 323      Sales and Use Tax Collections Amendments**

Amends:           59-12-107

Effective:        7/1/12

Provides that if a sale includes delivery or installation of tangible personal property at a location other than the seller's place of business and the delivery or installation charge is separately stated on an invoice, the seller may elect to compute the sales tax due on a cash, rather than accrual, basis; and

A purchaser who converts tangible personal property into real property and is not required to pay use tax monthly may elect to remit the use tax on a cash, rather than accrual basis.

If a purchaser elects to remit use tax on a cash basis, the bill provides the method for determining the amount of tax that must be remitted and provides guidance on how a bad debt may be deducted.

## **HB 384 Sales and Use Tax Seller Nexus Amendments**

Amends: 59-1-401, 59-12-102, 59-12-103.1, 59-12-107, 59-12-108, 59-12-211, 59-12-211.1

Effective: 7/1/12

Expands the types of sellers who are required to pay or collect and remit sales and use taxes to include a seller that holds a substantial ownership interest in or is owned in whole or in part by a related seller in the state if the seller sells the same or a substantially similar product as the related seller or if the related seller advertises, promotes, or facilitates sales by the seller.

Amends the definition of “affiliated group” for purposes of aircraft maintenance, repair, and overhaul providers.

## **HB 476 Amendments to Government**

Amends: 69-2-5, 69-2-5.5, 69-2-5.6, and 69-2-5.7

Enacts: 69-2-5.8

Effective: 7/1/12

Requires the State Tax Commission to redistribute E911(local and statewide), poison control, and prepaid wireless telecommunications charges in the same circumstances as sales tax redistributions.

## **HJR 6 Join Resolution on Severance Tax**

Amends: Article XIII, Section 5, ARTICLE XXII, Section 4

Effective: Contingent January 1, 2013

Requires specified percentages of annual severance tax revenue, except amounts required to be deposited into the Uintah Basin and Navajo Revitalization Funds, to be deposited into the permanent state trust fund.

## **HJR 13 Joint Resolution – Tax Opinion Question**

Effective: 03/08/2012 as passed by the legislature

Authorizes the Legislature to present an opinion question to the legal voters on the ballot of the 2012 regular general election to impose a state sales and use tax to support and enhance heritage, arts, culture, and museums throughout the state in an amount equal to the difference between .15% and a tax imposed by counties, cities, and towns under Title 59, Chapter 12, Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, and Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

## Senate Bills

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### SB 27 Amendments to Revenue and Taxation Title

Amends: 10-1-405, 59-1-1410, 59-1-1417, 59-12-102, 59-12-103, and 59-12-110

Effective: 5/8/12  
9/27/11 for refund requests pending on or filed on or after this date

Effective 5/8/12 and then retrospective to 9/27/11, clarifies that the Tax Commission may refund taxes erroneously paid by a person.

Codifies that a taxing statute is construed in favor of a taxpayer and an exemption or credit is construed against a taxpayer; addresses the taxability of a transaction consisting of taxable and nontaxable property, products, or services by codifying a Tax Commission rule that allows the seller to either separately state the nontaxable items on the invoice or identify the nontaxable items, by reasonable and verifiable standards, from the books and records the seller keeps in the ordinary course of business.

Effective 7/1/14 for refund requests pending on, or filed on or after 1/1/12, provides that if an item is required by statute to be separately stated on an invoice, that requirement is satisfied if it is separately stated on an invoice provided at a later time as demonstrated by:

1. The seller's books and records kept in the ordinary course of business,
2. A preponderance of the facts and circumstances at the time of the transaction, and
3. The understanding of all of the parties to the transaction.

### SB 65 Alternative Energy Development Tax Incentives

Amends: 10-1-304, 59-7-614.2, 59-10-1107, 59-12-102, 59-12-104, and 63M-4-401

Enacts: 59-7-614.7, 59-7-614.8, 59-10-1029, 59-10-1030, 63M-1-3101, 63M-1-3102, 63M-1-3103, 63M-1-3104, 63M-1-3105, 63M-4-501, 63M-4-502, 63M-4-503, 63M-4-504, and 63M-4-505

Repeals: 63M-1-2801, 63M-1-2802, 63M-1-2803, 63M-1-2804, 63M-1-2805, and 63M-1-2806

Effective: 7/1/12 for sales tax changes  
1/1/12 Retrospective for income and corporate tax changes

- Requires the Office of Energy Development (instead of GOED) to administer the alternative energy development income and corporate tax credits and changes those from refundable to nonrefundable credits.
- Adds a nonrefundable corporate and individual income tax credit for alternative energy manufacturing, as determined by GOED, with a seven-year carryforward.

- Effective 7/1/12, modifies and expands alternative energy sales and use tax exemptions; extends the sunset date for claiming sales and use tax exemptions related to alternative energy.

### **SB 225 Transportation Revisions**

Amends: 41-1a-1201, 59-12-103, 72-2-118, 72-2-124, and 72-2-125

Effective: 7/1/12

Provides that certain registration fees shall be deposited in the Transportation Investment Fund of 2005 rather than the Centennial Highway Fund Restricted Account.

Provides that certain sales and use tax dedications shall be deposited in the Transportation Investment Fund of 2005 rather than the Centennial Highway Fund Restricted Account and the Critical Highway Access Needs Fund.

Provides that principal, interest, and issuance costs of bonds shall be paid from the Transportation Investment Fund of 2005 rather than the Centennial Highway Fund Restricted Account and the Critical Highway Access Needs Fund.