

ARIZONA DEPARTMENT OF REVENUE

ARIZONA TRANSACTION PRIVILEGE TAX RULING TPR 92-7

(Note: On 8/21/2020, the Title 42 cites were updated to show the new statute 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 amount of the allowable deduction from the tax base for reimbursements for utility services under the commercial lease classification.

APPLICABLE LAW:

A.R.S. § 42-5069(D)¹ states that:

The tax base for the commercial lease classification is the gross proceeds of sales or gross income derived from the business, but reimbursements to the lessor for utility service shall be deducted from the tax base.

A.R.S. § 42-5063(A)² states that:

The utilities classification is comprised of the business of producing and furnishing ... electricity, natural or artificial gas and water....

¹ This document originally cited A.R.S. § 42-1310.09.D which was renumbered to A.R.S. § 42-5069(D).

² This document originally cited A.R.S. § 42-1310.03.A which was renumbered to A.R.S. § 42-5063(A).

DISCUSSION:

The tax base for the commercial lease classification is the gross receipts or gross income derived from the business. However, reimbursements to the lessor for utility services are deductible from the tax base.

Where lessors have not provided separate utility meters for their tenants or where lessors are reimbursed for utilities used in common areas, any reasonable method may be used to allocate the amount of utility charges between tenants. For example, a lessor may allocate the amount of utility charges between tenants on a square footage basis. However, the amount of the allowed deduction from the tax base for reimbursed utility costs is limited to the amount of the utility charge as shown on the actual billing from the utility company.

RULING:

Under the commercial lease classification, a deduction from the tax base is allowed for reimbursements to the lessor for utility services which include electricity, natural or artificial gas and water. The amount of the allowed deduction is limited to the lesser of the amount of the reimbursement received or the amount of utility charges as shown on the billing received from the utility company.

Paul Waddell, Director
Signed December 4, 1992