

PRIVATE TAXPAYER RULING LR96-003

February 12, 1996

The following private taxpayer ruling is in response to your letter of November 15, 1995, and your letters of December 5, 1995, and January 2, 1996, which provide supplemental information. Your letter requests a determination regarding the application of transaction privilege tax to purchases of vehicles 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:

... operates a vehicle leasing company. ... entire fleet of vehicles is leased to is a wholly owned subsidiary of

... entire fleet of vehicles consists of vehicle combinations (tractor-trailers) with gross vehicle weights exceeding 26,000 pounds and single unit vehicles which have gross vehicle weights exceeding 12,000 pounds.

..., on behalf of ..., remits motor carrier tax to the Arizona Department of Transportation (ADOT) on these motor vehicles and lightweight motor vehicles.

Pursuant to the contract between ... and ..., ... is obligated to maintain the vehicles it leases to ..., including regularly scheduled repair and maintenance.

... purchases its inventory, including vehicles, free of tax as purchases of goods to be leased and does not charge or accrue transaction privilege tax on its subsequent lease of vehicles for which applicable motor carrier tax is properly remitted to ADOT.

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, and properly remits motor carrier tax under Title 28, Chapter 9, Article 6. Accordingly, ... gross income, to the extent that the income is derived from the business of leasing such vehicles, is not subject to transaction privilege tax. Additionally, ... purchases of vehicles are not subject to tax.

Applicable Statutory Provisions:

A.R.S. § 42-1310.01 levies the transaction privilege tax on the business of selling tangible personal property at retail.

A.R.S. § 42-1310.01.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. § 42-1310.01.A.44 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 vehicle, sold to a licensed motor carrier or a lightweight motor vehicle operator subject to tax under Title 28, Chapter 9, Article 6 who is engaged in the business of leasing or renting such property.

A.R.S. § 42-1310.11 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. § 42-1310.11.B.4 provides a deduction from the tax base for income derived from leasing or renting a motor vehicle, including lightweight motor vehicles, subject to and upon which the tax has been paid under Title 28, Chapter 9, Article 6.

Under Title 28, Chapter 9, Article 6, A.R.S. § 28-1599.05 imposes a motor carrier tax based on declared gross vehicle weight and miles traveled by motor vehicles weighing between 26,001 pounds and 80,000 pounds. This statute also imposes an annual motor carrier tax on each lightweight motor vehicle registered in this state with a declared gross weight between 12,001 and 26,000 pounds.

A.R.S. § 28-1599.01 provides that either the lessor or the lessee may obtain the motor carrier tax license. A written lease agreement shall specify which party to the lease agreement is responsible for obtaining the motor carrier tax license.

A.R.S. § 28-1599 defines "motor vehicle" to mean a self-powered motor driven vehicle in excess of 26,000 pounds declared gross vehicle weight subject to vehicle registration before lawful operation on the public highways. "Lightweight motor vehicle" means a self-propelled motor driven vehicle with a declared gross vehicle weight of more than 12,000 pounds but less than 26,000 pounds, subject to vehicle registration before lawful operation on the public highways in this state.

A.R.S. § 28-206.C defines "vehicle combination" to mean a motor vehicle and the trailers and semitrailers which it tows.

Discussion:

Arizona's transaction privilege (sales) 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 or lightweight motor vehicle subject to and upon which the motor carrier tax has been paid. (A.R.S. § 42-1310.11)

The motor carrier tax on motor vehicles is based on declared gross vehicle weight and miles traveled in this state. 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 which it tows.

The motor carrier tax on lightweight motor vehicles is based upon the declared gross vehicle weight and is paid annually at the time the lightweight motor vehicle is registered.

Payment of the motor carrier tax is a prerequisite for the transaction privilege tax exemption. The exemption is applicable whether the motor carrier tax has been paid by the lessor, the lessee, or any third party authorized by the lessor or lessee to make payment on their behalf.

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 tax. (A.R.S. § 42-1310.01)

Arizona Transaction Privilege Tax Ruling TPR 95-8 provides information regarding the statutory exemptions which are provided for lessors of motor vehicles and lightweight motor vehicles which are subject to the motor carrier tax.

Conclusion and Ruling:

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

The department rules that the gross income derived by ... from leases of motor vehicles and lightweight motor vehicles to ..., on which vehicles the motor carrier tax 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 lightweight 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 November 15, 1995, and supplemental letters of December 5, 1995, and January 2, 1996.

This response is a private taxpayer ruling and the determination herein is based solely on the facts provided in your request. The determination in this taxpayer ruling is the present position of the department and is valid for a period of four years from the date of issuance except as set out herein. This determination is 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.