

MODERNIZATION OF ARIZONA'S SALES TAX

A Report from the Office of the University Economist

May 2018

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PREFACE

This report provides more detail on Arizona's sales and use taxes than was included in the January 2018 report "Options for Raising State Government Revenue in Arizona" (<https://wpcarey.asu.edu/sites/default/files/revoptions01-18.pdf>). Another useful reference is "Improving the Fiscal System of Arizona State Government" (<http://wpcarey.asu.edu/sites/default/files/uploads/research/competitiveness-prosperity-research/ASBA.pdf>), a May 2010 report that was prepared for the Arizona School Boards Association.

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SUMMARY

Issue

Sales and use tax collections as a share of personal income — a measure of the overall economy — have declined significantly in Arizona and in other states for decades. This is a major issue for Arizona state government’s general fund, which is heavily dependent on sales and use tax revenue. The failure of sales and use tax revenue to keep pace with economic growth can be traced to three factors:

- Tax law changes, such as exempting certain items from the sales and use tax. In Arizona, tax law changes that have gone into effect since the early 1990s have reduced sales and use tax revenue in the current fiscal year by more than \$600 million.
- Shift in consumer spending away from goods — many of which are taxed — to services, of which few are subject to sales and use taxes.
- Shift in consumer purchases of goods away from stores, which are subject to the tax, to online; some online vendors are not taxed.

If state government’s sales and use tax collections as a share of personal income had been the same in the last fiscal year as in the mid-1980s, revenue would have been approximately \$3.3 billion higher, of which approximately \$2.6 billion would have been deposited to the general fund (the remainder of the state government revenue is distributed to counties and cities).

Sales and use tax expenditures — “provisions within the law designed to encourage certain kinds of activity or to aid taxpayers in certain categories” — amounted to \$12 billion in the last fiscal year. Tax expenditures take the form of exemptions, exclusions, deductions, credits, and preferential tax rates.

Solution

Modernization of Arizona’s sales and use taxes is dependent on eliminating some of the tax expenditures, including removing the exemption of some services from the tax. In addition, if federal law is changed to allow taxation of all items purchased online, the state should collect taxes from currently exempt online vendors.

Broadening the sales and use tax base would improve the responsiveness of the tax to economic growth. In addition, depending on how the base was broadened, other shortcomings of the tax — such as its cyclical and regressivity — could be reduced.

A blueprint for which of the tax expenditures to eliminate does not exist. Reasons exist to retain many of the tax expenditures, which account for the vast majority of the \$12 billion value. A study group could be charged with recommending whether each of the existing tax expenditures should be continued.

Given the poor evaluation of the sales and use taxes relative to a set of guiding principles, and the heavy dependence of the state government’s general fund on this revenue source, it is advisable to offset any additional revenue gained from the elimination of tax expenditures by lowering the existing tax rate. If a net increase in revenue is desired, broadening of the base should be accompanied by a low-income tax credit designed to mitigate the inherent regressivity of sales and use taxes.

INTRODUCTION

Tax terminology can be confusing because the definitions of some taxes overlap and since the definitions are not used consistently across the nation.

- A “sales” tax — or “general sales” tax — typically is applied to the sale of a good or service as a percentage of the sales price. It generally is assessed only on the sale to the final end user. The tax usually is paid by the seller, who passes the tax to the consumer.
- The “transaction privilege” tax is unique to Arizona. It is in essence a sales tax; the difference is that a vendor in Arizona is *required* to collect the tax and must have obtained a TPT license. In other states, sellers are *allowed* to collect the sales tax at the point of purchase.
- A “use” tax is paid directly by the purchaser.
- An “excise” tax differs from a general sales tax in that an excise tax is levied only on certain goods, such as alcoholic beverages, and is assessed at either a fixed dollar amount or a fixed percentage rate on a quantity, such as a gallon of motor fuel. The tax often is included in the price, rather than added to the marked price as with a sales tax. An excise tax may also be called a “selective sales” tax.
- A “consumption” tax is a broad tax that can include sales taxes, excise taxes, and value-added taxes (a tax levied on the value added at each stage of manufacture or distribution). It has rarely been used. An “expenditure” tax — an income tax on the difference between income and the change in savings — is a form of consumption tax that has been proposed.
- A “gross receipts” tax is a tax on the total gross receipts of a company, levied on every sale the company makes, rather than being limited to the sale to the final user. Most states that levy a gross receipts tax do not use a corporate income tax.

In Arizona, four taxes are referred to jointly as “sales and use” taxes by the Joint Legislative Budget Committee (JLBC). The following information on these taxes is drawn from the JLBC’s annual “Tax Handbook” (<https://www.azleg.gov/jlbc/economicanalysis.htm>):

- Transaction privilege tax (TPT). The TPT is discussed further in the next subsection.
- Use tax. This tax is applied to items brought into Arizona that were purchased in a state with a lower sales tax rate than Arizona’s TPT rate. While the purchaser is legally responsible for paying the tax, such payments are rarely made except for motor vehicles; if a vehicle is purchased out of state, the use tax is collected when the vehicle is registered in Arizona.
- Severance tax on metalliferous minerals. A 2.5 percent tax is levied on 50 percent of the difference between gross value and production costs.
- Jet fuel excise and use tax. A tax of 3.05 cents per gallon is assessed on the first 10 million gallons.

The state levies other excise taxes, such as on tobacco products and alcoholic beverages, that are not included in its definition of sales and use taxes.

While the primary focus of this paper is the TPT, the JLBC generally does not report data specifically for the TPT; instead, the accounting is for sales and use taxes as a whole. Table 1 summarizes the sales and use taxes collected by state government in fiscal year (FY) 2017. Prop 301 refers to the ballot initiative passed in 2000 that raised the TPT rate by 0.6 percentage points; all of its revenue is dedicated to education and is not deposited in the general fund. Prop 100

TABLE 1
SALES AND USE TAXES COLLECTED BY THE STATE OF ARIZONA,
AND THE DISTRIBUTION OF THESE REVENUES, FISCAL YEAR 2017,
DOLLARS IN MILLIONS

	Total Sales and Use Taxes	Transaction Privilege Tax[^]	Use Tax	Severance Tax	Jet Fuel Tax^{^^}
TOTAL	\$6,478.1				
Prop 301*	670.8				
Prop 100**	-0.2				
Balance	5,807.5	\$5,483.5	\$302.0#	\$18.4	\$3.6
General Fund	4,506.4	4,194.1	300.9	8.7	2.7
Cities	496.5	491.9	0.5#	3.7	0.4
Counties	804.6	797.4	0.6#	6.0	0.6

[^] Calculated as the difference between total sales and use taxes and the use, severance, and jet fuel taxes.

^{^^} Effective in fiscal year 2018, all revenue will be deposited to the state aviation fund.

* TPT of 0.6 percent dedicated to education.

** Increase of 1 percentage point in the TPT effective from 2010 to 2013.

A small amount of the use tax is distributed to cities and towns; the amount was not specified.

Source: Calculated from Arizona Joint Legislative Budget Committee, "2017 Tax Handbook."

refers to the increase in the TPT rate of 1 percentage point that was in effect from June 2010 through May 2013. The TPT figures in the table were calculated as the difference between the total for sales and use taxes, and the figures reported for the use, severance, and jet fuel taxes in the "Tax Handbook."

Some of state government's tax collections from sales and use taxes are distributed to counties and cities; the distribution formula varies by the type of sales and use tax. Overall, 77.6 percent of the revenue apart from that collected from the propositions was deposited in the general fund. Of the total revenue from the sales and use taxes realized by the state government's general fund in FY 2017, the TPT provided 93.1 percent.

Transaction Privilege Tax

The TPT is divided into 16 classifications. The retail classification accounted for 55 percent of the TPT revenue in FY 2017. Other sizable classifications include restaurant and bar (12 percent of the total TPT revenue), prime contracting (9 percent), and utilities (8 percent).

The TPT is applied to the price at the final sale except in the prime contracting classification, in which the tax is applied to 65 percent of the total, based on the assumption that labor costs account for the other 35 percent. In 12 of the TPT classifications, including each of the largest revenue producers, the tax rate as levied by state government is 5.0 percent, not including the 0.6 percent tax collected for education that is not deposited into the state government's general fund. The 5.0 percent tax rate has not changed since FY 1984. The tax rate is 5.5 percent in the transient lodging and online lodging classifications, 3.125 percent for mining, and 0 percent for commercial leases.

County and municipal governments in Arizona also levy a TPT, with retail tax rates ranging from 2 percent to 5.3 percent. Thus, the overall retail TPT rate varies from 7.6-to-10.9 percent across Arizona. The retail tax base used by local governments may be different from state government's tax base. For example, some jurisdictions tax food to be consumed at home while others match the state in exempting these items.

The tax base of the retail classification is narrow. Sales of most services and some goods — such as prescription drugs — are not subject to the state's TPT tax. The state's retail tax rate of 5.6 percent (including the tax dedicated to education) ranks a bit below the middle of all states. However, the combined state and local government tax rate — an average of 8.2 percent — ranks 11th highest in the nation.

Sales and Use Taxes

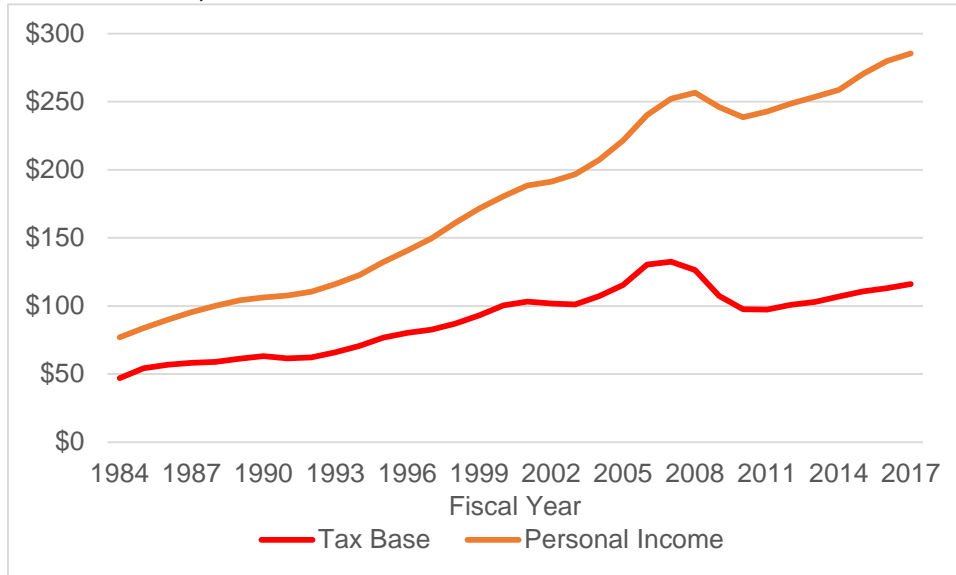
The tax base (total taxable receipts) of the state's sales and use taxes can be approximated by dividing tax collections by the tax rate, with a 5.0 percent tax rate assumed for all sales and use tax revenue. In Chart 1, the tax base is compared to personal income, which is the total income received by persons from all sources. Each series is expressed in inflation-adjusted dollars. The gap between personal income and the sales and use tax base has grown significantly over time.

When the tax rate was increased to 5 percent in 1984, the tax base of the state's sales and use taxes exceeded 60 percent of personal income (see Chart 2). Since then, the annual proportion has varied somewhat with the economic cycle, but a downtrend clearly is present, including a sizable drop during the last recession from which the proportion has not recovered. In recent years, the tax base has been barely more than 40 percent of personal income. Sales and use tax collections as a share of personal income have fallen from more than 3 percent to 2 percent of personal income.

As seen in Chart 2, though declining between FYs 1984 and 2007, state government's sales and use tax collections (including the amounts distributed to counties and municipalities) were between 2.6-and-3.2 percent of personal income, compared to 2.0 percent in recent years. Had the FY 2017 share of personal income been 2.6 percent, revenue would have been \$1.61 billion higher (\$1.25 billion higher in the general fund). If the FY 2017 share of personal income had been 3.2 percent, revenue would have been \$3.33 billion higher (\$2.58 billion higher in the general fund).

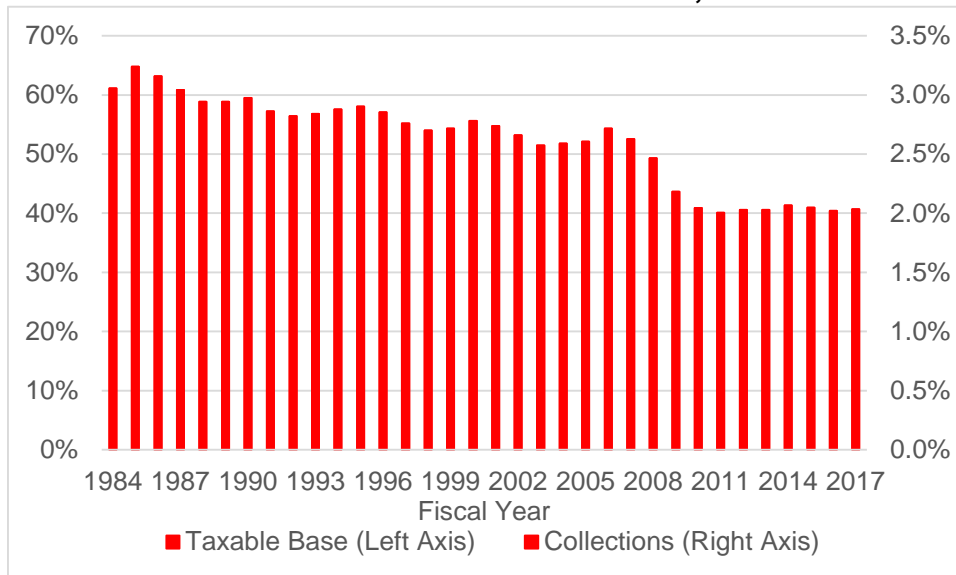
In fiscal year 2017, the state's sales and use tax collections totaled \$5.8 billion, of which \$4.5 billion was deposited in the general fund. Based on a 5.0 percent tax rate, this equates to \$116 million raised by each 0.1 percent sales tax rate, with \$90 million going to the general fund. Given the current tax base, an increase in the tax rate from 5.0 percent to 6.14 percent would have been necessary to raise \$1.61 billion in additional revenue; the state's tax rate would have been ninth highest in the nation after adding the 0.6 percent dedicated to education. Including the county and municipal tax rates, the sales tax rate would have been second highest in the country. To have raised \$3.33 billion additional revenue, a 7.9 percent state tax rate would have been necessary, which would have been the highest rate in the nation; the combined state and local government tax rate also would have been the highest.

CHART 1
TAX BASE FOR SALES AND USE TAXES COMPARED TO PERSONAL INCOME, ARIZONA, IN BILLIONS OF FISCAL YEAR 2017 DOLLARS



Sources: Arizona Joint Legislative Budget Committee (sales and use tax revenue) and U.S. Department of Commerce, Bureau of Economic Analysis (personal income and gross domestic product implicit price deflator).

CHART 2
SALES AND USE TAX, COLLECTIONS AND TAXABLE BASE AS A SHARE OF PERSONAL INCOME, ARIZONA



Sources: Arizona Joint Legislative Budget Committee (sales tax revenue) and U.S. Department of Commerce, Bureau of Economic Analysis (personal income).

Since FY 1984, sales and use taxes have been responsible for between 41-and-49 percent of state government's general fund revenue; in FY 2017, the share was 45 percent. Despite the decline in sales and use taxes relative to the size of the economy, the sales and use tax share of the general fund has not trended down due to substantial reductions in other revenue sources resulting from tax law changes. The sales and use tax share has varied with the economic cycle and with changes in the laws governing the sales and use taxes and other general fund revenue sources.

The state's high reliance on sales and use tax revenue to fund its general fund responsibilities coupled with the decline in sales and use tax collections relative to the size of the economy constitutes a serious public policy concern. Without changes to the general fund's revenue system, it will continue to be increasingly difficult to meet the public-service needs of the state's residents. Even in the absence of additional tax cuts, further reductions to state spending will be necessary over time in order to balance the general fund's budget.

Factors Causing the Relative Decline in Sales and Use Tax Collections

Three factors in particular contribute to the decline in sales and use tax collections relative to the size of the economy.

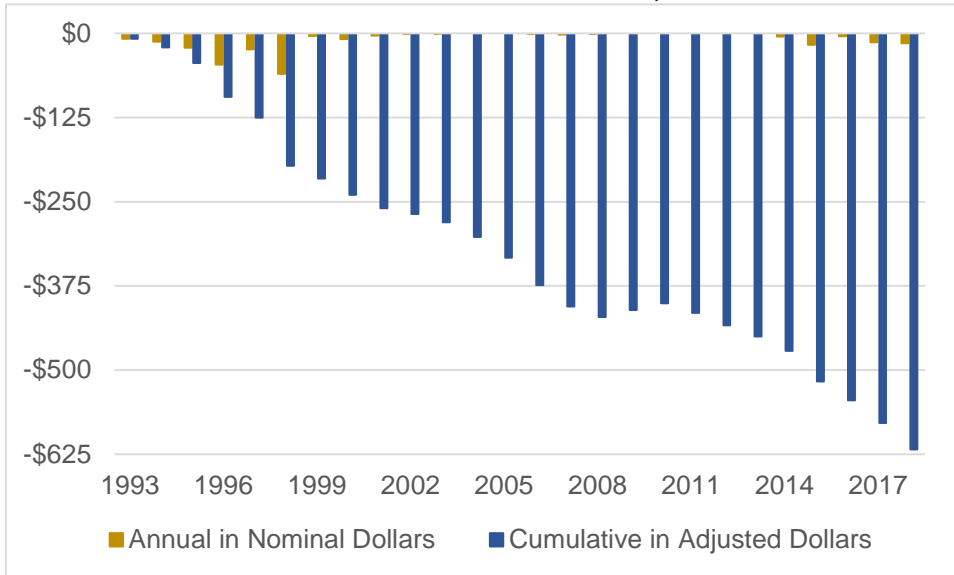
Tax Law Changes. A number of transactions that previously were subject to the TPT have been exempted by the Arizona Legislature (usually at the request of particular business interests). According to the Arizona Department of Revenue (DOR), the "total number of TPT deductions has grown from 1 in 1952 to 345 in 2016." The greatest increase in the number occurred from 1992 through 1999.

A number of other tax law changes also have reduced general fund revenue from the sales and use taxes. The JLBC has estimated the effect of each of the tax law changes that has taken effect since FY 1989. The largest negative effects on revenue occurred during the 1990s. In particular, the phase-out of the commercial lease tax from FYs 1994 through 1998 cost \$96.3 million nominally. A tax deduction in the prime contracting classification removed \$30 million in revenue from the state's general fund in FY 1998.

The initial nominal impact of each tax law change on the state's general fund as estimated by the JLBC was brought forward to 2018 using personal income, which incorporates population growth, inflation, and real per capita economic growth. The initial nominal figures and the cumulative adjusted figures by year are shown in Chart 3. In FY 2018, the estimated net effect of sales and use tax law changes to the general fund since FY 1989 is a loss of \$489 million. The tax law changes that have taken effect since FY 1993 — the beginning of the current era of frequent and large tax reductions — results in a loss of \$618 million in general fund revenue in FY 2018.

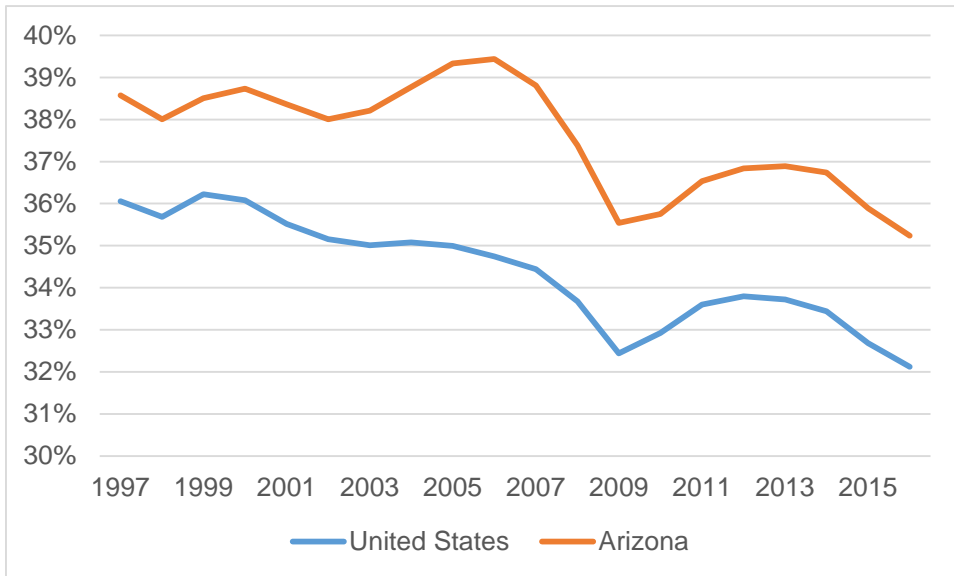
Shift in Consumer Purchases From Goods to Services. For decades, the proportion of total consumer expenditures spent for goods — most of which are taxed — has been falling, while the share spent for services, little of which are taxed, has been increasing. Nationally, goods accounted for 61.4 percent of total personal consumption expenditures in 1947 and 1948. The share was down to 32.1 percent in 2016. Data on personal consumption expenditures by state are limited to the 1997-through-2016 period. As seen in Chart 4, goods as a share of the total

CHART 3
EFFECT OF TAX LAW CHANGES ON SALES AND USE TAX COLLECTIONS,
ARIZONA STATE GOVERNMENT GENERAL FUND, IN MILLIONS OF DOLLARS



Sources: Arizona Joint Legislative Budget Committee (nominal effect on sales and use tax revenue) and U.S. Department of Commerce, Bureau of Economic Analysis (personal income used for adjustment).

CHART 4
PERSONAL CONSUMPTION EXPENDITURES FOR GOODS
AS A SHARE OF THE TOTAL



Source: U.S. Department of Commerce, Bureau of Economic Analysis.

fluctuated with the economic cycle, but trended down nationally and in Arizona over this time period.

Shift in Consumer Purchases of Goods From Stores to Online. An increasing share of consumer purchases are transacted through the Internet. Yet under current law, as affirmed by the 1992 U.S. Supreme Court decision in *Quill Corp. v. North Dakota*, states cannot compel retailers to collect sales or use taxes in connection with mail-order or Internet sales made to their residents unless these retailers have a physical presence in the taxing state, such as a store or employees. Having goods sold in stores in the taxing state does not establish a physical presence.

The Marketplace Fairness Act was introduced in the U.S. Congress in 2011 and again in 2013. Had it passed, the act would have authorized states to collect sales and use taxes from remote retailers. Currently, another U.S. Supreme Court case — *South Dakota v. Wayfair, Inc.* — is pending. South Dakota was the first of a number of states seeking to overturn the court’s 1992 decision. A decision is expected by June 2018.

The amount of sales and use taxes not being realized in Arizona due to Internet sales is unknown. Amazon, the largest online retailer, has a physical presence in Arizona and does remit sales taxes for its direct sales. However, Amazon does not remit sales taxes for the third-party sellers that can be accessed on Amazon.com.

Sales and Use Tax Expenditures

The Arizona Department of Revenue produces an annual report on “The Revenue Impact of Arizona’s Tax Expenditures” (<https://www.azdor.gov/ReportsResearch/TaxExpenditures.aspx>). Tax expenditures are defined as “provisions within the law designed to encourage certain kinds of activity or to aid taxpayers in certain categories.” The provisions take the form of exemptions, exclusions, deductions, credits, and preferential tax rates. The DOR estimates tax expenditures in a number of revenue categories, but 89 percent of the total value in FY 2017 was from transaction privilege and use tax expenditures.

The DOR groups transaction privilege and use tax expenditures into several categories. These categories, as well as subcategories with a tax expenditure value of at least \$100 million, are displayed in Table 2. These tax expenditures are discussed in the following section on modernizing the sales and use taxes.

Evaluation of Sales and Use Taxes

As currently structured, Arizona’s sales and use taxes compare quite unfavorably to a set of guiding principles for government revenue systems. Due to the limited base and high tax rate, the tax compares unfavorably on stability, predictability, responsiveness, and competitiveness. Neutrality and horizontal equity are poor due to the large number of tax exemptions. Vertical equity also is poor — those with low incomes pay a disproportionate share of their income in sales and use taxes. Sales taxes in general are highly regressive; in contrast, income taxes usually are progressive.

TABLE 2
TRANSACTION PRIVILEGE AND USE TAX EXPENDITURES,
FISCAL YEAR 2017, ARIZONA, VALUES IN MILLIONS

TOTAL	\$12,000
Preferential Tax Rates	453
Commercial Lease	450
Mining	3
Credits (Accounting Credit)	16
Exemptions for Services	5,222
Health Care Services	2,079
General Medical and Surgical Hospitals	810
Physicians	454
Outpatient Care Centers	122
Dentists	122
Other	571
Professional, Scientific and Technical Services	1,063
Computer System Design and Related	285
Architecture and Engineering	206
Legal	185
Management Consulting	107
Other	280
Financial Services	933
Securities Brokerage	117
Other	816
Administrative and Business Support Services	735
Employment Services	226
Services to Buildings and Dwellings	124
Other	385
Personal Care Services	82
Educational Services	65
Other Services	266
Organizations (Religious, Grantmaking, Civic, Professional, etc.)	114
Automotive Repair and Maintenance	105
Other	47
Other	6,308
Wholesale Trade	3,534
Prescription Drugs and Medical Oxygen	642
Food for Home Consumption	359
Subcontracting Income	308
Tangible Personal Property Sold in Interstate or Foreign Commerce	259
Services Provided by a Retailer	199
Sales of Vehicle Fuel and Aviation Fuel	172
Prime Contracting 35 Percent Deduction From Base	151
Maintenance and Repair Contract With Property Owner	129
Other	556

Source: Arizona Department of Revenue, "The Revenue Impact of Arizona's Tax Expenditures Fiscal Year 2016/2017" (<https://www.azdor.gov/ReportsResearch/TaxExpenditures.aspx>).

MODERNIZING SALES AND USE TAXES IN ARIZONA

Broadening the tax base of the sales and use taxes would improve the responsiveness of the taxes to economic growth. In addition, depending on how the base was broadened, other shortcomings of the taxes — such as cyclicity and regressivity — could be reduced. Broadening the base without changing the rate would result in more revenue. However, raising additional monies from sales and use taxes would make the general fund even more disproportionately dependent on these tax sources. Thus, the Citizens Finance Review Commission (CFRC) in 2004 recommended that in conjunction with eliminating certain exemptions and broadening the TPT base, the tax rate should be lowered accordingly.

In order to broaden the sales and use tax base, ideally each of the sales and use tax expenditures would be examined, looking at the original rationale for its existence, whether it has achieved its purpose, and whether a case remains to keep the tax expenditure. This would be a time-consuming and difficult task that best would be undertaken by a diverse committee, similar to the CFRC. The result of such a study would be a clear blueprint to expanding the tax base.

Without such a study group's recommendations, broadening the existing sales and use tax base could be accomplished in any number of variations. If the goal is to develop a tax base that better aligns with consumer purchasing than does the current base, some services would be taxed. In addition, if not barred by federal law, all online retail transactions would be taxed.

Three alternatives to broadening the sales and use tax base follow. An expansion of the base will result in additional revenue. If no net gain in revenue is desired, the reduction in the tax rate to achieve revenue neutrality is specified. If a net increase in revenue is desired, broadening of the base should be accompanied by a low-income tax credit designed to mitigate the inherent regressivity of sales and use taxes. The easiest way to do this would be to expand the existing "increased excise tax credit" available on the individual income tax form.

Including All Tax Expenditures in the Tax Base

If all \$12 billion in transaction privilege and use tax expenditures (see Table 2) in FY 2017 had been taxed, the tax base would have been \$240 billion greater than the existing base of \$116 billion. With a base of \$356 billion, a tax rate of only 1.63 percent would have raised the same amount of revenue as actually received in FY 2017.

However, it is not realistic or desirable to include all of the tax expenditures in the tax base. Taxing many of the tax expenditures in the DOR's "other" category would be problematic. For example, taxing wholesale transactions (a tax expenditure of \$3.5 billion) exposes a good to both wholesale and retail taxation — essentially double taxation. More generally, such a broad expansion of the base would create numerous distortions and face numerous administrative and legal challenges.

Removing all transaction privilege and use expenditures is akin to a gross receipts tax applied to all business transactions. Gross receipts taxes were common in the early part of the 20th century, but were eliminated in favor of a retail sales tax. Lately, a number of states have investigated the use of a gross receipts tax; most of the states that use this tax adopted it after 2000.

States view the gross receipts tax as desirable since it is a large and relatively stable source of revenue. Since the tax is assessed on sales instead of income, gross receipts tax collections are less volatile and less tied to the economic cycle than the income tax. Further, the tax has a very broad base and a very low rate, producing a favorable rating on some of the guiding principles.

Critics of the gross receipts tax argue that it leads to higher consumer prices, lower wages, and fewer job opportunities. The tax is assessed at every stage of production, leading to tax pyramiding through the production cycle — the tax is levied on business-to-business purchases of intermediate goods, including supplies, raw materials, and equipment. In contrast, sales taxes are applied only to final sales. The CFRC recommended against using such a broad tax.

Including All Services in the Tax Base

A less-extreme option is to broaden the tax base of sales and use taxes to include all services — that is, to eliminate all exemptions for services, which are valued at \$5.2 billion. This could be augmented with selected service-related items that the DOR includes in its “other” category, such as services provided by retailers and sales of service warranty contracts. The deduction for prime contracting also could be eliminated. Tax expenditures totaling \$5.6 billion in FY 2017 could be removed, which equates to a tax base of \$112 billion, nearly as large as the existing base of \$116 billion. Had the tax base in FY 2017 been \$228 billion, a tax rate of only 2.55 percent would have raised the same amount of revenue as actually received in FY 2017.

Taxing all services also is problematic. For example, many taxpayers would be opposed to taxing health care services. The taxation of business-to-business services would put many of Arizona’s businesses, such as financial and legal services, at a competitive disadvantage to out-of-state firms, which could deliver the same services but be tax exempt under current federal law.

Including Selected Tax Expenditures in the Tax Base

Thus, a more selective expansion of the sales and use tax base is desirable. The recommendations of a study group should guide the selection of the tax expenditures to eliminate. Table 3 provides examples of tax expenditures that might be ended. According to the DOR, the specific tax expenditures listed in Table 3 totaled \$1.52 billion in FY 2017. If these tax expenditures had been eliminated in FY 2017, the total tax base would have been \$146 billion. A tax rate of 3.98 percent — about 1 percentage point lower than the existing rate — would have raised the same amount of revenue as actually realized in FY 2017.

Even proposals to broaden the tax base to include only selected services has met stiff resistance in the past. Further, there would be upfront administrative costs in identifying businesses that provide the newly taxed services.

TABLE 3
SELECTED TRANSACTION PRIVILEGE AND USE TAX EXPENDITURES,
FISCAL YEAR 2017, ARIZONA, VALUES IN MILLIONS

Personal Care Services	\$82.0
Automotive Repair and Maintenance	105.3
Electronic and Precision Repair and Maintenance	13.6
Personal and Household Goods Repair and Maintenance	5.6
Sale of Warranty or Service Contract	23.9
Maintenance and Repair Contract With Property Owner	129.5
Services Provided by a Retailer	198.8
Commercial Lease	450.3
Food for Home Consumption	359.3
Prime Contracting 35 Percent Deduction From Base	151.5

Source: Arizona Department of Revenue, "The Revenue Impact of Arizona's Tax Expenditures Fiscal Year 2016/2017" (<https://www.azdor.gov/ReportsResearch/TaxExpenditures.aspx>).