

REFERENCE TITLE: corporate income tax; sales factor

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2069

Introduced by
Representatives Harper, Burges, Senator Murphy: Representative Dial

AN ACT

AMENDING SECTION 43-1139, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1139, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; RELATING TO CORPORATE INCOME TAX; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-1139, Arizona Revised Statutes, is amended to
3 read:

4 43-1139. Allocation of business income

5 A. Except as provided in subsection B of this section, the taxpayer
6 shall elect to apportion all business income to this state ~~for taxable years~~
7 ~~beginning from and after~~ AS FOLLOWS:

8 ~~1. December 31, 2006 through December 31, 2007 by either:~~

9 ~~(a) Multiplying the income by a fraction, the numerator of which is~~
10 ~~the property factor plus the payroll factor plus two times the sales factor,~~
11 ~~and the denominator of which is four.~~

12 ~~(b) Multiplying the income by a fraction, the numerator of which is~~
13 ~~two times the property factor plus two times the payroll factor plus six~~
14 ~~times the sales factor, and the denominator of which is ten.~~

15 ~~2. December 31, 2007 through December 31, 2008 by either:~~

16 ~~(a) Multiplying the income by a fraction, the numerator of which is~~
17 ~~the property factor plus the payroll factor plus two times the sales factor,~~
18 ~~and the denominator of which is four.~~

19 ~~(b) Multiplying the income by a fraction, the numerator of which is~~
20 ~~one and one-half times the property factor plus one and one-half times the~~
21 ~~payroll factor plus seven times the sales factor, and the denominator of~~
22 ~~which is ten.~~

23 ~~3. December 31, 2008 by either:~~

24 1. FOR TAXPAYERS LOCATED OUTSIDE NONATTAINMENT AREA A AND AREA B, AS
25 DEFINED IN SECTION 49-541, BY EITHER:

26 (a) MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
27 THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS TWO TIMES THE SALES FACTOR,
28 AND THE DENOMINATOR OF WHICH IS FOUR.

29 (b) MULTIPLYING THE INCOME BY THE SALES FACTOR.

30 2. FOR ALL OTHER TAXPAYERS, BY EITHER:

31 (a) Multiplying the income by a fraction, the numerator of which is
32 the property factor plus the payroll factor plus two times the sales factor,
33 and the denominator of which is four.

34 (b) Multiplying the income by a fraction, the numerator of which is
35 the property factor plus the payroll factor plus eight times the sales
36 factor, and the denominator of which is ten.

37 B. All business income of a taxpayer engaged in air commerce shall be
38 apportioned to this state by multiplying the income by a fraction, the
39 numerator of which is the revenue aircraft miles flown within this state for
40 flights beginning or ending in this state and the denominator of which is the
41 total revenue aircraft miles flown by the taxpayer's aircraft everywhere.
42 This subsection applies to each taxpayer, including a combined group filing a
43 combined return or an affiliated group electing to file a consolidated return
44 under section 43-947, if fifty per cent or more of that taxpayer's gross
45 income is derived from air commerce. For the purposes of this subsection:

1 1. "Air commerce" means transporting persons or property for hire by
2 aircraft in interstate, intrastate or international transportation.

3 2. "Revenue aircraft miles flown" has the same meaning prescribed by
4 the United States department of transportation uniform system of accounts and
5 reports for large certificated air carriers (14 Code of Federal Regulations
6 part 241).

7 Sec. 2. Section 43-1139, Arizona Revised Statutes, as amended by
8 section 1 of this act, is amended to read:

9 43-1139. Allocation of business income

10 A. Except as provided in subsection B of this section, the taxpayer
11 shall elect to apportion all business income to this state ~~as follows~~ FOR
12 TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2016 BY EITHER:

13 ~~1. For taxpayers located outside nonattainment area A and Area B, as~~
14 ~~defined in section 49-541, by either:~~

15 ~~(a) 1. Multiplying the income by a fraction, the numerator of which~~
16 ~~is the property factor plus the payroll factor plus two times the sales~~
17 ~~factor, and the denominator of which is four.~~

18 ~~(b) 2. Multiplying the income by the sales factor.~~

19 ~~2. For all other taxpayers, by either:~~

20 ~~(a) Multiplying the income by a fraction, the numerator of which is~~
21 ~~the property factor plus the payroll factor plus two times the sales factor,~~
22 ~~and the denominator of which is four.~~

23 ~~(b) Multiplying the income by a fraction, the numerator of which is~~
24 ~~the property factor plus the payroll factor plus eight times the sales~~
25 ~~factor, and the denominator of which is ten.~~

26 B. All business income of a taxpayer engaged in air commerce shall be
27 apportioned to this state by multiplying the income by a fraction, the
28 numerator of which is the revenue aircraft miles flown within this state for
29 flights beginning or ending in this state and the denominator of which is the
30 total revenue aircraft miles flown by the taxpayer's aircraft everywhere.
31 This subsection applies to each taxpayer, including a combined group filing a
32 combined return or an affiliated group electing to file a consolidated return
33 under section 43-947, if fifty per cent or more of that taxpayer's gross
34 income is derived from air commerce. For the purposes of this subsection:

35 1. "Air commerce" means transporting persons or property for hire by
36 aircraft in interstate, intrastate or international transportation.

37 2. "Revenue aircraft miles flown" has the same meaning prescribed by
38 the United States department of transportation uniform system of accounts and
39 reports for large certificated air carriers (14 Code of Federal Regulations
40 part 241).

41 Sec. 3. Section 43-1139, Arizona Revised Statutes, is amended to read:

42 43-1139. Allocation of business income

43 A. Except as provided in subsection B of this section, the taxpayer
44 shall elect to apportion all business income to this state for taxable years
45 beginning from and after DECEMBER 31, 2016 BY EITHER:

- 1 ~~1. December 31, 2006 through December 31, 2007 by either:~~
2 ~~(a) Multiplying the income by a fraction, the numerator of which is~~
3 ~~the property factor plus the payroll factor plus two times the sales factor,~~
4 ~~and the denominator of which is four.~~
5 ~~(b) Multiplying the income by a fraction, the numerator of which is~~
6 ~~two times the property factor plus two times the payroll factor plus six~~
7 ~~times the sales factor, and the denominator of which is ten.~~
8 ~~2. December 31, 2007 through December 31, 2008 by either:~~
9 ~~(a) Multiplying the income by a fraction, the numerator of which is~~
10 ~~the property factor plus the payroll factor plus two times the sales factor,~~
11 ~~and the denominator of which is four.~~
12 ~~(b) Multiplying the income by a fraction, the numerator of which is~~
13 ~~one and one-half times the property factor plus one and one-half times the~~
14 ~~payroll factor plus seven times the sales factor, and the denominator of~~
15 ~~which is ten.~~
16 ~~3. December 31, 2008 by either:~~
17 ~~(a) Multiplying the income by a fraction, the numerator of which is~~
18 ~~the property factor plus the payroll factor plus two times the sales factor,~~
19 ~~and the denominator of which is four.~~
20 ~~(b) Multiplying the income by a fraction, the numerator of which is~~
21 ~~the property factor plus the payroll factor plus eight times the sales~~
22 ~~factor, and the denominator of which is ten.~~
23 1. MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS THE
24 PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS TWO TIMES THE SALES FACTOR, AND
25 THE DENOMINATOR OF WHICH IS FOUR.
26 2. MULTIPLYING THE INCOME BY THE SALES FACTOR.
27 B. All business income of a taxpayer engaged in air commerce shall be
28 apportioned to this state by multiplying the income by a fraction, the
29 numerator of which is the revenue aircraft miles flown within this state for
30 flights beginning or ending in this state and the denominator of which is the
31 total revenue aircraft miles flown by the taxpayer's aircraft everywhere.
32 This subsection applies to each taxpayer, including a combined group filing a
33 combined return or an affiliated group electing to file a consolidated return
34 under section 43-947, if fifty per cent or more of that taxpayer's gross
35 income is derived from air commerce. For the purposes of this subsection:
36 1. "Air commerce" means transporting persons or property for hire by
37 aircraft in interstate, intrastate or international transportation.
38 2. "Revenue aircraft miles flown" has the same meaning prescribed by
39 the United States department of transportation uniform system of accounts and
40 reports for large certificated air carriers (14 Code of Federal Regulations
41 part 241).
42 Sec. 4. Economic impact analysis
43 A. By electing to apply an enhanced sales factor formula in allocating
44 business income under section 43-1139, subsection A, paragraph 1, subdivision
45 (b), Arizona Revised Statutes, as amended by section 1 of this act, a

1 corporation agrees to participate in an economic impact analysis conducted by
2 the joint legislative budget committee. The department of revenue shall
3 cooperate with the joint legislative budget committee by providing the
4 identity of those corporations.

5 B. The joint legislative budget committee shall produce a report of
6 the economic impact analysis on or before July 1, 2016 that includes:

7 1. The number of corporations that elect to use the enhanced sales
8 factor.

9 2. The number and value of investments made by those corporations.

10 C. The report shall not disclose the identity of any taxpayer or the
11 nature, source, amount or status of any taxpayer's income, returns, payments,
12 receipts, deductions, exemptions, credits, assets, liabilities, net worth,
13 withholding tax paid or liabilities for deficiencies, penalties or interest
14 under titles 42 and 43, Arizona Revised Statutes.

15 D. The joint legislative budget committee shall provide copies of the
16 report to the governor's office of strategic planning and budgeting, the
17 secretary of state and any other person who requests a copy of the report.

18 Sec. 5. Conditional enactment

19 A. Section 1 of this act is effective and applies retroactively to
20 taxable years beginning from and after December 31, 2011, but only if both of
21 the following conditions occur before December 15, 2016:

22 1. On or after June 1, 2011, one or more corporations must publicly
23 announce, and report in writing to the joint legislative budget committee and
24 the governor's office of strategic planning and budgeting, one or more
25 capital investment projects located outside nonattainment area A and area B,
26 as defined in section 49-541, Arizona Revised Statutes, individually or
27 collectively cumulating capital costs in excess of _____ dollars in
28 the aggregate for all reporting corporations. Each report must:

29 (a) Include the date the project will begin.

30 (b) Include the location of the project.

31 (c) Describe the construction, reconstruction, expansion, installation
32 of new equipment, tooling or retooling.

33 (d) Include the estimated cost of the project.

34 (e) Include the estimated completion date of the project.

35 (f) State the number of contractors expected to be employed during the
36 project.

37 (g) Estimate the expected construction employment and the long-term
38 employment on the completed project.

39 2. No later than December 15, 2016, one or more corporations reporting
40 under paragraph 1 of this subsection must publicly notify the joint
41 legislative budget committee and the governor's office of strategic planning
42 and budgeting that one or more reported projects, individually or
43 collectively cumulating capital costs in excess of one billion dollars in the
44 aggregate, have commenced, as evidenced by the actual start of new

1 construction, reconstruction or expansion or the installation of new
2 equipment.

3 B. The joint legislative budget committee and the governor's office of
4 strategic planning and budgeting shall jointly:

5 1. Publish annually a list of corporations and projects that are
6 reported and undertaken for purposes of this section.

7 2. On or before December 31, 2016, notify in writing the director of
8 the department of revenue and the director of legislative council if the
9 conditions prescribed by subsection A of this section have occurred and the
10 date they occurred or if the conditions prescribed by subsection A of this
11 section have not occurred.

12 C. On or before December 31 of each year, each corporation that made
13 capital investment commitments under subsection A, paragraph 1 of this
14 section shall make a written report on the status of each project, including
15 the progress, the projected costs of completion, the amounts actually spent
16 to date and any changes and updates in the project that have occurred.
17 Copies of the reports shall be provided to the joint legislative budget
18 committee, the governor's office of strategic planning and budgeting, the
19 department of revenue, the county assessor of the county in which the project
20 is located and the secretary of state.

21 Sec. 6. Effective date

22 A. If section 43-1139, Arizona Revised Statutes, as amended by section
23 1 of this act, takes effect as provided by section 5 of this act, section 2
24 of this act is effective and applies to taxable years beginning from and
25 after December 31, 2016, and section 3 of this act does not take effect.

26 B. If section 43-1139, Arizona Revised Statutes, as amended by section
27 1 of this act, does not take effect as provided by section 5 of this act,
28 section 3 of this act is effective and applies to taxable years beginning
29 from and after December 31, 2016, and section 2 of this act does not take
30 effect.