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TO: MEMBERS OF THE SENATE APPROPRIATIONS COMMITTEE

DATE: March 25, 2022

SUBJECT: Strike everything amendment to H.B. 2543, relating to tax credit; luxury

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Purpose

Effective January 1, 2023, establishes the Credit for Craft Distillers, Farm Wineries and Microbreweries (Credit), allowed against luxury privilege tax liability, at a rate of $2.00 per gallon produced for a licensed craft distiller, $0.50 per gallon produced for a licensed farm winery and $0.10 per gallon produced for a licensed microbrewery.

Background

Craft distilleries, farm wineries and microbreweries are subject to a luxury privilege tax on the sale of liquor in Arizona. Statute requires a luxury privilege tax to be levied and collected on spirituous, vinous and malt liquors at a rate of: 1) $3.00 per gallon on each sealed container of spirituous liquor; 2) $0.84 per gallon on each container of vinous liquor of which the alcoholic content is less than 24 percent; and 3) $0.16 per gallon on malt liquor or cider.

Luxury privilege tax must be paid to the Arizona Department of Revenue (ADOR) monthly by the 20th day of the month next succeeding the month in which the tax accrues. By the 20th day of each month, craft distillers, farm wineries, microbreweries, manufacturers and direct shipment licensees must prepare a tax return that includes: 1) the amount of liquors or beer sold in Arizona during the month; 2) the amount of tax for the month; and 3) any other information ADOR deems necessary. Luxury privilege tax collections are allocated to the state General Fund, Corrections Revolving Fund and the Drug Treatment and Education Fund in prescribed percentages (A.R.S. §§ 42-3051; 42-3052; 42-3106; and 42-3355).

Statute prescribes annual production thresholds for liquor licensees, including: 1) for a licensed craft distiller, up to 20,000 gallons of distilled spirits; 2) for a licensed farm winery, between 200 gallons and 40,000 gallons of wine; and 3) for a licensed microbrewery, between 5,000 gallons and 6,200,000 gallons of beer (A.R.S. §§ 4-205.04; 4-205.08; and 4-205.10).

The Joint Legislative Budget Committee issued a fiscal note on a similar measure, S.B. 1408, which estimates a reduction to luxury tax revenues of $810,000 annually, including $302,000 from state General Fund revenues and $508,000 from Corrections Revolving Fund revenues (JLBC fiscal note).

Provisions

1. Establishes the Credit, allowed against luxury privilege tax liability for a taxpayer that paid the tax liability, at a rate of:
   a) for a licensed craft distiller, $2.00 per gallon or a proportionate rate for any lesser or greater quantity than one gallon for the first 20,000 gallons produced;

b) for a licensed farm winery, $0.50 per gallon or a proportionate rate for any lesser or greater quantity than one gallon for the first 20,000 gallons produced; and
c) for a licensed microbrewery, $0.10 per gallon or a proportionate rate for any lesser or greater quantity than one gallon for the first 500,000 gallons produced.

2. Decreases, from monthly to annually, the frequency with which a craft distiller, farm winery, microbrewery, manufacturer and direct shipment licensee must pay luxury privilege tax and file a corresponding tax return to ADOR.

3. Requires a taxpayer to claim the Credit for each tax period by filing the prescribed forms with ADOR.

4. Precludes a taxpayer from claiming the Credit if the taxpayer fails to pay the luxury privilege tax and the estimated tax liability before the payment becomes delinquent.

5. Requires ADOR to recapture any credits claimed by a taxpayer but disallowed.

6. Prohibits the Credit from impacting luxury tax allocations to the Drug Treatment and Education Fund or the Corrections Revolving Fund.

7. Makes technical changes.

8. Becomes effective on January 1, 2023.