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Arizona Governor vetoes market sourcing election

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Arizona Governor Jan Brewer vetoed legislation that would allow multistate service providers an election to source sales of services for Arizona apportionment purposes based on the purchaser's receipt of the benefit of the service in the state, beginning in tax year 2012. The election would be binding for at least five consecutive years. (S.B. 1552, vetoed, 4/13/11)

Background

On February 27, 2011, Governor Brewer signed into law a phased-in single sales factor apportionment election and a scheduled decrease in the corporate income tax rate. The law also provides businesses with economic development incentives, such as tax credits for new jobs created, and establishes the Arizona Commerce Authority. [[H.B. 2001](#), enacted 2/17/11; effective 6/30/11.] (For an analysis of the law, [click here](#))

Market sourcing election

The legislation would allow a "multistate service provider" to elect to source sales of services to Arizona to the extent that the purchaser of the service received the benefit of the service in the state, effective for taxable years beginning from and after December 31, 2011. The bill defines "multistate service provider" as 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 taxable year in which the election is made. A "multistate service provider" includes all taxpayers required to file a combined return pursuant to Ariz. Rev. Stat. Sec. 43-942 and all members of an affiliated group included in a consolidated return pursuant to Sec. 43-947.

The election must be made on the taxpayer's income tax return and would be effective retroactively for the full taxable year covered by the return. Also, the election would be binding on the taxpayer for at least five consecutive taxable years, regardless of whether the taxpayer no longer derives more than 85 percent of its sales from out-of-state customers.

The election may be terminated without permission of the DOR upon the acquisition or merger of the taxpayer or after the election has been in effect for five consecutive taxable years. The election may be terminated prior to the

expiration of the five taxable years with the permission of the DOR. The termination must be made on the taxpayer's income tax return for the first taxable year in which the election is terminated.

For more information on PricewaterhouseCoopers' state legislative tracking service, [click here](#).

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