

**ARIZONA TRANSACTION PRIVILEGE TAX RULING
TPR 03-3**

(This ruling supersedes Arizona Transaction Privilege Tax Ruling TPR 95 9)

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 tax deduction for lessors of one way rental trucks that are subject to the motor carrier fee as part of an identifiable one way fleet that is registered on an allocated basis.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42 5061(A) states:

The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

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23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

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42. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

A.R.S. § 42 5159(A)(37) provides a similar exclusion from the use tax.

A.R.S. § 42 5071(B) states:

The tax base for the personal property rental classification is the gross proceeds of sales or gross income derived from the business, but the gross proceeds of sales or gross income derived from the following shall be deducted from the tax base:

* * *

4. Leasing or renting a motor vehicle subject to and upon which the fee has been paid under title 28, chapter 16, article 4.

Under Title 28, Chapter 16, Article 4, A.R.S. § 28 5852 imposes an annual motor carrier fee against each motor vehicle registered in this state with a vehicle weight of over 12,000 pounds, in accordance with the rate table in § 28 5854. The motor carrier fee shall be added to the gross weight fee imposed by § 28 5433 and is payable at the time the motor vehicle is registered.

A.R.S. § 28 2232 authorizes the international proportional registration of fleet vehicles.

A.R.S. § 28 2261 authorizes the provision of an alternative proportional registration agreement of fleet vehicles.

A.R.S. § 28 5431 provides the following definitions:

1. “Declared gross weight” means the gross weight in pounds ascribed to a motor vehicle, trailer, semitrailer or vehicle combination by the applicant for registration.
2. “Gross weight” means the sum of the empty weight in pounds of a motor vehicle combination plus the weight in pounds of the maximum load to be carried on the motor vehicle combination at any one time, except that for tow trucks, gross weight means the sum of the empty weight in pounds of the tow truck plus the weight in pounds of operational supplies and equipment.
3. “Vehicle combination” means a motor vehicle and the trailers and semitrailers that it tows.

A.R.S. § 28 5851 states:

In this article, unless the context otherwise requires:

1. “Declared gross weight” has the same meaning prescribed in § 28 5431. If a declaration has not been made, declared gross weight means gross weight.
2. “Gross weight” has the same meaning prescribed in § 28 5431.

3. “Motor carrier” means a person who operates or causes to be operated a motor vehicle on a public highway.

4. “Motor vehicle” means a self propelled motor driven vehicle that has a declared gross vehicle weight of more than twelve thousand pounds and that is subject to vehicle registration before lawful operation on the public highways in this state, excluding a motor vehicle that is exempt from gross weight fees pursuant to § 28 5432.

5. “Public highway” means any way or place in this state that is constructed or maintained with public monies and that is open to use by the public as a matter of right for the purpose of vehicular travel, including a highway under construction.

A.R.S. § 28 5860 states:

A. Payment of the motor carrier fee by a motor carrier exempts the motor carrier from transaction privilege tax or any similar tax imposed by any taxing authority in this state.

B. Except as provided in this article, any other taxing authority in this state shall not impose a transaction privilege tax or any similar tax based on the gross proceeds of sales or gross income from sales derived from any of the following:

1. A motor carrier's use on the public highways under § 42 5062, subsection A, paragraph 1.

2. Leasing a motor vehicle under § 42 5071, subsection B, paragraph 4.

DISCUSSION:

In accordance with A.R.S. § 42 5071, the transaction privilege tax does not apply to the gross income derived from leasing or renting a motor vehicle subject to and upon which the motor carrier fee has been paid. This deduction is reflected in the motor carrier fee statute under A.R.S. § 28 5860.

Payment of the motor carrier fee is a prerequisite for the transaction privilege tax deduction. The motor carrier fee is based upon the declared gross vehicle weight and is payable annually at the time the motor vehicle is registered.

The International Registration Plan (IRP) is a registration reciprocity agreement among states of the United States and provinces of Canada. The IRP provides that the payment of any periodic recurring fee required for licensing or registering vehicles, such as, but not limited to, registration fees, license fees or weight fees shall be apportioned on the basis of fleet miles operated in the various jurisdictions. The IRP is a product of International Registration Plan, Inc. and has been adopted by each of the 48 contiguous

states. Arizona adopted the plan effective January 1, 1981.

Under the provisions of the IRP, a lessor of trucks of less than 26,000 pounds gross vehicle weight that are operated as part of an identifiable one way fleet may allocate vehicles to the respective jurisdictions based on miles traveled in each jurisdiction. A portion of each fleet of one way trucks is “allocated” to each jurisdiction and the full registration fees are paid. All trucks of such a one way fleet will be allowed to perform both interjurisdiction and intrajurisdiction movements in all jurisdictions.

Additionally, the member jurisdictions of the IRP have approved the following provision:

All trucks of an identifiable one way fleet (identified by visible vehicle markings) “so qualified” (allocated and fully plated) are to be authorized to perform both interjurisdiction and intrajurisdiction movements in IRP jurisdictions, even those identified with the registration plate of a non IRP jurisdiction.

In lieu of registering trucks of less than 26,000 pounds gross vehicle weight that are operated as part of an identifiable one way fleet on an allocated basis, a lessor may elect to register all trucks in the fleet on an apportioned basis. See Arizona Transaction Privilege Tax Ruling TPR 03 2 for information regarding the general application of exemptions for lessors of vehicles that are subject to the motor carrier fee and vehicles on which the motor carrier fee has been paid on an apportioned vehicle registration.

RULING:

The gross income derived from leasing or renting a truck of less than 26,000 pounds gross vehicle weight that is operated as part of an identifiable one way fleet, registered on an allocated basis, is not subject to transaction privilege tax, regardless of the state in which the vehicle is registered.

In addition to the general exemption for the sale of tangible personal property to a person engaged in the business of leasing such property, sales of motor vehicles, including any repair and replacement parts and tangible personal property becoming parts of the vehicles that are operated as part of a one way fleet that is registered on an allocated basis are specifically exempt.

J. Elliott Hibbs, Director

Signed: December 4, 2003

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.