

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 15. REVENUE

#### CHAPTER 5. DEPARTMENT OF REVENUE TRANSACTION PRIVILEGE AND USE TAX SECTION

[R05-211]

#### PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R15-5-2241                  | Repeal                   |
| R15-5-2242                  | Repeal                   |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 42-1005  
Implementing statute: A.R.S. § 42-5015
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 11 A.A.R. 2451, July 1, 2005
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Hsin Pai, Tax Analyst  |
| Address:   | Tax Policy and Research Division<br>Arizona Department of Revenue<br>1600 W. Monroe, Room 810<br>Phoenix, AZ 85007 |
| Telephone: | (602) 716-6851   |
| Fax:       | (602) 716-7995   |
| E-mail:    | hpai@azdor.gov   |
- Please visit the ADOR web site to track the progress of these rules and other agency rulemaking matters at [www.azdor.gov/tra/draftdoc.htm](http://www.azdor.gov/tra/draftdoc.htm).
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
A.R.S. § 42-5015, the implementing statute for A.A.C. R15-5-2241 and R15-5-2242, governs the refunds of Arizona transaction privilege and use taxes provided to qualifying motion picture production companies. The Department is repealing the rules pursuant to the underlying legislative repeal of A.R.S. § 42-5015. See 2005 Ariz. Sess. Laws 317 § 4 (signed by Governor Janet Napolitano on May 20, 2005). The legislative repeal has a general effective date of August 12, 2005.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable

Notices of Proposed Rulemaking

**8. The preliminary summary of the economic, small business, and consumer impact:**

This rulemaking is the initial and necessary step toward eliminating rules that fail to conform to statute and introducing clear and understandable rules that provide guidance to interested parties and the general public on the new motion picture production tax incentives.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Hsin Pai, Tax Analyst  
Address: Tax Policy and Research Division  
Arizona Department of Revenue  
1600 W. Monroe, Room 810  
Phoenix, AZ 85007  
Telephone: (602) 716-6851  
Fax: (602) 716-7995  
E-mail: hpai@azdor.gov

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

No oral proceeding is scheduled. Under A.R.S. § 41-1023(C), an oral proceeding will be scheduled if a written request is submitted to the person identified in item #4 within 30 days after publication of this notice.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE  
TRANSACTION PRIVILEGE AND USE TAX SECTION

ARTICLE 22. TRANSACTION PRIVILEGE TAX – ADMINISTRATION

Section

- R15-5-2241. ~~Spending Requirements Repealed~~  
R15-5-2242. ~~Reports Repealed~~

ARTICLE 22. TRANSACTION PRIVILEGE TAX – ADMINISTRATION

**R15-5-2241. Spending Requirements Repealed**

- ~~**A.** A motion picture production company shall satisfy the statutory spending requirements prior to applying for a refund.  
**B.** The statutory 12-month period begins with the first expenditure in the state reported at the discretion of the motion picture company.  
**C.** For purposes of determining includible expenditures within a 12-month period, the following shall apply:  
1. The date of the expenditure, regardless of the method of payment, shall establish the qualification of the expenditure in satisfying the statutory requirement.  
2. Any expenditure made by credit card or petty cash shall be includible if the following conditions are met prior to the submission of the refund request:  
a. The credit card liability shall be paid through the checking account in a financial institution in this state; and  
b. The petty cash account shall be reimbursed through the checking account in a financial institution in this state.  
**D.** For purposes of determining the location of a transaction, the following criteria shall apply:  
1. For retail purchases of tangible personal property, the location of the transaction shall be determined at the time and place that the customer takes title to the personal property. Title passes at the time and place of the physical delivery of the goods to the purchaser absent any agreement to the contrary. If an agreement exists regarding the delivery of the tangible personal property, title passes at the location designated in the agreement.~~

2. For leases of tangible personal property, the location of the transaction shall be determined pursuant to Article 15.

**R15-5-2242. Reports Repealed**

- ~~A. The motion picture production company shall submit the following reports when applying for a refund of transaction privilege or use taxes paid:~~
- ~~1. The total expenditure report in order to document that the company has had at least \$1 million in total qualified expenditures during the 12 month period and which shows that the expenditures were paid through a financial institution in this state;~~
  - ~~2. The payroll expenditure report for purposes of documenting salaries and wages paid to Arizona residents filing an Arizona personal income tax return in the preceding year; and~~
  - ~~3. The final expenditure report documenting purchases and leases of tangible personal property within the state of Arizona upon which a tax refund may be obtained.~~
- ~~B. The total expenditure report shall include the following:~~
- ~~1. The name of the vendor;~~
  - ~~2. The period covered;~~
  - ~~3. A description of the expenditure, and~~
  - ~~4. The total amount of the expenditure.~~
- ~~C. The payroll expenditure report shall include the following:~~
- ~~1. Employee name;~~
  - ~~2. Employee social security number;~~
  - ~~3. Period covered, and~~
  - ~~4. Total wages paid to each employee for the period.~~
- ~~D. The final expenditure report shall include the following:~~
- ~~1. Name of vendor;~~
  - ~~2. Arizona Transaction Privilege Tax license number of any vendor if purchases or leases of tangible personal property from that vendor total \$500 or more;~~
  - ~~3. Purchase order numbers or vendor's invoice numbers, including dates;~~
  - ~~4. Name of financial institution and the number of the check which was used to purchase or lease tangible personal property;~~
  - ~~5. Credit card number used to purchase or lease tangible personal property;~~
  - ~~6. Date of purchase or lease;~~
  - ~~7. Description of tangible personal property purchased or leased;~~
  - ~~8. City where tangible personal property purchased or leased;~~
  - ~~9. Price of tangible personal property before tax;~~
  - ~~10. Total amount of tax paid; and~~
  - ~~11. Type of tax paid: transaction privilege or use tax.~~
- ~~E. Forms as issued by the Department of Revenue may be used for submission of the required information.~~