

ARIZONA DEPARTMENT OF REVENUE

ARIZONA TRANSACTION PRIVILEGE TAX RULING

TPR 93-4

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:

Flight Instruction; Personal Property Rental Classification.

APPLICABLE LAW:

A.R.S. §42-1310.11 imposes the Arizona transaction privilege tax on the business of leasing or renting tangible personal property for a consideration.

State Tax Commission v. Peck, 106 Ariz. 394, 476 P.2d 849 (1970) addresses the leasing or renting of tangible personal property for a consideration.

RULING:

Solo flight hours charged, including charges for students and other qualified pilots using the flight equipment without an instructor, are taxable under the rental of personal property classification. The solo pilot has exclusive use and control of the aircraft for a period of time. This use and control constitutes a rental.

Charges for dual flight instruction are not subject to the Arizona transaction privilege tax. Dual flight instruction is that time during which a student is receiving flight instruction in an aircraft from a person who is a federally certified flight instructor, authorized to provide such instruction, in helicopters or airplanes.

Where the rental of the helicopter or airplane to be used during the dual flight instruction is provided by the instructor as part of the lesson, the entire charge is exempt. In such a case, the instruction is exempt as a professional service. Additionally, the use of the aircraft by the

student does not qualify as the rental of personal property because the student does not have exclusive use and control of the aircraft.

However, if the instructor does not provide the aircraft and the student procures the rental of the aircraft from a third party, the rental of the aircraft from the third party is subject to the transaction privilege tax under the rental of personal property classification. In such a situation, the student does have exclusive use and control of the aircraft with respect to the third party lessor. The fee charged for the instruction remains exempt as a professional service.

Paul Waddell

Signed February 19, 1993