

ARIZONA DEPARTMENT OF REVENUE

ARIZONA TRANSACTION PRIVILEGE TAX RULING

TPR 93-14

(Note: On 9/2/2020, the statute references were updated to show their new numbers. See footnotes for details. No substantive changes were made.)

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

ISSUE:

Taxability of late charges collected on utility payments.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-5063(A)¹ states that the utilities classification is comprised of the business of producing and furnishing or furnishing to consumers electricity, natural or artificial gas and water.

A.R.S. § 42-5063(C)² states that the tax base for the utilities classification is the gross proceeds of sales or gross income derived from the business.

A.R.S. § 42-5023³ states that it is presumed that all gross proceeds of sales and gross income derived by a person from business activity classified under a taxable business classification comprise the tax base for the business until the contrary is established.

¹ This ruling originally cited A.R.S. § 42-1310.03.A which was renumbered as A.R.S. § 42-5063(A).

² This ruling originally cited A.R.S. § 42-1310.03.B which was renumbered as A.R.S. § 42-5063(C).

³ This ruling originally cited A.R.S. § 42-1329 which was renumbered as A.R.S. § 42-5023.

Tucson Electric Power Co. v Ariz. Dep't of Revenue, 170 Ariz. 145, 822 P.2d 498 (1991) held that the business of producing and furnishing electricity includes not only the actual selling of electricity as a commodity, but also includes the providing of the numerous services necessary to deliver the electricity to the customer reliably and in a useful form.

RULING:

Charges collected for late payment of utility bills are gross proceeds or gross income derived from the business of delivery of electricity to consumers. As such, late charges are to be included in the tax base for utility companies, and are therefore subject to the transaction privilege tax.

Harold Scott, Acting Director

Signed April 6, 1993

Explanatory Notice

The purpose of a tax ruling is to provide interpretive guidance to the general public and to department personnel. A tax ruling is intended to encompass issues of law which are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement which provides interpretation, details or supplementary information concerning the application of the law. **Relevant statute, case law, or administrative rules, as well as a subsequent ruling, may modify or negate any or all of the provisions of any tax ruling.** See GTP 92-1 for more detailed information regarding documents issued by the Department of Revenue.