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ARIZONA TRANSACTION PRIVILEGE TAX RULING
TPR 25-1

(This ruling supersedes and rescinds TPR 95-20.)

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Date Proposed: July 15, 2022
Date Final: April 1, 2025

ISSUE:

The imposition of transaction privilege tax on sales of agricultural machinery and equipment under the retail classification and on leases of agricultural machinery and equipment under the personal property rental classification.

APPLICABLE LAW:

Arizona Revised Statutes ("A.R.S.") § 42-5061(B)(14) provides a deduction under the retail classification for the gross proceeds of sales of "[m]achinery and equipment . . . used for commercial production of agricultural, horticultural, viticultural, and floricultural crops and products in this state." Such agricultural machinery and equipment "consist[s] of agricultural aircraft, tractors, off-highway vehicles, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 7 of this subsection." *Id.*

A.R.S. § 42-5061(B)(14)(a) outlines *off-highway vehicles* as those

> as defined in section 28-1171 that are modified at the time of sale to function as a tractor or to tow tractor-drawn implements and that are not equipped with a modified exhaust system to increase horsepower or speed or an engine that is more than one thousand cubic centimeters or that have a maximum speed of fifty miles per hour or less.

A.R.S. § 28-1171(6) states that *off-highway vehicle*

> (a) Means a motorized vehicle that is operated primarily off of highways and that is designed, modified or purpose-built primarily for recreational nonhighway all-terrain travel.
> (b) Includes a tracked or wheeled vehicle, utility vehicle, all-terrain vehicle, motorcycle, four-wheel drive vehicle, dune buggy, sand rail, amphibious vehicle, ground effects or air cushion vehicle and any other means of land transportation deriving motive power from a source other than muscle or wind.
> (c) Does not include a vehicle that is either:
>
> (i) Designed primarily for travel on, over or in the water.
> (ii) Used in installation, inspection, maintenance, repair or related activities involving facilities for the provision of utility or railroad service or used in the exploration or mining of minerals or aggregates as defined in title 27.

A.R.S. § 42-5061(B)(14)(b) provides that "'[s]elf-powered implements'" includes machinery and equipment that are electric-powered."

A.R.S. § 42-5071(B)(2)(b) establishes a deduction under the personal property rental classification for the gross income derived from "[l]eases or rentals of tangible personal property that, if it had been purchased instead of leased or rented by the lessee, would have been exempt under . . . [A.R.S. § 42-5061(B)]."

A.R.S. § 42-6017(A) establishes that "[e]xcept as provided in this section, § 42-5061 supersedes all city or town ordinances or other local laws insofar as the ordinances or local laws now or hereafter relate to the taxation of business activities classified under § 42-5061."

Model City Tax Code ("MCTC") § -450(a) imposes city privilege tax on "the gross income from the business activity upon every person engaging or continuing in the business of leasing, licensing for use, or renting tangible personal property for a consideration."

MCTC § -450(c)(4)(B) excludes from the tax imposed under § -450 gross income derived from renting, leasing, or licensing for use of "income-producing capital equipment."

MCTC § -110(a)(14) provides that among the tangible personal property deemed "income-producing capital equipment" are

> new machinery and equipment consisting of agricultural aircraft, tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 5 of this Subsection and that are used

> for commercial production of agricultural, horticultural, viticultural, or floricultural crops in this State,

where *new machinery and equipment* is "machinery and equipment that have never been sold at retail except pursuant to leases or rentals which do not total two years or more"; *agricultural aircraft* is "an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding"; and *self-powered implements* "includes machinery and equipment that are electric-powered."

MCTC § -450(c)(6) excludes from the tax imposed under § -450 gross income derived from "separately billed charges for delivery, installation, repair, and/or maintenance as provided by Regulation."

BACKGROUND:

Laws 1991, chapter 158, section 12 amended A.R.S. § 42-1310.01.B (since recodified as A.R.S. § 42-5061(B)) to provide a definition of "new machinery and equipment," which was exempt from taxation if used for the commercial production of agricultural, horticultural, viticultural and floricultural crops. *New machinery and equipment* was defined as a piece of machinery or equipment that had never been sold at retail except under leases or rentals that did not total two years or more.

Laws 1992, chapter 135, section 1 amended A.R.S. § 42-1310.01.B (since recodified as A.R.S. § 42-5061(B)) to technically correct the language used in the statutory provision.

Laws 1995, chapter 138, sections 1 and 2 amended A.R.S. §§ 42-1310.01.B.13 (now A.R.S. § 42-5061(B)(14)) and 42-1409.B.13 (now A.R.S. § 42-5159(B)(14)) to provide that the exemption from transaction privilege and use tax for new machinery and equipment used for the production of agricultural crops included machinery and equipment necessary for extracting milk and for cooling milk and livestock. The amendments also clarified that the term "self-powered implements" included electric-powered machinery and equipment. This legislation was retroactive to April 17, 1985.

Laws 1991, chapter 158, section 13 amended A.R.S. § 42-1310.11 (since recodified as A.R.S. § 42-5071) to provide that the rental of agricultural machinery or equipment for a period of two years or more was exempt from taxation under the personal property rental classification. The gross proceeds of a lease of new equipment that was being leased for a period of less than two years were not exempt from taxation under the personal property rental classification.

Laws 2016, chapter 181, sections 1 and 2 amended A.R.S. § 42-5061(B)(13) (now A.R.S. § 42-5061(B)(14)) and 42-5159(B)(13) (now A.R.S. § 42-5159(B)(14)) to add "agricultural aircraft" to the list of agricultural machinery and equipment.

Laws 2022, chapter 321, section 7 amends A.R.S. § 42-5061(B)(14) to eliminate the requirement that agricultural machinery and equipment be new in order to be deductible. The amendment correspondingly eliminates the definition of "new machinery and equipment." It also adds "off-highway vehicles" to the list of agricultural machinery and equipment and defines such vehicles.

Laws 2022, chapter 321, section 9 amends A.R.S. § 42-5071(B)(2)(b) so that leases and rentals lasting less than two years are no longer excluded from the provision's deduction. In other words, revised A.R.S. § 42-5071(B)(2)(b) now simply establishes a deduction for leases or rentals of agricultural machinery and equipment regardless of the term of the lease or rental.

Laws 2022, chapter 321, section 11 amends A.R.S. § 42-5159(B)(14) such that revised A.R.S. § 42-5159(B)(14) is identical to revised A.R.S. § 42-5061(B)(14).

As a result of the 2022 amendments, which became effective October 1, 2022, the former limitation of the retail deduction for agricultural machinery and equipment to only *new* such machinery and equipment has been eliminated, as has the former limitation of the personal property rental deduction to only those leases and rentals of agricultural machinery and equipment lasting at least two years. For retail sales, this newly broadened deduction applies not only to state TPT but also (in accordance with A.R.S. § 42-6017) to city privilege tax. But because the Model City Tax Code has not undergone similar amendments, the limitation of the rental deduction to only new agricultural machinery and equipment still applies for city privilege tax purposes.

DISCUSSION:

The statutory deduction for agricultural machinery and equipment includes only "agricultural aircraft, tractors, off-highway vehicles, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines . . . used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state." A.R.S. § 42-5061(B)(14).

Agriculture comprises agricultural crop production as well as the breeding, feeding, and raising of livestock[1] and fowl,[2] the production of feed for such animals, and milk production. *See Agriculture*, Black's Law Dictionary (11th ed. 2019) ("The science or art

[1] "Farm animals; specif., domestic animals and fowls that (1) are kept for profit or pleasure, (2) can normally be confined within boundaries without seriously impairing their utility, and (3) do not normally intrude on others' land in such a way as to harm the land or growing crops." *Livestock*, Black's Law Dictionary (11th ed. 2019).
[2] "[A] bird of any kind." *Merriam-Webster's Collegiate Dictionary* 495 (11th ed. 2020).

of cultivating soil, harvesting crops, and raising livestock."); *cf.* A.A.C. R15-5-1601(1) (defining *agricultural property* as "land or structures which are used for the purposes of growing crops or raising animals including agronomy, horticulture, viticulture, or animal husbandry").

An *agricultural aircraft* is "an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding." A.R.S. § 42-5061(V)(1); *see also* A.R.S. § 42-5159(I)(1) (same).

An *off-highway vehicle* is "a motorized vehicle that is operated primarily off of highways and that is designed, modified or purpose-built primarily for recreational nonhighway all-terrain travel." A.R.S. § 28-1171(6)(a). Although *off-highway vehicle* "[i]ncludes a tracked or wheeled vehicle, utility vehicle, all-terrain vehicle, motorcycle, four-wheel drive vehicle, dune buggy, sand rail, amphibious vehicle, ground effects or air cushion vehicle and any other means of land transportation deriving motive power from a source other than muscle or wind," it includes neither a vehicle "[d]esigned primarily for travel on, over or in the water," nor one "[u]sed in installation, inspection, maintenance, repair or related activities involving facilities for the provision of utility or railroad service or used in the exploration or mining of minerals or aggregates as defined in title 27." A.R.S. § 28-1171(6)(b)-(c).

Moreover, in order to qualify as off-highway vehicles for purposes of the agricultural machinery and equipment deduction, such vehicles must not only satisfy the statutory definition just given but must also

- be "modified at the time of sale to function as a tractor or to tow tractor-drawn implements" *and*
- either
    - not be "equipped with a modified exhaust system to increase horsepower or speed or an engine that is more than one thousand cubic centimeters" or
    - "have a maximum speed of fifty miles per hour or less."

A.R.S. § 42-5061(B)(14)(a).

Finally, in accordance with the statute's purposes, an off-highway vehicle must be predominantly used for agricultural purposes in order to qualify for the deduction. *See* A.R.S. § 42-5061(B)(14) (confining the deduction's scope to machinery and equipment "used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products").

Self-powered implements are not specifically defined by statute, but do "include[] machinery and equipment that are electric-powered." A.R.S. § 42-5061(B)(14)(b). Such implements are those used for ploughing, cultivating, clearing, or rolling land; sowing seed; spreading fertilizer; harvesting crops; spraying; chaffcutting; or other similar operations.

Examples of tangible personal property qualifying as agricultural machinery or equipment are

- tractors;
- tractor-drawn implements, including
  - land planes,
  - plows,
  - discs, and
  - harrows;
- self- or electric-powered implements, including
  - cotton pickers,
  - combines,
  - fertilizer sprayers, and
  - bailers;
- machinery and equipment necessary for extracting milk such as milking machines; and
- machinery and equipment necessary for cooling milk and livestock, including
  - milk-cooling systems and storage tanks,
  - livestock-cooling fans, and
  - livestock-cooling misting systems.

If tangible personal property both (1) qualifies as a type of machinery or equipment enumerated in the statute, and (2) is "used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state," A.R.S. § 42-5061(B)(14), then it constitutes agricultural machinery or equipment. As such, the gross proceeds derived from its sale are deductible under A.R.S. § 42-5061(B)(14), while the gross proceeds derived from its lease or rental are deductible under A.R.S. § 42-5071(B)(2)(b).

QUESTIONS AND ANSWERS:

The following list provides questions and answers regarding the taxation of agricultural machinery and equipment under the retail and personal property rental classifications:

Q: Must machinery or equipment be new in order to qualify as exempt agricultural machinery or equipment under the retail classification?
A: No. Formerly, A.R.S. § 42-5061(B)(14) offered a deduction only for *new* agricultural machinery and equipment; the 2022 amendment, however, eliminated the requirement that the machinery or equipment be new.

Q: Is the length of the lease or rental relevant to determining whether agricultural machinery or equipment is exempt under the personal property rental classification?

A. No, not for state TPT purposes. Formerly, A.R.S. § 42-5071(B)(2)(b) offered a deduction only if the lease or rental was for at least two years; the 2022 amendment, however, eliminated that length-of-lease requirement. The requirement remains, however, for city privilege tax purposes.

Q: May agricultural machinery or equipment be deductible under the retail classification if the machinery or equipment has previously been sold or leased?
A: Yes. The previous sale or lease of agricultural equipment or machinery does not preclude the deductibility of the gross proceeds of a subsequent sale of that machinery or equipment.

Q: May agricultural machinery or equipment be deductible under the personal property rental classification if the machinery or equipment has previously been sold or leased?
A: Yes, for state TPT purposes. The previous sale or lease of agricultural equipment or machinery does not preclude the deductibility of the gross proceeds of a subsequent lease of that machinery or equipment. For city privilege tax purposes, however, the rental deduction continues to be limited to new agricultural equipment or machinery.

Q: Is the sale or rental of a vehicle that satisfies A.R.S. § 28-1171(6)'s definition of *off-highway vehicle*—i.e., the vehicle is "a motorized vehicle that is operated primarily off of highways and that is designed, modified or purpose-built primarily for recreational nonhighway all-terrain travel"—eligible for the deduction for agricultural machinery and equipment?
A: An off-highway vehicle as defined by A.R.S. § 28-1171(6) is eligible for the deduction only if it also meets the requirements of A.R.S. § 42-5061(B)(14)(a)—i.e., it must also (1) be "modified at the time of sale to function as a tractor or to tow tractor-drawn implements," and (2) either (a) lack "a modified exhaust system to increase horsepower or speed or an engine that is more than one thousand cubic centimeters," or (b) "have a maximum speed of fifty miles per hour or less." For city privilege tax purposes, however, this applies only to retail sales, not to rentals.

Q: Does these new tax treatments apply for city privilege tax purposes as well?
A. Yes and no: while they do apply to city privilege tax under the retail classification, they do not apply under the personal property rental classification. As a result, the MCTC's limitation of the rental deduction to only new agricultural machinery and equipment still controls for city privilege tax purposes.

RULING:

The gross income derived from sales of agricultural machinery and equipment is deductible under the retail classification for state, county, and city tax purposes.

The gross income derived from leases or rentals of agricultural machinery and equipment is deductible under the personal property rental classification for state and county tax purposes. For city privilege tax, only gross income derived from leases or rentals of *new* agricultural machinery and equipment is deductible.

Robert Woods
Robert Woods (Apr 1, 2025 07:06 PDT)

Robert Woods, Director

Signed: April 1, 2025

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.