

**H.B. 2757: Draft Proposed Rules
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TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE - TRANSACTION PRIVILEGE AND USE TAX SECTION

ARTICLE 1. RETAIL CLASSIFICATION

~~**R15-5-101. Sales for Resale or Lease**~~

R15-5-101. Definitions

In this Chapter, unless the context requires otherwise or unless otherwise defined:

1. "AZTaxes.gov" has the same meaning as prescribed in R15-10-301.
2. "Casual activity or sale" means an occasional transaction of an isolated nature made by persons who neither represent themselves to be nor are engaged in a business that is subject to transaction privilege tax. Casual activity or sale includes, but is not limited to, sales of used capital assets, provided that the volume and frequency of such sales do not indicate that the seller regularly engages in selling such property.
3. "Department" has the same meaning as prescribed in A.R.S. § 42-1001.
4. "Gross income," "gross receipts," "marketplace facilitator," and "marketplace seller" have the same meanings as prescribed in A.R.S. § 42-5001.
5. "Real property" means land and anything permanently affixed to land.
6. "Remote seller" and "taxpayer" have the same meanings as prescribed in A.R.S. § 42-5001.
7. "Vendor" means any person engaged in a business activity that is subject to any tax levied under A.R.S. Title 42, Chapters 5 and 6.

R15-1-102. Casual Activities or Sales

A. Gross receipts from a casual activity or sale, ~~as defined in R15-5-2001~~, are not taxable under the retail classification.

B. A person engaged in the business of selling at retail, including as a marketplace facilitator or remote seller, cannot engage in a casual sale of tangible personal property of the same type or character as that which the person regularly sells at retail. A marketplace facilitator is deemed to regularly sell any tangible personal property sold on its marketplace.

1 ~~R15-5-107.~~ **Reserved**

2 ~~R15-5-101.~~ R15-5-107. **Sales for Resale or Lease**

3 **A.** Gross receipts from the sale of tangible personal property to be resold by the purchaser
4 in the ordinary course of business are not subject to tax under the retail classification.

5 **B.** Gross receipts from the sale of tangible personal property to be leased by a person in the
6 business of leasing such personal property are not subject to tax under the retail
7 classification.

8 **C.** Gross receipts from the sale of tangible personal property to a lessor of real property are
9 subject to tax if:

10 1. The tangible personal property is incorporated into, or leased in conjunction with,
11 the real property; and

12 2. The rental of the tangible personal property is not separately stated as part of the
13 real property lease transaction.

14 **D.** Gross receipts from the sale of repair or replacement parts for tangible personal property
15 that is to be leased by a person engaged in the business of leasing such tangible personal
16 property are not subject to tax under the retail classification.

17 **R15-5-111. Consignment Sales**

18 **A.** ~~The following definitions apply for purposes of this rule~~ In this Section:

19 1. "Consignee" means the party that is in the business of selling tangible personal
20 property belonging to a consignor.

21 2. "Consignor" means the party with the legal right to contract the services of the
22 consignee to sell tangible personal property on behalf of the consignor.

23 **B.** Gross receipts from consignment sales are subject to tax under the retail classification.

24 **C.** A Except as provided in subsection (D), a consignee shall obtain a transaction privilege tax
25 license before making consignment sales.

26 **D.** A consignee who is a marketplace facilitator without a physical presence in Arizona, as
27 provided in R15-5-2002(B), is required to obtain a transaction privilege tax license upon
28 meeting the threshold requirements in A.R.S. § 42-5043.

29 **R15-5-112. Sales by Auctioneers**

30 **A.** Gross receipts from the sales of tangible personal property by an auctioneer are subject
31 to tax under the retail classification.

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- 1 **B.** ~~An~~ Except as provided in subsection (C), an auctioneer shall obtain a transaction privilege
2 tax license ~~prior to~~ before conducting an auction.
- 3 **C.** An auctioneer who is a marketplace facilitator without a physical presence in Arizona, as
4 provided in R15-5-2002(B), is required to obtain a transaction privilege tax license upon
5 meeting the threshold requirements in A.R.S. § 42-5043.

6 **R15-5-151. Artists**

- 7 **A.** Gross receipts from the sale of paintings, drawings, etchings, sculptures, craftwork, other
8 artwork or reproductions of such items to final consumers shall be taxable under the retail
9 classification if the person is making regular sales of these items.
- 10 **B.** Gross receipts from the sale of paints, canvasses, frames, sculpture ingredients, and other
11 items which will become an integral part of the finished product shall not be taxable if
12 sold to a creating artist who is regularly engaged in the business of creating and selling
13 paintings, drawings, etchings, sculptures, craftwork, other artwork, or reproductions of
14 such items. Sales of brushes, easels, tools, and similar items to be consumed by the
15 creating artist shall be taxable.
- 16 **C.** ~~Gross~~ Except as otherwise provided in A.R.S. § 42-6017, gross receipts from the sale by
17 the creating artist of a painting, drawing, etching, sculpture, or a piece of craftwork that
18 is not a reproduction of an original work shall not be taxable if:
- 19 1. The sale is a casual activity or sale pursuant to the definition in R15-5-1812; or
- 20 2. The sale is a work of fine art at an art auction or gallery in this state to a
21 nonresident of this state for use outside the state, if the retailer ships or delivers
22 the work to a destination outside this state and if exempt under A.R.S. § 42-
23 5061(A) or similar municipal tax provision. In this subsection:
- 24 a. "Municipal tax" means any tax imposed under the Model City Tax Code as
25 provided in A.R.S. § 42-6002(D).
- 26 b. "Work of fine art" has the same meaning as prescribed in A.R.S. § 44-1771.
- 27 3. The sale is of commissioned artwork by an individual artist. ~~For purposes of In~~ this
28 ~~rule~~ subsection, "commissioned artwork" is a custom, one-of-a-kind art creation
29 made by the individual artist pursuant to the particular requirements of a specific
30 purchaser.

31 **R15-5-155. ~~Reserved~~ Delivery Sales of Tobacco Products**

- 32 **A.** In this Section:
- 33 1. "Delivery sale" means a sale made by using any of the following:

- 1 a. The mail or a delivery service.
2 b. The Internet or a computer network.
3 c. Any other electronic method.
4 2. "Tobacco product" has the same meaning as prescribed in A.R.S. § 36-798.06.
5 **B.** A retailer, including a remote seller or marketplace seller, or marketplace facilitator shall
6 not make or facilitate a delivery sale of any tobacco product that violates A.R.S. § 36-
7 798.06.

8 **ARTICLE 18. SALES TAX – RETAIL CLASSIFICATION REPEALED**

9 **ARTICLE 20. GENERAL ADMINISTRATION (SEE ALSO ARTICLE 22)**

10 **R15-5-2001. Definitions Renumbered**

11 **R15-5-2002. Liability for Transaction Privilege Tax**

12 **A.** The transaction privilege tax is imposed directly on the person engaged in a taxable
13 business in or within Arizona, including, for retail purposes, a person located outside the
14 state who is engaging or continuing in business in this state as a remote seller or
15 marketplace facilitator and who meets the threshold requirements in A.R.S. § 42-5043.
16 The vendor shall be liable for the tax, regardless of whether or not the vendor passes on
17 the economic burden of the tax to the customer.

18 **B.** A business establishes its physical presence within Arizona by activities performed in this
19 state on its behalf that are significantly associated with the business's ability to establish
20 and maintain a market in this state for its sales. Activities and factors that, by themselves
21 or in conjunction with others, establish a person's physical presence within Arizona
22 include the following:

- 23 1. The person has an employee present in Arizona for more than two days in a
24 calendar year and the presence is not of a transitory nature.
25 2. The person maintains an office or other place of business in Arizona.
26 3. The person owns or leases real or personal property in Arizona.
27 4. The person maintains an inventory of products in Arizona.
28 5. The person's merchandise or goods are delivered into Arizona on vehicles owned
29 or leased by the person.

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- 1 6. An independent contractor or other non-employee representative or agent is
2 present in Arizona for more than two days in a calendar year and acts on the
3 person’s behalf to promote the person’s commercial interests and the presence is
4 not of a transitory nature.
- 5 7. Other local activities performed by the person’s employees, agents,
6 representatives, or contractors in Arizona that enable the person to maintain and
7 improve its name recognition, market share, goodwill, and individual customer
8 relations may establish physical presence if the activities are not of a transitory
9 nature, as described in subsections (D) and (E). Such activities may include:
10 soliciting sales through an ongoing local marketing contract; delivering, installing
11 or repairing property sold to customers through an ongoing contract with either
12 the customer or a local partner; or conducting training or similar support services
13 for customers or for employees or representatives of the person on an ongoing
14 basis.
- 15 **C.** A person having a physical presence within Arizona as described in subsection (B) of this
16 Section shall be considered liable for transaction privilege tax as a taxpayer located within
17 Arizona.
- 18 **D.** A person’s activities in Arizona are not of a transitory nature if they are ongoing and
19 conducted from within the state. A person’s taxable business activities in Arizona are not
20 of a transitory nature if the activities generate gross receipts and the person regularly
21 conducts the same business activities outside of Arizona.
- 22 1. Example: Employees who travel to Arizona for a business meeting, conference, or
23 similar event and who do not otherwise engage in a taxable business activity during their
24 time within the state would not establish physical presence in Arizona, regardless of the
25 duration of their stay. Such stays would not be considered ongoing, even though the
26 events take place in Arizona.
- 27 2. Example: A company that provides remote one-time assistance to a customer who has
28 a specific problem installing or using a product purchased remotely would not establish
29 physical presence. The company’s assistance does not appear ongoing and the activity is
30 conducted from outside the state.
- 31 3. Example: A company that sells WiFi-enabled (IoT) appliances also offers a service
32 contract that allows its technicians to remotely access its customers’ appliances to
33 regularly update, maintain, or troubleshoot firmware. The provision of services through
34 such contracts with Arizona customers would not establish physical presence. The
35 company’s services, while ongoing, are conducted from outside the state.

1 4. Example: A company that has a salesperson who regularly travels to Arizona for the
2 purposes of selling goods and services and supporting previously sold goods and services
3 may have physical presence, even if the salesperson is a resident of California and only
4 present in Arizona temporarily throughout the calendar year. The company's sales
5 activities, as conducted through its salesperson, are ongoing and conducted from within
6 the state.

7 **R15-5-2003. ~~Repealed~~ Applicability of Provisions to Marketplace Facilitators and Remote**
8 **Sellers**

9 Articles 1, 20, and 22 of this Chapter apply to any marketplace facilitator or remote seller who
10 meets the threshold requirements in A.R.S. § 42-5043.

11 **R15-5-2004. Multi-location and Multi-business Taxpayers**

12 **A.** A taxpayer with multiple licenses for separate businesses shall maintain separate records
13 for each licensed business-, including details relating to the computation of taxes and
14 exempt sales and copies of applicable exemption certificates.

15 **B.** The Department may request that records required to be maintained under this Section
16 be made accessible to it for inspection or copying. To the extent reasonable or possible,
17 the taxpayer shall make these records available to the Department in an electronic
18 format, if requested.

19 **~~B.~~ C.** A tax is levied upon the privilege of engaging in specified businesses within Arizona. Class
20 codes for reporting gross receipts subject to tax have been determined by the
21 Department based on statutory provisions. Each business classification is independent of
22 the others even when transacted under one license. A person who engages in more than
23 one type of business under each license shall maintain books and records so that the gross
24 proceeds of sales or gross income of each taxable business classification is shown
25 separately.

26 **D.** A marketplace facilitator shall maintain records that separately show sales made on its
27 own behalf and sales made on behalf of marketplace sellers. Such records shall include
28 details relating to the computation of taxes and exempt sales and also include copies of
29 applicable exemption certificates.

30 **E.** A remote seller shall maintain records that separately show sales made directly to its own
31 customers and sales made on its behalf through a marketplace facilitator. Such records
32 shall include details relating to the computation of taxes and exempt sales and also
33 include copies of applicable exemption certificates.

1 **G. F.** Failure to maintain appropriate books and records shall result in the imposition of the tax
2 at the highest tax rate on gross proceeds of sales or gross income applicable to a
3 classification under which the taxpayer is doing business.

4 **R15-5-2009. ~~Reserved~~ Transactions between Affiliated Persons Who Are Marketplace**
5 **Facilitators, Marketplace Sellers, or Remote Sellers**

6 **A.** In this Section:

7 1. “Affiliated person” has the same meaning as prescribed in A.R.S. § 42-5043.

8 2. “Marketplace facilitator,” “marketplace seller,” and “remote seller” have the
9 same respective meanings as prescribed in A.R.S. § 42-5001.

10 **B.** For the purposes of determining whether a remote seller or marketplace facilitator meets
11 the threshold requirements in A.R.S. § 42-5043, the sales of marketplace facilitators and
12 remote sellers who are affiliated persons shall be aggregated. If the threshold is met after
13 aggregation of such sales, then all affiliated marketplace facilitators and remote sellers
14 shall register with the Department for the filing and remission of retail transaction
15 privilege tax. Marketplace facilitators and remote sellers who are affiliated persons are
16 required to register with the Department and obtain a transaction privilege tax license
17 under this Section even if some or none of the affiliated persons would meet the
18 threshold on an individual basis.

19 **C.** A marketplace facilitator or remote seller with affiliated persons who meets the threshold
20 requirements in A.R.S. § 42-5043 are not required to file consolidated returns.

21 **D.** For the purposes of determining whether a remote seller meets the threshold
22 requirements in A.R.S. § 42-5043, only the remote seller’s sales that are not facilitated on
23 a marketplace shall be counted towards its threshold.

24 **ARTICLE 22. TRANSACTION PRIVILEGE TAX - ADMINISTRATION**

25 **R15-5-2201. Display and Issuance of License**

26 **A.** A person maintaining a public place of business in Arizona shall display the transaction
27 privilege tax license in a location conspicuous to the public. A remote seller is not
28 considered to maintain a public place of business in Arizona.

29 **B.** If a person maintains more than one place of business in Arizona, a transaction privilege
30 tax license shall be displayed at each location.

31 **C.** For lessors engaged in the business of commercial leasing, a transaction privilege tax
32 license shall be displayed in each location from which the lessor engages in business
33 transactions.

1 **D.** The Department may issue a transaction privilege tax license to a licensee in either a hard
2 copy format or digitally, including through AZTaxes.gov. Licensees shall maintain copies
3 or equivalent documentation of their transaction privilege tax licenses for the record
4 retention period prescribed in A.R.S. Title 42, Chapter 1.

5 **E.** A transaction privilege tax license issued by the Department is for administering and
6 collecting transaction privilege tax and is not issued for the purpose of authorizing a
7 business to operate in this state, pursuant to A.R.S. § 41-1080 and except as otherwise
8 required by law.

9 **R15-5-2202. Change in Ownership**

10 **A.** A transaction privilege tax or use tax license is issued to a specific person. The license shall
11 not be transferred to the new owner when selling a business. The new owner shall apply
12 to the state for a new license before engaging in business transactions.

13 **B.** Court-appointed trustees, receivers, and others in cases of liquidation or operational
14 bankruptcies shall obtain a transaction privilege tax or use tax license.

15 **C.** ~~If a licensee has any change in ownership, the licensee shall apply for a new license.~~

16 **R15-5-2204. Change of Business Location or Mailing Address**

17 **A.** The taxpayer shall apply for a new transaction privilege tax or use tax license if the
18 physical location of the business changes.

19 **B.** The taxpayer shall notify the Department ~~in writing~~ of a change in mailing address by
20 submitting a form prescribed by the Department or through AZTaxes.gov.

21 **R15-5-2205. Surrender of License upon Sale or Termination of Business**

22 **A.** If a business is sold or terminated, the taxpayer shall notify the Department ~~in writing~~ of
23 the date of sale or termination by submitting a form prescribed by the Department or
24 through AZTaxes.gov and shall surrender the transaction privilege tax or use tax license
25 to the Department.

26 **B.** For the purposes of A.R.S. § 42-5005 and this Section, the Department shall consider a
27 license surrendered if the licensee submits a request to cancel its license by submitting a
28 form prescribed by the Department or through AZTaxes.gov.

29 **R15-5-2206. Cancellation of License**

30 **A.** In this Section, “affiliated person” has the same meaning as prescribed in A.R.S. § 42-5043.

31 ~~**A.**~~ **B.** The Department may cancel a license if:

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1 1. During any consecutive 12-month period, the licensee reports no taxable
2 transaction; and

3 2. The licensee is not a subcontractor or wholesaler.

4 **B. C.** The Department shall notify a licensee in writing of its intention to cancel the license. The
5 notice shall explain the action the licensee may take to contest cancellation of the license
6 and when cancellation is final.

7 **C. D.** The Department shall cancel a license 30 days after the notice of intention to cancel is
8 mailed unless, within 30 days, the licensee objects to the cancellation in writing and
9 produces documentation that the licensee is actively engaged in a taxable business.
10 Suitable documentation includes, but is not limited to, the following:

11 1. Evidence that the licensee holds an inventory of raw or finished tangible personal
12 property for sale or resale;

13 2. Evidence that the licensee maintains segregated bank accounts for the purpose of
14 transacting business;

15 3. Bona fide contracts for future sale or resale of tangible personal property;

16 4. Profit and loss statements for federal or state income tax purposes; or

17 5. Evidence that the licensee otherwise actually engages in bona fide business
18 activities.

19 **D. E.** Within 30 days of receipt of the licensee's objections and documentation, the
20 Department shall notify the licensee in writing of its decision to cancel or retain the
21 license. If the decision is to cancel the license, the licensee may request an administrative
22 hearing.

23 **F.** Except as provided in subsection (G), a marketplace facilitator may choose not to renew
24 a license or cancel a license for the following calendar year if the sales of the marketplace
25 facilitator or remote seller to Arizona purchasers fall below the current year threshold in
26 A.R.S. § 42-5043 in the prior year.

27 **G.** A marketplace facilitator or remote seller may choose not to renew a license or cancel a
28 license for the following calendar year if the current year sales of the marketplace
29 facilitator or remote seller, together with the aggregated sales of all affiliated persons of
30 the marketplace facilitator or remote seller to Arizona purchasers, fall below the current
31 year threshold in A.R.S. § 42-5043 in the prior year.

32 **R15-5-2207. Taxpayer Bonds**

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- 1 **A.** The amount of the bond required under A.R.S. § ~~42-112~~ 42-1102 shall be the greater of
2 five hundred dollars, or:
- 3 1. For licensees reporting monthly, four times the average monthly liability;
4 2. For licensees reporting quarterly, six times the average monthly tax liability; or
5 3. For licensees reporting annually, fourteen times the average monthly tax liability.
- 6 **B.** For purposes of determining the bond amount, the average monthly tax liability is equal
7 to the average monthly tax due from the licensee for the preceding six consecutive
8 months. If an applicant does not have a six-month payment history, the bond amount
9 shall be a minimum of five hundred dollars.
- 10 **C.** If a licensee provides a surety bond and the bond lapses, the licensee must deposit with
11 the Department cash or other security in an amount equal to the lapsed surety bond
12 within five business days of the licensee's receipt of written notification by the
13 Department.
- 14 **D.** The bond amount may be increased or decreased as necessary based upon a change in
15 the licensee's previous filing period, filing compliance record, or payment history. If the
16 bond amount has been increased above the amount computed under subsection (B) of
17 this rule, the licensee may request a hearing pursuant to ~~A.R.S. § 42-112~~ A.R.S. § 42-1102
18 to show why the order increasing the bond amount is in error.
- 19 **E.** Except as required under A.R.S. § 42-1102, this Section shall not be construed to require
20 a bond under A.R.S. § 42-5006 for any license issued pursuant to the criteria established
21 in A.R.S. § 42-5043.

22 **~~R15-5-2212. Expired Reporting by Marketplace Facilitators and Remote Sellers~~**

23 Marketplace facilitators and remote sellers registered with the Department shall remit the
24 applicable taxes payable pursuant to A.R.S. § 42-5043 in aggregate total amounts for each
25 applicable jurisdiction designated by AZTaxes.gov. A marketplace facilitator shall not be required
26 to list or otherwise identify any individual marketplace seller on any return or attachment to a
27 return.

28 **~~R15-5-2213. Alternative Reporting Repealed~~**

29 **~~R15-5-2215. Return and Payment of Tax-estimated~~ Estimated Tax**

- 30 **A.** For purposes of this rule, the following definitions apply:
- 31 1. "Annual estimated tax payment" means $\frac{1}{2}$ of the total tax liability for the entire
32 month of May or the total tax liability for the first 15 days of the month of June.

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1 2. “Annual tax liability” means a total tax liability of ~~\$100,000.00 or more~~ in the
2 preceding calendar ~~year~~ or a reasonable anticipation of a total tax liability of ~~of~~
3 ~~\$100,000.00 or more~~ in the current year as follows:

4 \$1,000,000 in 2019

5 \$1,600,000 in 2020

6 \$2,300,000 in 2021

7 \$3,100,000 in 2022

8 \$4,100,000 in 2023 and thereafter.

9 3. “Taxpayer” has the meaning set forth in ~~A.R.S. § 42-1322(J)~~ A.R.S. § 42-5014(S).
10 The following are considered a single taxpayer:

11 a. Members of an Arizona-affiliated group filing a consolidated corporate
12 income tax return under A.R.S. § 43-947;

13 b. Corporations in a unitary business filing a combined corporate income tax
14 return under ~~A.A.C. R15-2-1131(E)~~ R15-2D-401;

15 c. Married taxpayers operating separate sole proprietorships and filing a
16 joint income tax return; or

17 d. Partnerships, Limited Liability Companies, S Corporations, trusts, or
18 estates conducting multiple businesses, filing a single income tax return.

19 4. “Total tax liability” means the combined total of the transaction privilege tax,
20 telecommunications services excise tax, and county excise tax liabilities.

21 **B.** The requirement to make an annual estimated tax payment is based on the annual tax
22 liability. Use tax and severance tax are not subject to the estimated tax provisions.

23 1. A taxpayer shall make an annual estimated tax payment if during the current
24 calendar year the taxpayer, through use of ordinary business care and prudence,
25 can anticipate incurring the annual tax liability. For example:

26 ABC Company has been selling home electronics for several years. Its tax liability
27 for previous calendar years has averaged between ~~\$60,000~~ \$600,000 and ~~\$70,000~~
28 \$700,000. In February of the current year, ABC Company begins selling computers
29 and accessories as well. Early sales reports show an increase in total sales of
30 approximately 50%. Based on these facts, ABC Company can reasonably anticipate
31 incurring the annual tax liability.

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- 1 2. Taxpayers with multiple locations shall make the annual estimated tax payment
2 based on the combined actual or anticipated annual tax liability from all locations.
3 Taxpayers with multiple locations, shall make a single estimated payment each
4 June.
- 5 **C.** A taxpayer shall not amend an annual estimated tax payment except to increase the
6 amount of the payment.
- 7 **D.** The annual estimated tax payment shall not be applied, credited, or refunded until a
8 Transaction Privilege, Use, and Severance Tax Return (~~TPT-1~~) for the month of June is
9 filed.
- 10 **E.** Late payment, underpayment, or non-payment of the annual estimated tax payment shall
11 result in the following:
- 12 1. Application of the penalty provisions under ~~A.R.S. § 42-136~~ A.R.S. § 42-1125;
- 13 2. Accrual of interest beginning from the due date of the annual estimated tax
14 payment as prescribed in ~~A.R.S. § 42-1322(D)~~ A.R.S. § 42-5014(D); and
- 15 3. Loss of the accounting credit, as defined in ~~A.R.S. § 42-1322.04~~ A.R.S. § 42-5017
16 for the June reporting period.
- 17 **F.** Taxpayers who are not required to make the annual estimated tax payment but make a
18 voluntary annual estimated payment are not subject to subsection (E).

19 **R15-5-2216. Repealed Liability Relief for Marketplace Facilitators and Remote Sellers**

- 20 **A.** In this Section:
- 21 1. “Affiliated person” has the same meaning as prescribed in A.R.S. § 42-5043.
- 22 2. “Incorrect information” means any information related to a sale that is not
23 accurate. Incorrect information does not include any of the following:
- 24 a. Mistakes related to the process of filing a return, such as the frequency,
25 non-filing, or manner of filing;
- 26 b. Mistakes related to the manner of remitting tax liability to the
27 Department;
- 28 c. Failure to remit all amounts collected and represented as tax.
- 29 3. “Errors other than sourcing” means errors related to the details of a sale and
30 errors related to tax rates. “Errors other than sourcing” does not include any of
31 the following:

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- 1 a. Mistakes related to the process of filing a return, such as the frequency,
2 non-filing, or manner of filing.
- 3 b. Mistakes related to the manner of remitting tax liability to the
4 Department.
- 5 c. Failure to remit all amounts collected and represented as tax.
- 6 4. “Taxable sales” means gross sales sourced to this state less any allowable
7 deductions or exemptions.
- 8 **B.** A marketplace facilitator or remote seller may apply for liability relief pursuant to A.R.S.
9 § 42-5042 as outlined by Department-issued procedure.
- 10 **C.** A marketplace facilitator or remote seller may not obtain liability relief under A.R.S. § 42-
11 5042 if the marketplace facilitator or remote seller does not act in good faith. “Good
12 faith” means acting with honesty and with no knowledge of circumstances that would
13 render the marketplace facilitator or remote seller ineligible for liability relief.
- 14 **D.** In processing an application for liability relief pursuant to A.R.S. § 42-5042, the
15 Department will waive penalties and interest when reasonable cause exists. Whether
16 reasonable cause exists is based on the facts and circumstances of the specific request for
17 relief, including, for example, whether the marketplace facilitator could have known that
18 the information provided by the marketplace seller was incorrect; whether the
19 marketplace facilitator or remote seller applied for liability relief for the same errors other
20 than the sourcing in the prior 12 months; and any other relevant factors.
- 21 **E.** The liability relief limitations provided in A.R.S. § 42-5042 for a marketplace facilitator
22 shall be applied in relation to the total tax liability of all the marketplace sellers selling on
23 the marketplace facilitator’s marketplace. Nothing in this rule shall be construed as
24 allowing any liability relief for a marketplace facilitator in relation to its own sales or sales
25 on behalf of any of its affiliates.
- 26 1. Example: ABC, a marketplace facilitator, applies for liability relief based on a filing
27 error in 2019 because it applied a lower tax rate to all of one of its marketplace
28 seller’s sales. The total tax due for all taxable Arizona sales for all marketplace
29 sellers’ sales in 2019 is \$63,000. Liability relief may be granted to ABC for up to
30 \$3,150 (5% × 63,000).
- 31 2. Example: Assume the same facts as in the example found in subsection (E)(1).
32 Besides sales that ABC facilitated on behalf of third-party marketplace sellers, ABC
33 also made its own sales through its marketplace. These direct sales by ABC
34 resulted in an actual combined tax liability of \$6,300 that ABC erroneously

1 reported to the Department as \$5,000. ABC will not be granted liability relief for
2 errors resulting from these direct sales.

3 3. Example: In 2020, ABC, a marketplace facilitator, files an amended return based
4 on incorrect information provided to it by one of its marketplace sellers. ABC
5 applies for liability relief as soon as possible after discovering the error. The
6 evidence shows that ABC acted in good faith and could not have known that the
7 information was incorrect. This constitutes an error under A.R.S. § 42-5042(A)(1).
8 This statutory provision authorizes the Department to grant relief, and there is no
9 limitation on the amount of relief that can be granted. The Department may grant
10 relief that is reasonable under the circumstances.

11 4. Example: In 2020, XYZ, a remote seller, deducted amounts for sales that it thought
12 were exempt, but after further research, realized were in fact taxable. XYZ's total
13 tax due from its gross sales for the period under consideration is \$31,500.
14 Pursuant to A.R.S. § 42-5042(B)(2), liability relief for XYZ's non-sourcing related
15 error may be granted in any amount up to \$945 (3% × \$31,500).

16 5. Example: In 2022, ABC marketplace facilitator files an amended return based on
17 incorrect information provided to it by one of its marketplace sellers. In the same
18 year, ABC also makes a filing error by using the incorrect tax rate on a sale. ABC
19 applies for liability relief in both instances. The Department may grant liability
20 relief under A.R.S. § 42-5042(A)(1) for errors resulting from the incorrect
21 information provided to ABC by its seller. However, no liability relief is available
22 for ABC's filing error, pursuant to A.R.S. § 42-5042(B).

23 6. Example: XYZ remote seller files a paper tax return late and also pays late.
24 Consequently, XYZ accrues penalties for late filing, late payment, and filing in an
25 inappropriate manner (i.e., not electronically through AZTaxes.gov). The
26 Department may grant penalty relief in all instances if XYZ shows reasonable
27 cause.

28 **15-5-2220. Registration and Licensing Repealed**

29 **ARTICLE 23. USE TAX**

30 **R15-5-2301. Definitions**

31 ~~The following definitions apply for the Department's administration of use tax~~ In this Article:

32 ~~1. "Mail order retailer" means a retailer who solicits orders by mail, notwithstanding the fact~~
33 ~~that orders may be received by telephone or by mail or that goods may be delivered by mail or~~
34 ~~by private delivery system.~~

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1 ~~2.1.~~ "Purchases" means purchase for storage, use, or consumption in Arizona.

2 ~~3. 2.~~ "Retailer" ~~includes any retailer located outside this state who solicits orders for tangible~~
3 ~~personal property by mail from points in this state if the solicitations are substantial and~~
4 ~~recurring~~ has the same meaning as prescribed in A.R.S. § 42-5151, but does not include a
5 marketplace facilitator or remote seller who meets the threshold requirements in A.R.S.
6 § 42-5043.

7 3. "Utility business" has the same meaning as prescribed in A.R.S. § 42-5151.

8 **R15-5-2302. General**

9 ~~A.~~ ~~In this Section, "retailer" and "utility business" have the same meanings as prescribed in~~
10 ~~A.R.S. § 42-5151.~~

11 ~~B.~~ A. A.R.S. § 42-5155 imposes Arizona use tax upon a purchaser that purchases tangible
12 personal property from an out-of-state retailer or utility business if the retailer or utility
13 business's gross receipts from the sale have not already been included in the measure of
14 Arizona transaction privilege tax. Because Arizona transaction privilege tax and Arizona
15 use tax are complementary taxes, only one of the taxes is imposed on a given transaction.

16 ~~C.~~ B. Arizona use tax generally applies to the use, storage, or consumption in this state of
17 tangible personal property purchased from an out-of-state retailer or utility business.

18 ~~D.~~ C. If a purchaser pays to an out-of-state retailer or utility business a tax of another state
19 levied on the sale or use of tangible personal property that is subject to Arizona use tax,
20 the purchaser may apply the amount of tax paid to the other state against the purchaser's
21 use tax liability.

22 ~~E.~~ D. A purchaser that purchases tangible personal property exempt from tax because the
23 property is purchased for resale in the ordinary course of business but subsequently uses
24 or consumes the tangible personal property shall pay Arizona use tax.

25 **R15-5-2310. Payment of Use Tax by Purchaser**

26 A. ~~The Use Tax tax~~ tax must be paid to:

27 1. An out-of-state vendor holding a certificate of authority for the collection of ~~Use~~
28 ~~Tax~~ use tax, or

29 2. The ~~Arizona Department of Revenue,~~ in cases where the vendor is not a
30 marketplace facilitator or remote seller liable for transaction privilege tax under
31 A.R.S. § 42-5043 or is not registered for the collection of ~~the~~ use tax.

32 B. A one-time, nonrecurring payment of use tax may be remitted to the Department under
33 a cover letter rather than on a standard report form.

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1 ~~B. C.~~ Arizona purchasers making recurring purchases from out of state may apply to the
2 Department for a registration certificate and remit payment directly to the state on a
3 monthly report form in lieu of making payment to the vendor.

4 ~~C. D.~~ The purchaser will be relieved of his liability for the tax when payment is made directly
5 to the out-of-state vendor registered and a receipt of the tax paid is obtained by him.

6 **R15-5-2350. ~~Mail Order Retailers~~ Repealed**

7 **CHAPTER 10. DEPARTMENT OF REVENUE - GENERAL ADMINISTRATION**

8 **ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS**

9 **R15-10-301. Definitions**

10 ~~The following definitions apply for purposes of~~ In this Article:

- 11 1. "ACH" means an automated clearing house that is a central distribution and settlement
12 point for the electronic clearing of debits and credits between financial institutions.
- 13 2. "ACH credit" means an electronic funds transfer generated by a payor, cleared through
14 an ACH for deposit to the Department account.
- 15 3. "ACH debit" means an electronic transfer of funds from a payor's account, as indicated
16 on a signed authorization agreement, that is generated at a payor's instruction on
17 AZTaxes.gov and cleared through an ACH for deposit to the Department account.
- 18 4. "Addenda record" means the information required by the Department in an ACH credit
19 transfer or wire transfer, in the approved electronic format prescribed in R15-10-306(B).
- 20 5. "ALTO" is the Arizona Luxury Tax Online web site, luxury.aztaxes.gov or such other web
21 site as the Department may determine from time to time, and means the Department's
22 luxury taxpayer service center web site that provides luxury taxpayers with the ability to
23 conduct transactions, make electronic funds transfer payments and review tax account
24 information over the internet.
- 25 6. "Authorized means of transmission" means the deposit of funds into the Department
26 account by electronic funds transfer.
- 27 7. "AZTaxes.gov" means the Department's taxpayer service center web site, or such other
28 web site as the Department may determine from time to time, that provides taxpayers
29 with the ability to conduct transactions, make electronic funds transfer payments and
30 review tax account information over the internet.

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- 1 8. "Cash Concentration or Disbursement plus" or "CCD plus" means the standardized data
2 format approved by the National Automated Clearing House Association for remitting tax
3 payments electronically.
- 4 9. "Department" means the Arizona Department of Revenue.
- 5 10. "EFT Program" means the payment of taxes by electronic funds transfer as specified by
6 this Article.
- 7 11. "Electronic Funds Transfer" or "EFT" means the electronic transfer of funds from one bank
8 account to another via computer based systems, where the person initiating the transfer
9 orders, instructs, or authorizes a financial institution to debit or credit an account using
10 the methods specified in these rules.
- 11 12. "Financial institution" means a state or national bank, a trust company, a state or federal
12 savings and loan association, a mutual savings bank, or a state or federal credit union.
- 13 13. "Marketplace facilitator" has the same meaning as prescribed in A.R.S. § 42-5001.
- 14 ~~13.~~ 14. "Payment information" means the data that the Department requires of a payor making
15 an electronic funds transfer payment.
- 16 ~~14.~~ 15. "Payor" means a taxpayer or payroll service.
- 17 ~~15.~~ 16. "Payroll service" means a third party, under contract with a taxpayer to provide tax
18 payment services on behalf of the taxpayer.
- 19 17. "Remote seller" has the same meaning as prescribed in A.R.S. § 42-5001.
- 20 ~~16.~~ 18. "State Servicing Bank" means a bank designated under A.R.S. Title 35, Chapter 2, Article
21 2.
- 22 ~~17.~~ 19. "Tax type" means a tax that is subject to electronic funds transfer, each of which shall be
23 considered a separate category of payment.
- 24 ~~18.~~ 20. "Wire transfer" or "Fedwire" means an instantaneous electronic funds transfer initiated
25 by a payor.

26 **R15-10-302. General Requirements**

- 27 **A.** For tax periods beginning on or after January 1, 1997, corporations which had an Arizona
28 income tax liability during the prior tax year of \$20,000 or more shall remit Arizona
29 estimated income tax payments by an authorized means of transmission.
- 30 **B.** For tax periods beginning on or after July 1, 2017, taxpayers who, under A.R.S. Title 43,
31 Chapter 4, had an average Arizona quarterly withholding tax liability during the prior tax

1 year of \$5,000 or more shall remit Arizona withholding tax payments by an authorized
2 means of transmission.

3 **C.** The average Arizona quarterly withholding tax liability is determined by dividing the
4 taxpayer's total Arizona withholding tax liability for the calendar year by 4.

5 **D.** For tax periods beginning on and after July 1, 2017, any taxpayer who under A.R.S. Title
6 42 Chapter 5 and Chapter 6, Articles 1 and 3, had an annual tax liability during the prior
7 calendar year of \$20,000 or more shall remit these tax payments by an authorized means
8 of transmission.

9 **E.** For tax periods after July 1, 2015, tobacco tax taxpayers are required to remit tobacco tax
10 payments by an authorized means of transmission.

11 **F.** Unless otherwise waived pursuant to A.R.S. § 42-1129, for tax periods beginning on or
12 after the following tax years, any taxpayer, other than an individual income taxpayer, that
13 had a tax liability equal to or more than the following amounts during the prior tax year
14 or that can reasonably anticipate tax liability in the current tax year exceeding the
15 following amounts, shall remit tax payments to the Department by an authorized means
16 of transmission. For periods on or after:

17 1. January 1, 2018, prior tax year or expected current year tax liability of \$20,000;

18 2. January 1, 2019, prior tax year or expected current year tax liability of \$10,000;

19 3. January 1, 2020, prior tax year or expected current year tax liability of \$5,000;

20 4. January 1, 2021, prior tax year or expected current year tax liability of \$500.

21 **G.** For tax periods beginning on and after October 1, 2019, marketplace facilitators and
22 remote sellers are required to remit any applicable taxes to the Department by an
23 authorized means of transmission, unless granted a waiver pursuant to A.R.S. § 42-1129.

24 **ARTICLE 5. ELECTRONIC FILING PROGRAM**

25 **R15-10-501. Definitions**

26 In addition to the definitions provided in A.R.S. §§ 42-1101.01, 42-1103.01, 42-1103.02, 42-
27 1103.03, and 42-1105.02, unless the context provides otherwise, the following definitions apply
28 to this Article and to A.R.S. Title 42, Chapter 2:

29 "AZTaxes.gov" means the Department's taxpayer service center web site that provides
30 taxpayers with the ability to conduct transactions and review tax account information
31 over the internet.

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1 “Authorized user” means an individual, primary user or delegate user, including a return
2 preparer or electronic return preparer as defined in A.R.S. § 42-1101.01, granted
3 authority by the taxpayer, an owner of the taxpayer or an authorized officer of the
4 taxpayer to access taxpayer information available on the AZTaxes.gov web site.

5 “Bulk Transmitter” is an Electronic Return Transmitter that submits multiple electronic
6 returns, statements or other documents to the Department for filing or processing at one
7 time.

8 “Delegate User” means any registered customer of the AZTaxes.gov web site authorized
9 by a taxpayer, an owner of the taxpayer or an authorized officer of the taxpayer to access
10 the taxpayer’s account information on AZTaxes.gov. A Delegate User that uses a PIN to
11 sign and file transaction privilege or use tax returns on behalf of a taxpayer shall be
12 presumed to be authorized by that taxpayer to take such action on behalf of the taxpayer.

13 “Electronic return, statement or other document” means all data entered into a return,
14 statement, or other document that is prepared using computer software and transmitted
15 electronically to the Department.

16 “Electronic return transmitter” includes a person who is part of the chain of transmission
17 of an electronic return, statement, or other document from the taxpayer or from an
18 electronic return preparer to the Department even though the person did not receive the
19 transmitted return, statement, or other document directly from the taxpayer or
20 electronic return preparer.

21 “Electronic signature” means the electronic method or process as defined in A.R.S. § 41-
22 132.

23 “License” means one or more transaction privilege, use, or withholding tax licenses or
24 registrations obtained from the Department by completing and submitting a mail-in
25 Arizona Joint Tax Application or by completing the online AZTaxes.gov business
26 registration process and, where applicable, submitting an executed AZTaxes.gov
27 Registration Signature Card.

28 “Marketplace facilitator” has the same meaning as prescribed in A.R.S. § 42-5001.

29 “PIN” means a Self-Select Personal Identification Number made up of a prescribed
30 number of characters and used as an electronic sig-nature to sign returns, statements or
31 other documents submitted to the Department through AZTaxes.gov. or by any other
32 electronic means.

33 “Primary User” means the taxpayer, an owner of the taxpayer or any authorized officer
34 of the taxpayer who registers to use AZTaxes.gov. A Primary User has the unlimited ability
35 to access the taxpayer’s online accounts, conduct online transactions for the taxpayer,

1 designate Delegate Users, specify the level of access granted to a Delegate User and
2 modify or terminate the access of any Delegate User.

3 “Registered customer” means any individual that has, by means of providing specific
4 information requested by the Department through its AZTaxes.gov web site registration
5 process, obtained a username and password entitling that taxpayer to conduct
6 transactions and access information through the AZTaxes.gov web site.

7 “Remote seller” has the same meaning as prescribed in A.R.S. § 42-5001.

8 **R15-10-505. Electronic Signatures for Transaction Privilege and Use Tax**

9 **A.** A taxpayer, primary user or delegate user shall do the following to become a registered
10 customer of the AZTaxes.gov web site for transaction privilege and use tax purposes:

- 11 1. Provide his legal name and e-mail address,
- 12 a. Create a unique username and password which shall be used to gain access
13 to AZTaxes.gov web site,
- 14 b. Select a prescribed number of security questions and submit their
15 answers,
- 16 c. Create a PIN, and
- 17 d. Agree to the Department’s Terms of Service.
- 18 2. By registering as a customer of the AZTaxes.gov website or by continuing to use
19 the AZTaxes.gov website, the taxpayer, primary user or delegate user declares
20 that:
- 21 a. The information provided during the AZTaxes.gov registration process is
22 accurate and complete, and
- 23 b. If previously submitted, the information contained in the Arizona Joint Tax
24 Application is accurate and complete.

25 **B.** A taxpayer that has not obtained a transaction privilege or use tax license from the
26 Department shall obtain a license by completing either the mail-in ~~Arizona Joint Tax~~
27 Application paper application or the online application. From and after January 9, 2016 a
28 taxpayer, primary user or delegate user may use his PIN to electronically sign the
29 taxpayer’s online ~~Arizona Joint Tax~~ application.

30 **C.** A Delegate User shall do the following to become associated with a taxpayer on the
31 AZTaxes.gov web site:

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- 1 1. Provide answers to prescribed questions about the taxpayer if the taxpayer has a
2 license, or
- 3 2. Complete the online or mail-in Joint Tax Application and provide answers to
4 prescribed questions about the taxpayer.
- 5 **D.** If filing a taxpayer’s transaction privilege or use tax return by electronic means, an
6 Authorized User of the AZTaxes.gov web site shall, from and after July 5, 2016, use his PIN
7 to electronically sign a taxpayer's electronic transaction privilege, or use tax returns. By
8 using his PIN, the Authorized User is making a declaration, under penalties of perjury that
9 the electronic return is, to the best of his knowledge and belief, true, correct, and
10 complete.
- 11 **E.** To file an electronic transaction privilege or use tax return under subsection (D) above a
12 taxpayer, primary or delegate user preparing the electronic return may access the
13 AZTaxes.gov website or other website and electronically file the return after signing the
14 return with his PIN.
- 15 **F.** From and after July 5, 2016, unless otherwise required by Article 3 of this Title and
16 Chapter, an Authorized User of the AZTaxes.gov website may pay its transaction privilege
17 and use tax liability by electronic check.
- 18 **G.** For tax periods beginning on or after the following years, any taxpayer who, under A.R.S.
19 Title 42 Chapters 5 and 6, had total annual tax liability of at least the following amounts
20 during the prior tax year or can reasonably anticipate that its current year tax liability will
21 exceed the following amounts, shall, unless otherwise waived pursuant to A.R.S. § 42-
22 5014, file the required return using an electronic filing program established by the
23 Department. For periods on or after:
- 24 1. January 1, 2018, prior tax year or expected current year total tax liability of
25 \$20,000;
- 26 2. January 1, 2019, prior tax year or expected current year total tax liability of
27 \$10,000;
- 28 3. January 1, 2020, prior tax year or expected current year total tax liability of \$5,000;
- 29 4. January 1, 2021, prior tax year or expected current year total tax liability of \$500.
- 30 **H.** For tax periods beginning on and after October 1, 2019 marketplace facilitators and
31 remote sellers shall, unless granted a waiver or if instructed to file by paper by the
32 Department pursuant to A.R.S. § 42-5014, file the required return using an electronic
33 program established by the Department.

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1 **H. I.** Any taxpayer who, under A.R.S. Title 42 Chapters 5 and 6, was required to file a return
2 using an electronic filing program pursuant to subsection (G) or (H) of this rule and that
3 fails to do so after notice and demand by the Department shall, unless reasonable cause
4 exists, be subject to the penalty imposed under A.R.S. § 42-1125(X) and (Y).

5 **R15-5-2217. ~~Repealed~~ Reasonable Cause for Waiver of Civil Penalties**

6 **A.** Pursuant to A.R.S. 42-1125, the Department shall not apply specified civil penalties
7 for failure to pay a required amount of transaction privilege tax or file a required
8 transaction privilege return if reasonable cause exists and the failure to pay was not
9 due to willful neglect or fraud. Generally, reasonable cause exists whenever a
10 taxpayer uses prudent and timely business practices but nonetheless fails to fully
11 comply with its tax remittance and reporting requirements due to circumstances
12 beyond the taxpayer's control.

13 **B.** The Department must consider a taxpayer requesting waiver of civil penalties to have
14 reasonable cause if a failure to pay transaction privilege tax due or file a required
15 transaction privilege tax return was due to a system outage or other system
16 unavailability—whether scheduled or unscheduled—of AZTaxes.gov that prevents or
17 substantially interferes with a taxpayer's ability to access, submit, or otherwise
18 complete a required return or payment and submit the return or payment in the time
19 required by law.

20 **C.** The Department must consider a taxpayer requesting waiver of civil penalties to have
21 reasonable cause if a failure to pay the full and correct amount of transaction
22 privilege tax due or file a complete and correct transaction privilege tax return was
23 due to a software- or application-based error by either AZTaxes.gov or a Department-
24 approved vendor's software to calculate and file a transaction privilege tax return, if
25 the error demonstrably results in the incorrect calculation of any taxes due.

26 **D.** Except as provided in subsection (E), a taxpayer requesting waiver of civil penalties
27 for reasonable cause shall notify the Department of the issue or error in writing
28 within a reasonable time after becoming aware of the issue or error.

29 **E.** The Department may waive civil penalties without requiring a written taxpayer
30 request for any system outage, system unavailability, or other event or anomaly as
31 described in subsections (B) and (C) if it becomes aware of the event or anomaly
32 before issuing a penalty assessment.

33