

ARIZONA DEPARTMENT OF REVENUE

ARIZONA TRANSACTION PRIVILEGE TAX RULING

TPR 93-27

(Note: footnotes were added 9/9/2020. 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:

Taxation under the prime contracting classification of judicial claim awards.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-1310.16¹ states:

- A. The prime contracting classification is comprised of the business of prime contracting and dealership of manufactured buildings.
- B. The tax base for the prime contracting classification is sixty-five per cent of the gross proceeds of sales or gross income derived from the business.

F.2.² "Contractor" is synonymous with the term "builder" and means a

¹ This statute has been renumbered, the current statute is A.R.S. § 42-5075.

² The definition of contractor is now under A.R.S. § 42-5075(R)(3). There have been numerous changes to the definition since this ruling was drafted but none of the changes impact the outcome of this ruling.

person, firm, partnership, corporation, association or other organization, or a combination of any of them, that undertakes to ... construct, alter, repair, add to, subtract from, improve, move ... any ... building, project, development or improvement.

DISCUSSION:

Occasionally a dispute arises between a prime contractor and a customer in regard to the amount owed to the contractor for work performed in regard to a construction project. These may be as a result of change orders resulting in construction costs incurred in addition to the agreed contract price or when a customer refuses to pay the agreed contract price following the completion of the project.

If a settlement cannot be reached between the parties, a civil suit may be filed by the prime contractor to establish entitlement to the disputed amount. Therefore, prime contractors may receive payments awarded by a court in settlement of such claims.

Payments received as settlement for disputed claims remain gross income derived from engaging in a business which is subject to transaction privilege tax. *Tucson Electric Power v. Arizona Department of Revenue*, 170 Ariz. 145, 151, 822 P.2d 498 (App. 1991).

RULING:

The tax base for the prime contracting classification is the gross proceeds of sales or gross income derived from the business. Amounts recovered by a prime contractor resulting from a judicial claim award for work performed in completion of a construction contract represent gross proceeds of sales or gross income derived from the business and are subject to tax under the prime contracting classification.

Harold Scott, Director

Signed April 16, 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.