

# The Main Dish

Spring 2017



## Prop 206 and earned paid sick time for employees By Brian Campbell, CPA

On November 8th, 2016, Arizona voters passed Proposition 206, The Fair Wages and Healthy Families Act. While many voters felt an increase in minimum wage was warranted, I don't believe they were aware of the secondary measure passed requiring employers to provide and accrue earned paid sick time to employees.

Starting July 1, 2017, essentially all businesses must provide and accrue a minimum of 1 hour of paid sick time per 30 hours worked. An employee is anyone who performs work for compensation, whether full-time, part-time or temporarily. For employers with 15 or more employees, employees are not entitled to accrue or use more than 40 hours of earned paid sick time per year. For employers with fewer than 15 employees, employees are not entitled to use more than 24 hours of earned paid sick time per year. An employer has 15 or more employees if it maintained 15 or more employees on the payroll for some portion of a day in each of 20 different calendar weeks in the current or preceding year.

Paid sick time begins to accrue when employment starts, or on July 1, 2017, whichever is later. An employee may use earned paid sick time as soon as it is accrued. However, an employer may require an employee hired after July 1, 2017 to wait 90 calendar days after the start of employment before using accrued earned paid sick time. Unless an employer elects to pay an employee for unused earned sick time at the end of the year, the employer must accrue and carry over any unused earned sick time to the following year. Upon termination, an employer is not required to pay an employee for any unused earned sick time that remains.

Earned paid sick time requests may be made orally, in writing, electronically or by any other means acceptable to the employer. When possible, the request must include the expected length of absence. When foreseeable, an employee must make a good faith effort to provide advance notice and should schedule the leave in a manner that does not unduly disrupt the employer's operations. Employers cannot require an employee to find a replacement worker. Although an employer can require reasonable documentation of absences of 3 or more consecutive work days, an employer may not require that an employee specify health conditions or details of domestic violence, sexual violence, abuse or stalking.

Employers are required to comply with notice, posting and recordkeeping requirements including: (1) posting earned paid sick time notices in the workplace; (2) providing employees with the employer's business name, address and telephone number in writing upon hire; (3) providing a notice that informs employees of their rights and responsibilities under the Act; (4) maintaining payroll records in accordance with Arizona's statutes and rules; and (5) employers must either record in, or attach to, an employees' paycheck the amount of earned paid sick time available, the amount used and the amount of pay received as earned paid sick time.

The Act was challenged in the Arizona Supreme Court and on March 14 the Court issued an order unanimously rejecting challenges to the law's constitutionality, so it is here to stay! If you have not started planning for the impact on your business, you must start now as July 1, 2017 is right around the corner.

*If you have any questions, Brian can be reached at (480) 839-4900 or [BrianC@hhcpa.com](mailto:BrianC@hhcpa.com).*

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## Transaction privilege tax By Kelly Lynch, CPA

I thought I would be writing about the first major proposed legislation from the 115th Congress, but the Health Care Reform bill never went to vote. We will keep you posted once there is news - whether it is tax reform or changes to the health care system. In the meantime, let's talk about another challenge restaurant operators have to deal with: the Arizona Transaction Privilege Tax. In January, the

Arizona Department of Revenue revised and updated Pub 605, which covers this topic.

The Arizona transaction privilege tax is commonly referred to as a sales tax; however, the tax is on the privilege of doing business in Arizona and is not a true sales tax. In Arizona, it is the seller who owes transaction privilege tax to the state. If you operate a business which prepares and sells food and drink for consumption on or off premises, you are subject to the transaction privilege tax. Examples of taxable facilities or activities include:

- Standard eat-in restaurants
- Restaurants serving food to eat in or take out
- Bars, taverns, etc.
- Catering services

As with any type of tax, there are special situations to be on the lookout for:

- **Restaurants selling groceries** – grocery stores, delicatessens and other retail outlets qualified to sell food tax exempt, and also operate a restaurant on the premises, must keep separate records for the two activities. Food sold in the restaurant is taxable as a restaurant sale whether it is consumed on or off the premises.
- **Tips** – gratuities separately charged on a patron's check are not subject to the transaction privilege tax providing you keep separate records of the gratuities for all employees providing the services; and all of the gratuities are distributed directly to those employees who provided the service. Otherwise, the full amount of the gratuity is subject to tax under this classification.
- **Cover charges** – cover charges and other minimum charges are taxable under the restaurant classification. Admission charges for entertainment are taxable under the amusement classification.
- **Employee meals** – if there is a charge for employee meals, the meals are subject to the tax. If there is no value received by the employer and no charge for the meal and the employee consumes the food and drink on the premises during work hours, there is no transaction privilege tax or use tax due.
- **Coupons** – If a restaurant issues and redeems its own coupons which reduce the cost of a meal, only the net selling price of the meal is subject to tax. However, a restaurant which accepts coupons or dining cards issued by a dining club or similar establishment is subject to the transaction privilege tax on the full value of the meal before the discount.

The transaction privilege tax can be difficult to navigate depending on the situation. It is best to reach out to your professional tax advisor if there is any doubt as to the type of transaction.

If you have any questions, Kelly can be reached at (480) 839-4900 or KellyL@hhcpa.com.



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Scottsdale Plaza  
Resort