

PRIVATE TAXPAYER RULING LR99-005

May 11, 1999

The following private taxpayer ruling is in response to your letter of December 26, 1998, and your letters of February 16 and April 28, 1999, which provide supplemental information. Your letter requests a determination regarding the application of transaction privilege tax to purchases of vehicles and associated parts by . . . and to the income derived from the subsequent leases of such vehicles.

The following is a restatement of the facts presented in your letter.

Statement of Facts:

. . . is a wholly owned subsidiary of . . . . . purchases tractor-trailer combination vehicles and other delivery-type vehicles which it leases to . . . . . also purchases repair and replacement parts for these vehicles. The tractor-trailer combination vehicles have a gross vehicle weight that exceeds 26,000 pounds and the single-unit vehicles have gross vehicle weights that exceed 12,000 pounds. In accordance with a written lease agreement between . . . and . . . , . . . is responsible for paying the annual motor carrier fee that is imposed on these vehicles by the Arizona Department of Transportation.

Your Position:

. . . is engaged in the business of leasing motor vehicles as defined in Arizona Revised Statutes (A.R.S.) § 42-1310.11(B)(4) [Now § 42-5071(B)(4)]. The motor carrier fee is properly remitted to the Arizona Department of Transportation by . . . . Accordingly, the gross income derived by . . . from the business of leasing such vehicles is not subject to the transaction privilege tax.

Additionally, the purchase of such vehicles, related repair and replacement parts, and personal property which becomes a part of such vehicles is also exempt from the transaction privilege tax.

Applicable Statutory Provisions:

A.R.S. § 42-5061 levies the transaction privilege tax on the business of selling tangible personal property at retail.

A.R.S. § 42-5061(A)(23) provides that the tax imposed on the retail classification does not apply to tangible personal property sold to a person engaged in the business of leasing or

renting such property under the personal property rental classification.

A.R.S. § 42-5061(A)(43) provides that the tax imposed on the retail classification does not apply to a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicles, sold to a motor carrier subject to a fee prescribed in Title 28, Chapter 16, Article 4, who is engaged in the business of leasing or renting such property.

A.R.S. § 42-5071 levies the transaction privilege tax on the business of leasing or renting tangible personal property for a consideration. The tax base is the gross proceeds of sales or gross income derived from the business.

A.R.S. § 42-5071(B)(4) provides a deduction from the tax base for income derived from leasing or renting a motor vehicle subject to and upon which the fee has been paid under Title 28, Chapter 16, Article 4.

Under Title 28, Chapter 16, Article 4, A.R.S. § 28-5854 imposes an annual motor carrier fee on each motor vehicle registered in this state with a declared gross vehicle weight between 12,001 and 80,000 pounds.

A.R.S. § 28-5851 defines "motor vehicle" to mean a self-propelled motor driven vehicle that has a declared gross vehicle weight of more than 12,000 pounds and that is subject to vehicle registration before lawful operation on the public highways in this state.

A.R.S. § 28-5431 defines "vehicle combination" to mean a motor vehicle and the trailers and semitrailers that it tows.

### Discussion:

Arizona's transaction privilege tax is a tax on the privilege of conducting business in the State of Arizona. It is a tax on the seller/lessor, not on the purchaser/lessee. The seller may pass the burden of the tax on to the purchaser; however, the seller is ultimately liable to Arizona for the tax.

The transaction privilege tax is imposed on the business of leasing or renting tangible personal property for a consideration. However, the transaction privilege tax does not apply to the gross income derived from leasing or renting a motor vehicle subject to and upon which the motor carrier fee has been paid. (A.R.S. § 42-5071)

The motor carrier fee is imposed directly against each motor vehicle with a declared gross vehicle weight between 12,001 and 80,000 pounds. The fee is based on the gross weight of the vehicle and is payable annually at the time the motor vehicle is registered. The gross

weight of a vehicle combination is the sum of the gross weight of the motor vehicle and the gross weight of the trailers and semitrailers that it tows.

Payment of the motor carrier fee is a prerequisite for the transaction privilege tax exemption. Since the motor carrier fee is imposed directly against the motor vehicle, the exemption is applicable whether the fee is paid by the lessor or the lessee.

The transaction privilege tax is imposed on the business of selling tangible personal property at retail. However, the tax does not apply to sales of motor vehicles and any repair and replacement parts and tangible personal property becoming a part of such motor vehicles, sold to a lessor of such property who is subject to the motor carrier fee. (A.R.S. § 42-5061)

### Conclusion and Ruling:

The following ruling is given based on the facts presented in your request.

The department rules that the gross income derived by . . . from leases of motor vehicles to . . . , on which vehicles the motor carrier fee has been paid by . . . , is not subject to transaction privilege tax under the personal property rental classification.

The department further rules that sales of such motor vehicles, and any repair and replacement parts and tangible personal property becoming a part of such vehicles, sold to . . . are not subject to transaction privilege tax under the retail classification.

The conclusion in this private taxpayer ruling does not extend beyond the facts as presented in the request for a private taxpayer ruling dated December 26, 1998, and supplemental letters dated February 16 and April 28, 1999.

This response is a private taxpayer ruling and the determinations herein are based solely on the facts provided in your request. The determinations in this taxpayer ruling are the present position of the department and are valid for a period of four years from the date of issuance except as set out herein. The determinations are subject to change should the facts prove to be different on audit. If it is determined that undisclosed facts were substantial or material to the department's making of an accurate determination, this taxpayer ruling shall be null and void. Further, the determination is subject to future change depending on changes in statutes, administrative rules, case law or notification of a different department position.