

# ARIZONA DEPARTMENT OF REVENUE

## ARIZONA TRANSACTION PRIVILEGE TAX RULING

### TPR 93-15

(Note: On 9/2/2020, the statutes were updated to 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:**

Application of the telecommunication services excise tax to telecommunications services provided to the U.S. Government.

#### **APPLICABLE LAW:**

Arizona Revised Statutes (A.R.S.) § 42-5252<sup>1</sup> levies the telecommunication services excise tax on the gross proceeds of sales or gross income derived from the business of providing exchange access services.

A.R.S. § 42-5251(3)<sup>2</sup> defines "exchange access services" as telephone or telecommunication exchange access lines or channels which provide local access from the premises of a customer to the local telecommunications network to effect the transfer of information.

#### **RULING:**

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<sup>1</sup> This ruling originally cited A.R.S. § 42-1472 which was renumbered as A.R.S. § 42-5252.

<sup>2</sup> This ruling originally cited A.R.S. § 42-1471.3 which was renumbered as A.R.S. § 42-5251(3).

The Supremacy Clause of the U.S. Constitution prohibits direct state taxation of the federal government.

The telecommunication services excise tax is a tax on the gross proceeds of sales or gross income from the business of the seller; the telecommunications company. The legal incidence of the tax is on the seller, not the purchaser. In this instance, the purchaser is the U.S. Government. The tax is not imposed directly on the federal government, therefore the tax is not prohibited by the U.S. Constitution.

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.