

**ARIZONA TRANSACTION PRIVILEGE TAX RULING  
TPR 03-4**

(This ruling supersedes Arizona Transaction Privilege Tax Ruling TPR 95 10)

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 leasing motor vehicles to persons engaged in business under the transporting classification when the motor carrier fee has been paid.

**APPLICABLE LAW:**

Arizona Revised Statutes (A.R.S.) § 42 5062(A) states in part:

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 transporting classification does not include:

1. Transporting for hire persons, freight or property by motor carriers subject to a fee prescribed in title 28, chapter 16, article 4 or by light motor vehicles subject to a fee under title 28, chapter 15, article 4.

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:**

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.

Also see Arizona Transaction Privilege Tax Ruling TPR 03 3 for information regarding the exemption for lessors of one way rental trucks that are registered on an allocated basis.

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 exemption is reflected in the motor carrier fee statutes under A.R.S. § 28 5860.

The annual motor carrier fee is imposed against each motor vehicle registered in this state with a vehicle weight of over 12,000 pounds. The motor carrier fee is also imposed when vehicles are registered on an apportioned basis and when one way rental trucks are registered on an allocated basis. The motor carrier fee is added to the gross weight fee imposed by § 28 5433 and is payable at the time the motor vehicle is registered.

Leasing a motor vehicle to a person who is engaged in business under the transporting classification is not subject to transaction privilege tax when the motor carrier fee has been paid. Payment of the motor carrier fee is a prerequisite for the transaction privilege tax deduction. The deduction is applicable if the motor carrier fee is paid in full on the vehicle, paid on an apportioned basis or paid on an allocated basis for trucks that are part of a one way rental fleet.

When vehicles are under a long term lease agreement, it is permissible for the motor carrier fee to be paid by either the lessor or the lessee. The transaction privilege tax deduction is applicable if the motor

carrier fee has been paid by the lessor, the lessee, or any third party authorized by the lessor or lessee to make payment on their behalf.

Transporting for hire with vehicles that are subject to the motor carrier fee is not taxable under the transporting classification. A.R.S. § 42 5062(A)(1) provides that the transporting classification does not include transporting for hire persons, freight or property by motor carriers subject to a fee prescribed in title 28, chapter 16, article 4 or by light motor vehicles subject to a fee under title 28, chapter 15, article 4.

See Arizona Transaction Privilege Tax Ruling TPR 97 4 for information regarding the transaction privilege tax exemption under the transporting classification for persons who have paid the motor carrier fee or the light motor vehicle fee.

## **RULING:**

The gross income derived from leasing or renting a motor vehicle to a person who is engaged in business under the transporting classification is not subject to transaction privilege tax when the motor carrier fee has been paid by either the lessor, the lessee or any third party authorized by the lessor or lessee to make payment on their behalf. The annual motor carrier fee may be paid in full on the vehicle, paid on an apportioned basis or paid on an allocated basis for trucks that are part of a one way rental fleet.

The gross income derived by the lessee from the business of transporting with such vehicles is not subject to transaction privilege tax.

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.