

ARIZONA TRANSACTION PRIVILEGE TAX RULING

TPR 99-9

(This ruling supersedes and rescinds Arizona Transaction Privilege Tax Ruling TPR 95-19)

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:

Exemption from the transaction privilege and use tax for sales/purchases of natural gas or liquefied petroleum gas used to propel a motor vehicle.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-5061 levies the transaction privilege tax on the business of selling tangible personal property at retail.

A.R.S. § 42-5061(A)(37) provides that the tax does not apply to sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

A.R.S. § 42-5063 levies the transaction privilege tax on the utilities classification. The utilities classification includes the business of producing and furnishing or furnishing to consumers natural or artificial gas.

A.R.S. § 42-5063(B)(2) provides that the utilities classification does not include sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

A.R.S. § 42-5067(A) states:

The pipeline classification is comprised of the business of operating pipelines for transporting oil or natural or artificial gas through pipes or conduits from one point to another point in this state. The pipeline classification does not include sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

A.R.S. § 42-5155 levies a use tax on the storage, use or consumption in this state of tangible

personal property purchased from a retailer or utility business.

A.R.S. § 42-5159(A)(33) provides that the use tax does not apply to natural gas or liquefied petroleum gas used to propel a motor vehicle.

A.R.S. § 42-6004(B) states in part:

A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, on:

- 1. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

* * *

DISCUSSION:

The transaction privilege or use tax statutes do not define the term "motor vehicle." However, it is a general rule of statutory construction that words and phrases shall be construed according to the common and approved use of the language.

In *City of Avondale v. Deere Credit, Inc.*, 191 Ariz. 307, 955 P.2d 544 (App. 1998), the Arizona Court of Appeals determined that the common meaning of the term "motor vehicle" is an automotive vehicle intended to be used for the purpose of transporting goods or passengers on the highway. The court held that the term "motor vehicle" does not include farm implements, equipment or machinery.

For purposes of this ruling, "motor vehicle" means a self-propelled vehicle intended to be used for the purpose of transporting goods or passengers on the highway. Evidence that the vehicle is licensed for use on the streets or highways will conclusively establish that such vehicle is a "motor vehicle" within the meaning of the above-mentioned statutes. There is a presumption that if the vehicle is not licensed for use on the streets or highways, it is not intended for use on the streets or highways. However, evidence can be presented to rebut such presumption.

To qualify for exemption, the natural gas or liquefied petroleum gas must be used as fuel to propel the motor vehicle. Sales of these gases for other purposes, such as fuel for refrigeration units on delivery trucks or fuel to heat a tar pot on a truck, are taxable.

RULING:

Natural gas and liquefied petroleum gas used to propel a motor vehicle are exempt from transaction privilege or use tax under:

1. the retail classification by A.R.S. § 42-5061(A)(37)
2. the utilities classification by A.R.S. § 42-5063(B)(2)
3. the pipeline classification by A.R.S. § 42-5067(A)
4. the use tax by A.R.S. § 42-5159(A)(33)
5. the municipal tax by A.R.S. § 42-6004(B)(1)

For purposes of this ruling, "motor vehicle" means a self-propelled vehicle intended to be used for the purpose of transporting goods or passengers on the highway. The term "motor vehicle" does not include farm implements, equipment or machinery.

When natural gas or liquefied petroleum gas is used for a purpose other than to propel a motor vehicle, the transaction privilege or use tax applies.

Additionally, a city, town or other taxing jurisdiction shall not levy a tax on natural gas or liquefied petroleum gas if the fuels are used to propel a motor vehicle.

Mark W. Killian, Director

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 that are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement that provides interpretation, detail, or supplementary information concerning 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.