

ARIZONA TRANSACTION PRIVILEGE TAX RULING

TPR 97-2

(This ruling supersedes Arizona Transaction Privilege Tax Ruling TPR 97-1)

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:

Transaction privilege and use tax exemptions for motor vehicle dealers' documentation fees.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-1310.01(A) states that the retail classification is comprised of the business of selling tangible personal property at retail. The tax base is the gross proceeds of sales or gross income derived from the business.

A.R.S. § 42-1310.01(A)(2) provides that the tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from "[s]ervices rendered in addition to selling tangible personal property at retail."

A.R.S. § 42-1310.01(H) states:

If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

Arizona Administrative Code (A.A.C.) R15-5-105 further states that "[a] charge in connection with a retail sale is taxable unless the charge for service is shown separately on the sales invoice and records."

A.R.S. § 42-1408(A) imposes a use tax on the storage, use or consumption in this state of

tangible personal property purchased from a retailer, as a percentage of the sales price.

DISCUSSION:

The Motor Vehicle Title Sales Disclosure Act governs the licensing and regulation of sales finance companies and motor vehicle dealers. Under this act, A.R.S. § 44-281(2) provides that the cash sale price may include charges for costs necessary or incidental to the transaction, which the seller furnishes or agrees to pay on behalf of the buyer, including taxes, assessor's fees, and fees for filing, recording or otherwise perfecting or releasing a reserved title or lien, and may include a reasonable charge for the seller's services. The charge made for the motor vehicle dealer's service is commonly referred to as "dealer documentation fees" or "doc fees."

The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. However, the tax does not apply to the gross proceeds of sales or gross income from services rendered in addition to selling tangible personal property.

The transaction privilege tax statute expressly requires that when a person is engaged in both selling at retail and furnishing services, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of service. If the person's books are not maintained in this manner, the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

When motor vehicle dealers prepare and process the required documents to obtain title and registration on behalf of the purchaser, they are providing a service in addition to selling tangible personal property at retail. A reasonable charge made for this service is not subject to tax if the charge is shown separately on the sales invoice and in the dealers' books.

Similarly, when an out-of-state motor vehicle dealer charges a doc fee and separately states the charge on the sales invoice, the doc fee is not included in the sales price when calculating the amount of Arizona use tax that is due from the purchaser if the fee is reasonable with respect to the value of the service provided.

RULING:

When a dealer sells a motor vehicle, the dealer customarily prepares and processes the required documents to obtain title and registration on behalf of the purchaser. The motor vehicle dealer may charge a "documentation fee" or "doc fee" for this service.

Doc fees represent charges for services rendered in addition to selling tangible personal property. Transaction privilege tax does not apply to doc fees if the fee is reasonable with

respect to the value of the service provided and the fee is shown separately on the sales invoice and in the dealer's books and records.

Furthermore, the use tax does not apply to doc fees paid to an out-of-state motor vehicle dealer if the fee is separately stated on the sales invoice and the fee is reasonable with respect to the value of the service provided.

Mark W. Killian, Director
Date Signed June 23, 1997

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 96-1 for more detailed information regarding documents issued by the Department of Revenue.