

ARIZONA DEPARTMENT OF REVENUE

ARIZONA TRANSACTION PRIVILEGE TAX RULING

TPR 93-3

(Note: on 8/28/2020 the statutes cites were updated to reflect their current 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:

The tax treatment under the retail classification of the involuntary conversion of vehicles which are held for sale or lease by a dealer or lessor.

APPLICABLE LAW:

ARS § 42-5061(A)¹ states in part that:

The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business.

ARS § 42-5001(1)² states:

¹ This ruling originally cited ARS § 42-1310.01.A which was renumbered as ARS § 42-5061(A).

² This ruling originally cited ARS § 42-1301.1 which was renumbered as ARS § 42-5001(1).

"Business" includes all activities or acts, personal or corporate, engaged in or caused to be engaged in with the object of gain, benefit or advantage, either directly or indirectly, but not casual activities or sales.

ARS § 42-5001(14)³ states in part:

"Sale" means any transfer of title or possession, or both, ... in any manner or by any means whatever, ... of tangible personal property ... for a consideration, ...

ARS § 42-5005(A)⁴ states in part:

Every person who receives gross proceeds of sales or gross income upon which a privilege tax is imposed ... shall make application to the department for a privilege license. ...

DISCUSSION:

Involuntary conversion is the loss or destruction of property through theft, casualty or condemnation.

An involuntary conversion occurs when a vehicle is stolen, wrecked or burned and the dealer or lessor transfers the title and any remaining personalty to the insurance company and the insurance company pays monies to the dealer or lessor to compensate for the stolen or destroyed vehicle.

RULING:

The gross proceeds received from an insurance company as compensation for a stolen or destroyed vehicle that was held for sale or lease by a dealer or lessor is not subject to the transaction privilege tax.

³ This ruling originally cited ARS § 42-1301.12 which was renumbered as ARS § 42-5001(14).

⁴ This ruling originally cited ARS § 42-1305.A which was renumbered as ARS § 42-5005(A).

If the insurance company subsequently sells the vehicles, they are engaged in business as defined by ARS § 42-5001(1)⁵ and are required to obtain a transaction privilege tax license in accordance with ARS § 42-5005(A)⁶.

Paul Waddell

Signed January 28, 1993

⁵ See footnote number 2.

⁶ See footnote number 4.