

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 116

HOUSE BILL 2055

AN ACT

AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-6008 AND 42-6009; RELATING TO MUNICIPAL TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 42, chapter 6, article 1, Arizona Revised Statutes,
3 is amended by adding sections 42-6008 and 42-6009, to read:

4 42-6008. Municipal interest rates

5 A CITY OR TOWN THAT LEVIES AND COLLECTS A TAX UNDER THE MODEL CITY TAX
6 CODE SHALL COMPUTE INTEREST ON A DEFICIENCY ASSESSMENT OR A CLAIM FOR REFUND
7 OR CREDIT AT THE RATE AND IN THE MANNER PRESCRIBED BY SECTION 42-1123,
8 SUBSECTION A.

9 42-6009. Municipal refunds; valid claim; notice of denial;
10 limitations period; conditions or requirements;
11 interest; recovery of fees; definitions

12 A. A CLAIM FOR CREDIT OR REFUND OF MUNICIPAL TRANSACTION PRIVILEGE TAX
13 FILED WITH THE TAX COLLECTOR IS VALID FOR PURPOSES OF FILING IF THE CLAIM IS
14 IN WRITING, IDENTIFIES THE CLAIMANT BY NAME, ADDRESS AND TAX IDENTIFICATION
15 NUMBER AND PROVIDES THE AMOUNT OF CREDIT OR REFUND REQUESTED, THE SPECIFIC
16 TAX PERIOD INVOLVED AND THE SPECIFIC GROUNDS FOR THE CLAIM.

17 B. IF A CREDIT OR REFUND CLAIM IS VALID UNDER SUBSECTION A OF THIS
18 SECTION, THE TAX COLLECTOR SHALL NOT REFUSE TO PROCESS THE CLAIM OR REQUIRE
19 THE CLAIMANT TO REFILE THE CREDIT OR REFUND CLAIM. IF THE TAX COLLECTOR
20 REFUSES TO PROCESS OR REQUIRES REFILEING OF A CREDIT OR REFUND CLAIM THAT IS
21 VALID UNDER SUBSECTION A OF THIS SECTION:

22 1. FOR PURPOSES OF THE LIMITATION PERIOD, THE CREDIT OR REFUND CLAIM
23 SHALL BE DEEMED RECEIVED ON THE DATE THE ORIGINAL FILING WAS RECEIVED BY THE
24 TAX COLLECTOR NOTWITHSTANDING THE TAX COLLECTOR'S REFUSAL TO PROCESS OR
25 REQUIREMENT TO REFILE THE CLAIM.

26 2. THE CLAIMANT MAY TREAT THE TAX COLLECTOR'S REFUSAL TO PROCESS OR
27 REQUIREMENT TO REFILE AS A DENIAL OF THE CREDIT OR REFUND CLAIM BY FILING A
28 PETITION FOR HEARING REGARDING THE REFUSAL TO PROCESS OR REQUIREMENT TO
29 REFILE UNDER THE ADMINISTRATIVE REVIEW PROVISIONS OF THE MODEL CITY TAX CODE
30 OR STATE LAW, AS APPLICABLE. THE CLAIMANT MAY FILE A PETITION FOR HEARING AT
31 ANY TIME AFTER THE REFUSAL TO PROCESS OR REQUIREMENT TO REFILE THE CLAIM.

32 C. NO DENIAL OF THE CREDIT OR REFUND CLAIM OCCURS UNTIL THE TAX
33 COLLECTOR NOTIFIES THE CLAIMANT IN WRITING THAT STATES:

34 1. THE CLAIM FOR CREDIT OR REFUND HAS BEEN DENIED AND THE REASONING
35 FOR THE DENIAL.

36 2. THE NOTICE CONSTITUTES A DENIAL OF THE CREDIT OR REFUND CLAIM THAT
37 TRIGGERS THE DEADLINE FOR FILING A PETITION FOR HEARING UNDER THE
38 ADMINISTRATIVE REVIEW PROVISIONS OF THE MODEL CITY TAX CODE OR STATE LAW, AS
39 APPLICABLE. NO TIME LIMITATION FOR FILING AN ADMINISTRATIVE APPEAL BEGINS
40 UNTIL THE TAX COLLECTOR ISSUES SUCH NOTIFICATIONS.

41 D. ANY REQUEST BY THE TAX COLLECTOR FOR ADDITIONAL INFORMATION TO
42 PROCESS THE CREDIT OR REFUND CLAIM SHALL BE REASONABLY RELATED TO THE CREDIT
43 OR REFUND CLAIM. THE TAX COLLECTOR SHALL NOT REQUIRE A CLAIMANT TO PROVIDE
44 ANY REPORT OR INFORMATION THAT IS NOT REQUIRED TO BE MAINTAINED IN THE NORMAL
45 COURSE OF BUSINESS UNDER THE RECORDKEEPING REQUIREMENTS OF THE MODEL CITY TAX

1 CODE. EXCEPT FOR INFORMATION REASONABLY NECESSARY TO SUBSTANTIATE A
2 CUSTOMER'S EXEMPTION CLAIM, THE TAX COLLECTOR SHALL NOT REQUIRE A CLAIMANT TO
3 PROVIDE ANY INFORMATION RELATING TO THE CLAIMANT'S SPECIFIC CUSTOMERS,
4 WHETHER OR NOT THE CLAIMANT COLLECTED THE TAX FROM CUSTOMERS BY SEPARATELY
5 STATED ITEMIZATION. THE TAX COLLECTOR SHALL NOT IMPOSE UNREASONABLE TIME
6 LIMITS FOR A CLAIMANT TO RESPOND TO ANY VALID REQUEST FOR A REPORT OR
7 INFORMATION. THE TAX COLLECTOR SHALL GRANT A CLAIMANT'S REASONABLE REQUEST
8 FOR ONE OR MORE EXTENSIONS TO PROVIDE ANY REQUESTED REPORT OR INFORMATION.
9 ANY DENIAL OF THE REQUEST SHALL STATE IN WRITING THAT:

10 1. THE CLAIM FOR CREDIT OR REFUND HAS BEEN DENIED AND THE REASON FOR
11 THE DENIAL.

12 2. THE NOTICE CONSTITUTES A DENIAL OF THE CREDIT OR REFUND CLAIM THAT
13 TRIGGERS THE DEADLINE FOR FILING A PETITION FOR HEARING UNDER THE
14 ADMINISTRATIVE REVIEW PROVISIONS OF THE MODEL CITY TAX CODE OR STATE LAW, AS
15 APPLICABLE.

16 E. THE TAX COLLECTOR SHALL NOT CONDITION A CREDIT OR REFUND ON THE
17 CLAIMANT'S REMITTANCE OF THE CREDIT OR REFUND TO CUSTOMERS, WHETHER OR NOT
18 THE TAX WAS COLLECTED BY SEPARATELY STATED ITEMIZATION. TAX PAID ON AN
19 ACTIVITY THAT IS NOT SUBJECT TO TAX OR THAT QUALIFIES FOR AN EXEMPTION,
20 DEDUCTION, EXCLUSION OR CREDIT IS NOT EXCESS COLLECTED TAX.

21 F. INTEREST ON A CREDIT OR REFUND FOR OVERPAID MUNICIPAL TRANSACTION
22 PRIVILEGE TAX SHALL BE PAID TO THE CLAIMANT AT THE RATE AND IN THE MANNER
23 PRESCRIBED BY SECTION 42-1123, SUBSECTION A. INTEREST ON A REFUND OR CREDIT
24 CLAIM SHALL BE COMPUTED FROM THE DATE THE CLAIM IS FILED.

25 G. A CLAIMANT THAT IS ULTIMATELY DETERMINED TO BE ENTITLED TO A CREDIT
26 OR REFUND OF MUNICIPAL TRANSACTION PRIVILEGE TAX MAY BE AWARDED BY ORDER OF A
27 COURT, BOARD OR HEARING OFFICER, REASONABLE FEES AND OTHER COSTS RELATING TO
28 THE ADMINISTRATIVE PROCESSING OR ADMINISTRATIVE APPEAL OF THE CREDIT OR
29 REFUND CLAIM, IF THE TAX COLLECTOR'S POSITION WAS NOT SUBSTANTIALLY JUSTIFIED
30 OR WAS BROUGHT FOR THE PURPOSE OF HARASSING THE CLAIMANT, FRUSTRATING THE
31 CREDIT OR REFUND PROCESS OR DELAYING THE CREDIT OR REFUND.

32 H. IF A DISCREPANCY OCCURS BETWEEN THIS SECTION AND ANY PROVISION OF
33 THE MODEL CITY TAX CODE, THIS SECTION SHALL APPLY.

34 I. FOR THE PURPOSES OF THIS SECTION:

35 1. "CLAIMANT" MEANS A TAXPAYER THAT HAS PAID THE MUNICIPAL TRANSACTION
36 PRIVILEGE TAX THAT IS THE SUBJECT OF THE CREDIT OR REFUND CLAIM. EXCEPT
37 WHERE THE TAXPAYER HAS GRANTED A CUSTOMER A POWER OF ATTORNEY TO PURSUE A
38 CREDIT OR REFUND CLAIM ON THE TAXPAYER'S BEHALF, CLAIMANT DOES NOT INCLUDE
39 ANY CUSTOMER OF SUCH TAXPAYER, WHETHER OR NOT THE CLAIMANT COLLECTED THE TAX
40 FROM CUSTOMERS BY SEPARATELY STATED ITEMIZATION.

41 2. "MODEL CITY TAX CODE" MEANS THE MODEL CITY TAX CODE AS DEFINED IN
42 SECTION 42-5051, ITS APPENDICES AND REGULATIONS, AS ADOPTED IN THE CITY OR
43 TOWN AND INCLUDES THE SPECIFIC STATE LAW INCORPORATED IN THE MODEL CITY TAX
44 CODE AND THE INTERPRETATION OF STATE LAW.

1 3. "MUNICIPAL TRANSACTION PRIVILEGE TAX" MEANS A MUNICIPAL TRANSACTION
2 PRIVILEGE TAX, MUNICIPAL PRIVILEGE LICENSE TAX OR MUNICIPAL TRANSACTION
3 PRIVILEGE LICENSE TAX, MUNICIPAL USE TAX OR SIMILAR EXCISE TAX THAT IS
4 IMPOSED BY THE TAX COLLECTOR.

5 4. "REASONABLE FEES AND OTHER COSTS" MEANS FEES AND OTHER COSTS THAT
6 ARE BASED ON PREVAILING MARKET RATES FOR THE KIND AND QUALITY OF THE
7 FURNISHED SERVICES, NOT TO EXCEED THE AMOUNTS ACTUALLY PAID FOR EXPERT
8 WITNESSES, THE COST OF ANY STUDY, ANALYSIS, REPORT, TEST, PROJECT OR COMPUTER
9 PROGRAM THAT IS FOUND TO BE NECESSARY TO PREPARE THE CLAIMANT'S CASE AND
10 NECESSARY FEES FOR ATTORNEYS OR OTHER REPRESENTATIVES.

11 5. "TAX COLLECTOR" MEANS THE MUNICIPAL TAX COLLECTOR OR THE DEPARTMENT
12 WHEN IT IS ACTING AS THE TAX COLLECTOR FOR THOSE CITIES AND TOWNS IN THE
13 STATE COLLECTION PROGRAM, AS APPLICABLE UNDER THE MODEL CITY TAX CODE AND ITS
14 APPENDICES.

15 Sec. 2. Effective date; application

16 A. This act is effective September 30, 2005.

17 B. Sections 42-6008 and 42-6009, Arizona Revised Statutes, as added by
18 this act, shall not be cited or considered in the construction or the
19 interpretation of the municipal tax refund or credit provisions, interest
20 provisions or appeal provisions in the model city tax code in effect before
21 October 1, 2005.

APPROVED BY THE GOVERNOR APRIL 18, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2005.



Passed the House March 7, 2005,

Passed the Senate April 7, 2005,

by the following vote: 31 Ayes,

by the following vote: 18 Ayes,

22 Nays, 7 Not Voting

11 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

~~This Bill was received by the Governor this
_____ day of _____, 20____,
at _____ o'clock _____ M.

Secretary to the Governor~~

~~Approved this _____ day of
_____, 20____,
at _____ o'clock _____ M.

Governor of Arizona~~

H.B. 2055

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

~~This Bill was received by the Secretary of State
this _____ day of _____, 20____,
at _____ o'clock _____ M.

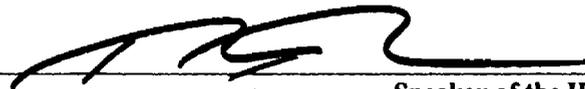
Secretary of State~~

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 12, 2005,

by the following vote: 57 Ayes,

2 Nays, 1 Not Voting


Speaker of the House
Pro Tempore
Speman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
13th day of April, 2005

at 12:00 o'clock P. M.

Weninger Ubarra
Secretary to the Governor

Approved this 18 day of

April, 2005,

at 1:45 o'clock P. M.

Jon Rupp
Governor of Arizona

H.B. 2055

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 18 day of April, 2005

at 11:42 o'clock P. M.

Janice K. Brewer
Secretary of State