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ARIZONA

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ARIZONA

I. INCOME TAX

A. Legislation

1. ***House Bill 2438, enacted March 31, 2017– Ariz. Rev. Stat. Ann. § 43-242***

   Notwithstanding any provision of the Internal Revenue Code or any federal rule or regulation adopted under it, a change in the organizational structure of a corporation, including an S corporation, limited liability company, partnership or any other entity, into another organizational structure is not a taxable event for the purposes of Arizona income taxes if there is no change among the owners, their ownership interests, or the assets of the organization.

2. ***Senate Bill 1290, enacted March 2, 2017***

   General conformity to Internal Revenue Code as of January 1, 2017 – *Ariz. Rev. Stat. Ann. § 43-105.*

3. ***House Bill 2449, effective July 1, 2016 – Ariz. Rev. Stat. Ann. § 42-1125***

   a. Taxpayers with substantial understatements of tax may be exempt from late payment penalties if they voluntarily file an amended return.

   b. The exemption does not apply to taxpayers under audit.

4. ***Senate Bill 1288, enacted May 11, 2016***

   a. General conformity to Internal Revenue Code as of January 1, 2016 – *Ariz. Rev. Stat. Ann. § 43-105.*

   b. Conformity to federal partnership audit provisions added by the Bipartisan Budget Act of 2015 – *Ariz. Rev. Stat. Ann. § 43-1414.*

   c. Changes partnership return filing due date to March 15th for calendar year partnerships, and the 15th day of the third month following the close of the fiscal year for fiscal-year partnerships for tax years beginning on or after December 31, 2015 – *Ariz. Rev. Stat. Ann. § 43-325.*

5. ***House Bill 2046 – Ariz. Rev. Stat. Ann. § 42-1130***

   a. Exempts any out-of-state businesses and out-of-state employees working in Arizona solely on disaster recovery after a declared disaster during the disaster period from any state or local income tax.

   b. An out-of-state business that is in Arizona on a temporary basis solely for the purpose of performing disaster recovery from a declared disaster

during a disaster period is not required to file, remit, withhold, or pay state or local tax income tax for or during the disaster period.

c. An out-of-state corporation that is temporarily in Arizona and whose only income in Arizona is from performing disaster recovery from a declared disaster during a disaster period is not required to file a corporation return in Arizona (but such a corporation is not precluded from being included in a consolidated or combined group return).

d. Effective December 31, 2014.

6. ***House Bill 2001 – Ariz. Rev. Stat. Ann. § 43-1139***

a. Prior to 2014, multistate taxpayers could elect to use an apportionment formula with an 80 percent-weighted sales factor.

b. Beginning in 2014, electing taxpayers will weight the sales factor as follows:

i. 85 percent for tax years beginning in 2014,

ii. 90 percent for tax years beginning in 2015,

iii. 95 percent for tax years beginning in 2016, and

iv. 100 percent for tax years 2017 and thereafter.

7. ***Senate Bill 1046 – Ariz. Rev. Stat. Ann. § 43-1147(B)***

a. "Multistate service providers" may elect to source sales of services for sales factor purposes based on where the customer received the benefit of the service (market-based sourcing), rather than the state where the greater portion of the income-producing activities were conducted, based on costs of performance.

b. A "multistate service provider" is a taxpayer that derives more than 85 percent of its sales from services provided to purchasers who receive the benefit of the service outside Arizona in the tax year of the election.

c. The election is available beginning on or after December 31, 2013, and will be phased in between 2014 and 2017.

i. The phase-in permits the use of market-based sourcing for 85 percent of service sales in 2014, 90 percent of service sales in 2015, 95 percent of service sales in 2016, and 100 percent of service sales thereafter.

d. The election must be made on a timely filed original income tax return, and is binding for five consecutive tax years.

   i. The election may be terminated with the Department of Revenue's permission or without its permission on the acquisition or merger of the electing taxpayer.

8. ***House Bill 2083 – Shortened Statute of Limitations for Personal Income Tax Assessments (pending)***

   a. Would reduce the period within which the Department of Revenue may mail any notice of additional tax due for individual income tax adjustments from within four years to within three years after the tax return was filed or required to be filed, whichever is later.

   b. Four-year statute of limitations would continue to apply to notices based on federal information, but state adjustments made after three years would be limited to changes based on the federal information.

   c. Shortened statute of limitations would apply to taxable years beginning in 2015 and thereafter.

9. ***House Bill 2131 – Attorney Fees in Tax Matters – Ariz. Rev. Stat. Ann. § 12-348***

   Increases the cap on costs and attorney fees prevailing taxpayers may recover from the Department of Revenue in an administrative tax proceeding from $20,000 to $75,000.

10. ***House Bill 2708 – Tax Amnesty, enacted May 10, 2016***

    a. Applies to all taxes and surcharges administered or collected by the Department of Revenue, except luxury and withholding taxes.

    b. Program allows eligible taxpayers to pay any back taxes owed to the state without penalty, interest, or criminal prosecution.

    c. Taxpayers currently under audit by the Department are not eligible.

    d. Applies to taxable periods ending before January 1, 2014 for taxpayers filing annually, and to taxable periods ending before February 1, 2015 for all other taxpayers.

    e. Taxpayers may pay the tax in installments until October 31, 2018.

    f. Applications must be submitted to the Department of Revenue by October 31, 2016.

B. Cases and Rulings

1. ***Harris Corp. v. Ariz. Dep't of Revenue, 233 Ariz. 377 (App. 2013); First Data Corp. v. Ariz. Dep't of Revenue, 233 Ariz. 405 (App. 2013)***

   a. The Court of Appeals held in *Harris Corp.* and confirmed in *First Data Corp.* that the definition of apportionable business income for Arizona purposes contains both a transactional and a functional test, and that the business income test does not contain a liquidation exception.

   b. Taxpayers' Petitions for Review to the Arizona Supreme Court were both denied.

2. ***Home Depot USA, Inc. v. Ariz. Dep't of Revenue, 233 Ariz. 449 (App. 2013)***

   a. Home Depot formed a wholly-owned subsidiary to hold all of its trademarks, trade names, and services marks. The subsidiary licensed these intangibles to Home Depot in exchange for royalty fees. The subsidiary engaged in no other business activity.

   b. The Court of Appeals held that Home Depot and its subsidiary were engaged in a unitary business and required the subsidiary to be included in Home Depot's combined unitary return.

   c. Taxpayer's Petition for Review to the Arizona Supreme Court was denied.

3. ***Taxpayer Information Ruling LR13-004***

   Proceeds from a patent infringement lawsuit are business income for Arizona corporate income tax purposes where the regular trade or business operations of the patent holder include developing, acquiring and holding patents, and earning income by using patents in manufacturing products or licensing patents to third parties.

4. ***Arizona Individual Income Tax Ruling ITR 13-2***

   a. Nonresident individuals who are partners of a partnership or are shareholders of an S corporation may elect to join in the filing of a composite individual income tax return with other nonresident partners or shareholders under the following circumstances:

      i. Individuals must be nonresidents of the state for the full taxable year.

      ii. Individuals (and their spouses) may have no income from Arizona sources other than his or her distributive share of S corporation or partnership income allocable to Arizona.

iii. Deceased members may not be included in the composite return.

iv. All members included in the composite return must have the same tax year for income tax purposes.

5. ***Arizona Corporate Income Tax Ruling CTR 12-2 – Elective Consolidated Returns***

a. All members of the affiliated group, including subsequently sold subsidiaries, who are included in an Arizona consolidated tax return for a given year are jointly and severally liable for tax, penalties, and interest of the affiliated group for that year.

b. A mere change in identity, form, or place of organization of the parent does not create a new affiliated group.

6. ***Arizona Corporate Income Tax Ruling CTR 12-1 – Elective Consolidated Returns***

a. An affiliated group of corporations which files a federal consolidated return may elect to file a consolidated Arizona income tax return. The election to file a consolidated return is binding on all succeeding taxable years, unless the Department of Revenue consents to a change in filing method.

b. Carryforward of net operating losses incurred before consolidation is limited.

i. Net operating losses may be carried forward only to the extent of that portion of the consolidated income related to the business unit which incurred the prior loss.

ii. When a group of corporations files a consolidated return reporting a net operating loss and one or more corporations cease to be a member of the affiliated group, only that portion of the consolidated loss related to the remaining members of the affiliated group may be carried forward against subsequent income of the consolidated group.

c. The $50 minimum tax is imposed on the single return rather than on each corporation in the group.

d. A single apportionment formula is applied against all of the business income of the affiliated group as if it were a single taxpayer. All Arizona property, payroll, and sales of the affiliated corporations will be included in the numerator of the relevant apportionment factors regardless of

whether each of the corporations had nexus within the state on a separate basis.

e. Newly acquired subsidiaries included in the consolidated federal return are considered to have waived any objection to filing a consolidated Arizona return by their consent to the filing of a consolidated federal return.

f. When an affiliated group includes an exempt insurance company, the insurance company's income and/or loss and apportionment factors are excluded from the Arizona consolidated return.

II. SALES & USE TAX

A. Legislation

1. ***Senate Bill 1310, enacted May 12, 2016 – Ariz. Rev. Stat. Ann. § 42-5071***

Sales tax on rentals of tangible personal property does not apply to rental of billboards used for advertising. Codifies decision in ***Jones Outdoor Advertising, Inc. v. Ariz. Dep't of Revenue, 1-CA-TX 14-0006 (2015)*** (see below).

2. ***Senate Bill 1350, enacted May 12, 2016 – Ariz. Rev. Stat. Ann. § 42-1108***

a. Allows online lodging marketplaces (e.g., Airbnb) to register with the Department of Revenue for the payment of taxes levied by the state or a political subdivision thereof for any online lodging transactions.

i. Preempts localities from auditing online lodging transactions. All audits handled by the Department of Revenue.

b. Requires online lodging marketplaces that are registered with the Department of Revenue to remit all taxes for each online lodging transaction facilitated by the marketplace.

c. Audits of online lodging marketplaces conducted solely on the marketplace's taxpayer identification number and not directly or indirectly on any individual operator or occupant to whom lodgings are furnished through an online lodging transaction.

d. Provides that an online lodging marketplace is not required to list or identify any individual operator on any return.

e. Exempts gross proceeds or gross income received by an operator from any taxes for lodging transactions made by an online lodging marketplace for which there is written notice that the marketplace is registered with the Department of Revenue for the collection of taxes and documentation of tax collected.

f. Effective December 31, 2016.

3. ***House Bill 2111, effective January 1, 2015***

a. *Sourcing Rules – Ariz. Rev. Stat. Ann. § 42-5040* – Clarifies that retail sales of tangible personal property are sourced (1) to the seller's business location if the seller receives the order at a business location within Arizona, or (2) to the purchaser's location within Arizona if the seller receives the order at a business location outside Arizona. Gross receipts from leasing or renting tangible personal property are sourced (1) to the lessor's business location if the lessor has a business location within Arizona, or (2) to the lessee's address if the lessor does not have a business location within Arizona.

b. *Repeal of Exemptions – Ariz. Rev. Stat. Ann. § 42-5061(A)(14)* – Eliminates the sales tax exemption for sales of tangible personal property to nonresidents of Arizona for use outside Arizona if the vendor ships or delivers the tangible personal property from Arizona. This exemption is maintained for sales of motor vehicles.

4. ***House Bill 2336 – Cash Equivalents – Ariz. Rev. Stat. Ann. § 42-5061(A)(21)***

a. Exempts the sales of "cash equivalents" from the retail sales tax. Cash equivalents include money orders, traveler's checks, gift certificates, stored value cards, and gift cards. Cash equivalents do not include (1) items or intangibles that are sold to one or more persons, through which a value is not denominated in money, and (2) prepaid calling cards or prepaid authorization numbers for telecommunications service.

b. The exemption applies retroactively to taxable periods beginning on or after December 31, 1998.

c. Any claim for refund based on the retroactive application of HB 2336 must be submitted on or before December 31, 2013, and is capped at $10,000.

d. ***Senate Bill 1289 – Tax Corrections Act, enacted May 11, 2016***

i. confirms the above cash equivalents are not subject to use tax – *Ariz. Rev. Stat. Ann. § 42-5159*

5. ***House Bill 2324 – Exemption for commercial leases between affiliated businesses – Ariz. Rev. Stat. Ann. § 42-5069(C)(5)***

Broadens the sales tax exemption for commercial leases between affiliates to include limited liability companies and other business entities that are 80-percent or more commonly owned, either directly or indirectly. Prior law offered the exemption only

to affiliated corporations. The exemption is effective September 13, 2013 for state purposes, and July 1, 2013 for municipal purposes.

6. ***House Bill 2676 – Exemption for sales of electricity or natural gas – Ariz. Rev. Stat. Ann. § 42-5159(G)***

   Effective January 1, 2017, the sale of electricity or natural gas to qualified manufacturing or smelting businesses is exempt from sales tax.

7. ***House Bill 2025 – Exemption for sales of liquefied petroleum gas – Ariz. Rev. Stat. Ann. § 42-5063(G)***

   Effective September 1, 2016, the sale of liquefied petroleum gas to businesses engaged in manufacturing or smelting operations is exempt from sales tax.

8. ***House Bill 2533 – Exemption for sales of aircraft and aircraft equipment – Ariz. Rev. Stat. Ann. § 42-5159(B)(7)***

   Effective July 1, 2017, the sale of aircraft and aircraft equipment to common carriers is exempt from sales tax.

B. Cases and Rulings

1. ***Ariz. Electric Power Cooperative, Inc. v. Ariz. Dep't of Revenue, 1 CA-TX 16-0004, Mar. 28, 2017***

   Purchases of coal and natural gas from out-of-state for use in Arizona electricity generation was found to be subject to Arizona use tax. The use of the coal and natural gas was not exempt from use tax as tangible personal property that becomes a component part of a substance or commodity for sale because it was used or consumed in the process of generating electricity.

2. ***Private Taxpayer Ruling No. LR16-012, December 5, 2016***

   Data services company does not owe use tax on fees it pays to third-party providers that create parts for taxpayer's data services systems because ownership of those parts remain with the third-party providers, even though the parts are used in the taxpayer's data services system.

3. ***Private Taxpayer Ruling No. LR16-011, September 23, 2016***

   Subscription billing provider's transaction processing through computer software is not taxable under the personal property rental classification because the clients do not have exclusive control over the software to constitute a rental of tangible personal property, and because payments are not based on software usage.

4. ***Transaction Privilege Tax Ruling No. 2016-1, September 20, 2016***

   Sales and use tax nexus may be created by the in-state presence of an employee for more than two days a year, or independent contractor present in Arizona for more than two days a year that acts on behalf of a business to promote its commercial interests.

5. ***Peters v. City of Prescott, 1 CA-TX 15-0004, Mar. 29, 2016 (unpublished)***

   a. The court held that a member of a golf club lacked standing to challenge the city's privilege tax on golf club membership dues imposed on the golf club and passed on to its members.

   b. The club member lacked standing to challenge the tax because he was not a "taxpayer." According to the court, a "taxpayer" is the party upon whom the legal incidence of tax is imposed, which was the golf club and not the member, even though the golf club charged the cost of the tax to the member.

6. ***Chevron U.S.A. Inc. v. Ariz. Dep't of Revenue, 1 CA-TX 14-0013 (2015)***

   a. Industrial oils and greases used in mining process found to be mining equipment exempt from sales tax.

      i. The court found the very short useful lives of the oils and greases (some less than 1 day) to be irrelevant because they functioned as equipment.

      ii. The court concluded the oils and greases at issue were tax-exempt because they were used directly in and were an integral part of the mining process.

7. ***Appeal of [Redacted], Case No. 201400197-S, October 27, 2015***

   a. The Department of Revenue ruled that a subscription-based online research database was subject to sales tax as a rental of software.

      i. Software determined to constitute tangible personal property.

      ii. Taxpayer provided customers with access to software that was necessary to use online research database.

      iii. The dominant purpose of the taxpayer's offering was not to perform research, but rather to permit its customers to use software to conduct online research.

b. Customers gained sufficient control over the use of the software to constitute a rental of the software.

8. ***CCI Europe, Inc. v. Ariz. Dep't of Revenue, 1 CA-TX 13-0002 (2015)***

Proceeds received from software license agreement and maintenance agreements with Phoenix Newspapers, Inc. were exempt from sales tax because the software was used as part of the manufacturing process to produce the printed version of the Arizona Republic newspaper.

9. ***Jones Outdoor Advertising, Inc. v. Ariz. Dep't of Revenue, 1 CA-TX 14-0006 (2015)***

a. Court of Appeals found that renting of billboard space was the sale of nontaxable advertising, and not the renting of the billboards, and thus taxpayer was not subject to sales tax on its sale of billboard advertising.

b. Customers were found not to have sufficient control over the billboards to constitute a rental.

c. Holding codified by ***Senate Bill 1310***, ***enacted May 12, 2016 – Ariz. Rev. Stat. Ann. § 42-5071*** (see above)

10. ***Taxpayer Information Ruling LR 15-005, May 14, 2015***

a. Receipts from hosting websites created remotely by customers using company-owned software were subject to sales tax.

b. Customers gained sufficient control and possession of the software to constitute constructive possession, subjecting the charges to sales tax as a rental of the software.

11. ***Administrative Law Decision No. 14C-201400197S-REV, March 11, 2015***

Proprietary information technology providing research, analysis and advisory products accessed remotely by clients was found to be the lease of tangible personal property subject to tax because the access and use were "exclusive" to each particular client.

12. ***City of Chandler v. Whitewing II, LLC, 1 CA-TX 12-0008 (2013)***

a. Taxpayer was assessed a city speculative builder sales tax on the sale of subdivided land used to develop residential property. Taxpayer acquired land and removed existing tangible personal property, then subdivided the land and sold the individual vacant lots.

b. The taxpayer argued that he did not sell improved real property subject to the speculative builder sales tax because taxpayer only removed existing improvements, and did not add new improvements to the land.

c. The court held that by preparing the land for subdivision, sufficient improvements were made to subject the taxpayer to the tax.

d. This is an unpublished memorandum decision. Taxpayer's Petition for Review to the Arizona Supreme Court was denied.

13. ***Private Taxpayer Ruling LR13-002***

Computer backup and restoration offerings were subject to tax as the rental of tangible personal property. The computer backup and restoration involved the use of software, which was tangible personal property, and the customers had sufficient control over the software to be considered renting the software.

14. ***Private Taxpayer Ruling LR13-005***

Online employment application and employee selection offerings involved renting tangible personal property in the form of prewritten software. The taxpayer provided its customers with a customized internet web portal which displayed the employment opportunities for its customer's prospective employees. The customers had the ability to edit and modify job descriptions, and select certain behavioral assessment questions posed to applicants. The taxpayer automatically produced on-line reports which summarized and analyzed the applicant's responses to such questions. Since the customers exercised sufficient possession and control of the software to constitute a rental of the software, the rental was subject to tax.

15. ***Private Taxpayer Ruling LR13-006***

a. Cloud computing business offerings were rentals of tangible personal property because the software used was tangible personal property. The customer's possession and control over the software was sufficient to constitute a taxable rental.

b. Online data storage business offerings were nontaxable services because they involved only the provision of storage capacity, and did not provide customers sufficient control or possession of the software to constitute a rental.

c. The Department noted that because the taxpayer engaged in the rental of tangible personal property as a result of its cloud computing offerings, the taxpayer must demonstrate that its data storage activities exist as a separate line of business from the cloud computing business to be excluded from taxable gross receipts of the cloud computing business.

16. ***Home Depot USA, Inc. v. Ariz. Dep't of Revenue, 230 Ariz. 498 (App. 2012)***

Home Depot made sales to certain customers who made purchases with credit cards. A credit card financing company remitted the amount of the sale to Home Depot, less a service fee to cover the cost of potential bad debts. Home Depot argued that because the service fee was to cover the cost of anticipated bad debts, it was entitled to a bad debt deduction in the amount of the service fee. The Court of Appeals rejected this argument, holding that only the vendor who is owed a bad debt—in this case the credit card financing company— may claim a bad debt deduction.

III. PROPERTY TAX

A. Legislation

1. ***Senate Bill 1350 – Property Classification Airbnb and VRBO rentals, effective December 31 1, 2016 – Ariz. Rev. Stat. Ann. § 42-12003***

   a. Property occupied as a primary residence by its owner but also rented to lodgers (e.g., Airbnb) is taxed as residential property.

   b. Property that is rented to lodgers (e.g., Airbnb) but not occupied as a primary residence of its owner is taxed as commercial property.

2. ***House Bill 2343 – Unclaimed Property Contingency-Fee Audits, enacted May 12, 2016 – Ariz. Rev. Stat. Ann. § 44-340***

   a. Requires contingency-fee auditors to provide taxpayers a notice of rights that includes a statement that the Department of Revenue makes all final decisions regarding recommendations by contingency-fee auditors.

      i. Statement must provide taxpayers with Department of Revenue contact information.

   b. Requires the Department of Revenue to establish procedures to monitor the performance of contingency-fee auditors.

3. ***Proposition 117 – Cap on Increases of Real Property Valuation***

   a. By constitutional amendment, annual increases in property value are capped at 5 percent over the previous year's value.

   b. The total value may not exceed full cash value.

   c. Effective beginning in 2015.

B. Cases and Rulings

1. ***SolarCity Corp. v. Ariz. Dep't of Revenue, 1 CA-TX 15-0008, May 18, 2017***

Rooftop solar energy panels leased to property owners are exempt from property tax. The Department of Revenue argued that the tax exemption did not apply because the panels delivered electricity to the lessees, not the owners of the panels. The court found that the panels were exempt because they were designed for on-site electricity consumption regardless of whether the panels were leased or owned by the property owners.

2. ***Sundevil Power Holdings, LLC v. Ariz. Dept. of Rev., 1-CA-TX 15-0001, July 7, 2016***

Taxpayer acquired electricity generation plant from a seller who previously purchased the plant in bankruptcy proceedings. The Department of Revenue argued that the plant should be valued based on the cost taxpayer paid to acquire the plant. The court held that the taxpayer was permitted to value the plant at the cost the seller paid to acquire it in bankruptcy.

3. ***Phoenix Cement Co. v. Yavapai County, 1 CA-TX 14-0010, Feb. 4, 2016 (unpublished)***

a. Cement plant sought a reduction in the assessed value of plant machinery and equipment due to economic obsolescence as a result of the recession's impact on the cement industry.

b. Court found that any reduction in the value of the machinery and equipment as a result of the recession was temporary, and the taxpayer failed to account for the temporary nature of its conclusions.

i. The court observed that the taxpayer's own witness (its Vice-President of Finance) testified that the company would not have been willing to sell the cement plant at issue for the assessed value urged by taxpayer, because he anticipated an economic recovery and growth, and that the plant had a much higher value than the current day value.

4. ***Scottsdale/101 Associates LLC, et. al. v. Mariposa County, 1 CA-TX 14-0003, 0008, 0011, 0012 (2015)***

a. The Court of Appeals reversed the tax court's granting of summary judgment in favor of Maricopa County which concluded that the County properly assessed the properties as shopping centers rather than improvements on government-owned property.

b. The Court of Appeals held that the properties may qualify for mixed-use assessment, and reversed and remanded to the tax court.

5. ***Hub Prop. Trust v. Maricopa County, 1 CA-TX 14-0005 (2015)***

   a. The Court of Appeals held that a real estate investment trust ("REIT") that purchased exempt municipal property owed property taxes on the property for the year of the purchase.

   b. Taxpayer's argument that the imposition of property tax and the government property lease excise tax ("GPLET") would result in double taxation was rejected because the GPLET would be imposed on prime lessee's of the property, not the REIT as the owner of the property.

6. ***General Motors v. Maricopa County, 1 CA-TX 13-0004 (2015)***

   a. The Court of Appeals held that a change of use of property for property tax classification purposes does not include a new owner's intent to redevelop the property for other uses.

   b. A changed use must be a physical, objectively verifiable or demonstrable use or activity on the property itself, not just a change in ownership or of purpose, plan, or intent.

7. ***SHR Scottsdale X, LLC v. Maricopa County, 1 CA-TX 12-0004 (2013)***

   a. The Court of Appeals held that a taxpayer that acquired real property from a partnership was collaterally estopped from re-litigating who was the owner of certain improvements to the land because that issue was previously litigated by the partnership prior to the sale.

   b. In 1985, a partnership leased land from the City of Scottsdale and subsequently made improvements to the leased land. In 1992, the partnership filed a lawsuit that challenged property tax assessments for the improvements on the land claiming that the improvements were owned by the City of Scottsdale, and that the partnership merely held a nontaxable possessory interest in the improvements.

   c. In 1995, the Arizona Tax Court entered final judgment against the partnership, ruling that the partnership owned the improvements and was therefore liable for the taxes at issue.

   d. In 2006, the taxpayer purchased the land and improvements from the partnership and subsequently sought a refund for the 2006 tax year on the theory that the City owned the improvements. The taxpayer was collaterally estopped from litigating the same issue argued by the partnership unsuccessfully at the Arizona Tax Court.

   e. This is an unpublished memorandum decision. Taxpayer's Petition for Review to the Arizona Supreme Court was denied.

8. ***Cable One, Inc. v. Ariz. Dep't of Revenue, 232 Ariz. 275 (App. 2013)***

   a. The Court of Appeal held that Cable One, Inc. was a telecommunications company subject to central assessment because it was providing telephone services to its subscribers through its Voice over Internet Protocol service.

   b. A telecommunications company subject to central valuation includes "any person that owns communications transmission facilities and that provides public telephone or telecommunications exchange or inter-exchange access for compensation to effect two-way communication to, from, through or within this state." (Ariz. Rev. Stat. Ann. § 42-14401.)

   c. The Court of Appeals held that although Cable One did not own a telephone network, it provided its customers with access to the network for a fee, which was sufficient to be considered a "telecommunications company" for purposes of central assessment.

   d. Taxpayer's Petition for Review to the Arizona Supreme Court was denied.