

# ARIZONA DEPARTMENT OF REVENUE

## ARIZONA TRANSACTION PRIVILEGE TAX RULING

### TPR 93-37

(Note: On 9/21/2020, the statute numbers were updated to 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:**

Application of the transaction privilege tax to the business of transporting for hire when the transporting is performed by third party independent contractors.

#### **APPLICABLE LAW:**

Arizona Revised Statutes (A.R.S.) § 42-5062<sup>1</sup> states that the transporting classification is comprised of the business of transporting for hire persons, freight or property by motor vehicle, railroads or aircraft from one point to another point in this state. The tax base is the gross proceeds of sales or gross income derived from the business.

A.R.S. § 42-5001(8)<sup>2</sup> defines "person" to include an individual, firm, partnership, joint venture, association, corporation as well as other applicable organizations.

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<sup>1</sup> This ruling originally cited A.R.S. § 42-1310.02 which was renumbered as A.R.S. § 42-5062.

<sup>2</sup> This ruling originally cited A.R.S. § 42-1301.8 which was renumbered as A.R.S. § 42-5001(8)..

**DISCUSSION:**

A person may be engaged in the business of transporting for hire even though the physical transporting is done by third party independent contractors who own their own vehicles and who receive a portion of the gross receipts.

If a person receives orders from customers, dispatches vehicles, does the billing and receives payment from the customer, that person is subject to tax under the transporting classification. It does not matter that the physical transporting is done by third party independent contractors who own their own vehicles.

The tax base for the transporting classification is the gross proceeds of sales or gross income derived from the business.

The payments made to independent contract drivers are an expense of doing business and cannot be deducted from taxable gross income.

**RULING:**

A person is engaged in the business of transporting for hire and, therefore, subject to the transaction privilege tax, if they receive orders from customers, dispatch vehicles, send billings and receive payment, even though the physical transporting may be performed by third party independent contractors who own their own vehicles.

The tax base is the gross proceeds of sales or gross income derived from the business without any deduction for amounts paid to the independent contractors.

Harold Scott, Director

Signed June 25, 1993

**Explanatory Notice**

The purpose of a tax ruling is to provide interpretive guidance to the general public and to department personnel. A tax ruling is intended to encompass issues of law which are not adequately covered in statute, case

law or administrative rules. A tax ruling is a position statement which provides interpretation, details or supplementary information concerning the application of the law. **Relevant statute, case law, or administrative rules, as well as a subsequent ruling, may modify or negate any or all of the provisions of any tax ruling.** See GTP 92-1 for more detailed information regarding documents issued by the Department of Revenue.