The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the Arizona Administrative Register.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules. This Chapter contains rule Sections that were filed to be codified in the Arizona Administrative Code between the dates of October 1, 2020 through December 31, 2020.

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The release of this Chapter in Supp. 20-4 replaces Supp. 19-3, 1-49 pages
Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.
PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES
The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE
The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions.

The Code is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the Code. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31
For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS
The Office began to authenticate chapters of the Administrative Code in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each Code chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the Code includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE
Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES
The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES
Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA
It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Register online at www.azsos.gov/rules, click on the Administrative Register link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR
At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

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Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.
## ARTICLE 1. RETAIL CLASSIFICATION

*New Article 1, consisting of Section R15-5-151, adopted effective April 15, 1983 (Supp. 93-2).*

*Former Article 1, consisting of Sections R15-5-101 through R15-5-104, repealed effective April 13, 1987.*

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ARTICLE 1. DEPARTMENT OF REVENUE - TRANSACTION PRIVILEGE AND USE TAX SECTION

R15-5-101. Definitions
In this Chapter, unless the context requires otherwise or unless otherwise defined:

A. The term “AZTaxes.gov” has the same meaning as prescribed in A.R.S. § 42-1001.

B. “Casual activity or sale” means an occasional transaction of an isolated nature made by persons who neither represent themselves to be nor are engaged in a business that is subject to transaction privilege tax. Casual activity or sale includes, but is not limited to, sales of used capital assets, provided that the volume and frequency of such sales do not indicate that the seller regularly engages in selling such property.

C. “Department” has the same meaning as prescribed in A.R.S. § 42-1001.

D. “Gross income,” “gross receipts,” “marketplace facilitator,” and “marketplace seller” have the same meanings as prescribed in A.R.S. § 42-5001.

E. “Real property” means land and anything permanently affixed to land.

F. “Remote seller” has the same meaning as prescribed in A.R.S. § 42-5001.

G. “Retailer” has the same meaning as prescribed in A.R.S. § 42-5001.

H. “Taxpayer” has the same meaning as prescribed in A.R.S. § 42-5001.

I. “Vendor” means any person engaged in a business activity that is subject to any tax levied under A.R.S. Title 42, Chapter 5 and 6, including a retailer.

Historical Note
Amended effective November 7, 1978 (Supp. 78-6).

R15-5-102. Casual Activities or Sales
A. Gross receipts from a casual activity or sale are not taxable under the retail classification.

B. Except as otherwise provided in R15-5-2002, a retailer, including as a marketplace facilitator or remote seller, cannot engage in a casual sale of tangible personal property of the same type or character as that which the person regularly sells at retail. A marketplace facilitator is deemed to regularly sell any tangible personal property sold on its marketplace.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3). Amended by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

R15-5-103. Sale of Business Enterprises
Gross receipts from the sale of a business as a going concern are not subject to tax if the sale is for the business as an operating enterprise.

Historical Note
Renumbered from R15-5-1817 and amended effective August 9, 1993 (Supp. 93-3). Amended by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

R15-5-104. Service Businesses
A. Gross receipts from the sale of tangible personal property to a person engaged in a professional or personal service occupation or business are subject to tax if the tangible personal property is used or consumed in the performance of the service or is sold only as an inconsequential element of the nontaxable service provided.

B. Gross receipts from the sale of tangible personal property, by a person engaged in a professional or personal service occupation or business, are not subject to tax if the property is sold only as an inconsequential element of the nontaxable service provided.

C. Sales of tangible personal property are inconsequential elements of the service if:
   1. The purchase price of the tangible personal property to the person rendering the services represents less than 15% of the charge, billing, or statement rendered to the purchaser in connection with the transaction;
   2. At the time of the sale, the tangible personal property transferred is not in a form that is subject to retail sale; and
   3. The charge for the tangible personal property is not separately stated on the invoice.

D. A person engaged in both a retail business and a service business shall keep records of purchases of tangible personal property sufficient to establish whether the property was resold as a taxable retail sale.

Historical Note

R15-5-105. Services in Connection with Retail Sales
Gross receipts from services rendered in addition to selling tangible personal property at retail are subject to tax unless the charge for service is shown separately on the sales invoice and records.

Historical Note

R15-5-106. Finance Charges in Connection with Retail Sales
Gross receipts from finance, carrying charges, or interest charges incurred in connection with a retail sale of tangible personal property are not subject to tax if:
   1. The charges are separately stated as part of the sales transaction; and
   2. The charges result from the sale of such property on credit or under an installment contract.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

R15-5-107. Sales for Resale or Lease
A. Gross receipts from the sale of tangible personal property to be resold by the purchaser in the ordinary course of business are not subject to tax under the retail classification.

B. Gross receipts from the sale of tangible personal property to be leased by a person in the business of leasing such personal property are not subject to tax under the retail classification. The lessor of real property are subject to tax if:
CHAPTER 5. DEPARTMENT OF REVENUE - TRANSACTION PRIVILEGE AND USE TAX SECTION

R15-5-108. Reserved

R15-5-109. Reserved

R15-5-110. Lease-purchase Agreements
A. Gross income derived from the leasing of tangible personal property under a lease-purchase agreement is subject to tax under the personal property rental classification.
B. Payments received after the conversion from a lease to a purchase are subject to tax under the retail classification.
C. Gross receipts from the sale of tangible personal property include conversion charges paid or incurred at the time the lease is converted to a purchase.

Historical Note

R15-5-111. Consignment Sales
A. In this Section:
1. “Consignee” means the party that is in the business of selling tangible personal property belonging to a consignor.
2. “Consignor” means the party with the legal right to contract the services of the consignee to sell tangible personal property on behalf of the consignor.
B. Gross receipts from consignment sales are subject to tax under the retail classification.
C. Except as provided in subsection (D), a consignee shall obtain a transaction privilege tax license before making consignment sales.
D. A consignee who is a marketplace facilitator without a physical presence in Arizona, as provided in R15-5-2002(B), is required to obtain a transaction privilege tax license upon meeting the threshold requirements in A.R.S. § 42-5044.

Historical Note

R15-5-112. Sales by Auctioneers
A. Gross receipts from the sales of tangible personal property by an auctioneer are subject to tax under the retail classification.
B. Except as provided in subsection (C), an auctioneer shall obtain a transaction privilege tax license before conducting an auction.
C. An auctioneer who is a marketplace facilitator without a physical presence in Arizona, as provided in R15-5-2002(B), is required to obtain a transaction privilege tax license upon meeting the threshold requirements in A.R.S. § 42-5044.

Historical Note
R15-5-112. Renumbered from R15-5-1830 effective August 9, 1993 (Supp. 93-3).

R15-5-113. Sales by Trustees, Receivers, and Assignees
A. Gross receipts from the sale of tangible personal property by a trustee, receiver, or assignee are subject to tax if the sale of the property in the hands of the owner would be subject to tax.
B. Gross receipts from the sale of tangible personal property by a trustee, receiver, or assignee are not subject to tax if the sale of the property in the hands of the owner would not be subject to tax.

Historical Note

R15-5-114. Reserved

R15-5-115. Reserved

R15-5-116. Reserved

R15-5-117. Reserved

R15-5-118. Reserved

R15-5-119. Reserved

R15-5-120. Exempt Sales of Machinery or Equipment
A. Machinery or equipment used in manufacturing or processing includes machinery or equipment that constitutes the entire primary manufacturing or processing operation from the initial stage where actual processing begins through the completion of the finished end product, processing, finishing, or packaging of articles of commerce. Manufacturing is the performance of a business of an integrated series of operations which place tangible personal property in a form, composition, or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character, or use.
B. Gross receipts from the sale of repair or replacement parts for exempt machinery or equipment are not subject to the tax under the retail classification. Repair or replacement parts are defined as those individual component and constituent items which, together, comprise exempt machinery or equipment.
C. In establishing the exempt sale of machinery or equipment, the seller shall keep adequate documentation, pursuant to statutory requirements and as delineated in R15-5-2214, for the statutorily required period of time.

Historical Note
R15-5-120. Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended paragraphs (9) and (10) effective March 18, 1981 (Supp. 81-2). Renumbered from R15-5-1822 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-121. Sales of Fuel Used in Manufacturing
The sale of fuel used or consumed in a manufacturing process is taxable. The fuel is not considered to be incorporated into the manufactured product.

Historical Note
R15-5-121. Renumbered from R15-5-1830 effective August 9, 1993 (Supp. 93-3).

R15-5-122. Articles Incorporated into a Manufactured Product
CHAPTER 5. DEPARTMENT OF REVENUE - TRANSACTION PRIVILEGE AND USE TAX SECTION

A. Sales of articles to be incorporated into a fabricated or manufactured product are considered to be sales for resale and, therefore, exempt. For example, the sale of wood to a furniture manufacturer is a sale for resale.

B. In order for the exemption to apply, the materials must actually become a part of the finished product. Supplies which are consumed in the manufacturing process do not qualify.

Historical Note
Renumbered from R15-5-1839 effective August 9, 1993 (Supp. 93-3).

R15-5-123. Sale of Tools and Supplies to Businesses
The sale of tools, supplies, and other articles to be used or consumed by persons in the operation of their businesses, and not for resale, are taxable as retail sales.

Historical Note
Renumbered from R15-5-1849 effective August 9, 1993 (Supp. 93-3).

R15-5-124. Reserved

R15-5-125. Reserved

R15-5-126. Manufacturing Labor
The cost of labor employed in manufacturing, processing, or fabricating tangible personal property shall not be allowed as a deduction from the gross receipts derived from a sale of such property.

Historical Note
Renumbered from R15-5-1848 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-127. Sales of Fuel
A. In this Section, “aviation fuel” and “dyed diesel fuel” have the same meanings as prescribed in A.R.S. §§ 28-101 and 28-5601.

B. Gross receipts from the sale of dyed diesel fuel are subject to transaction privilege tax.

C. Gross receipts from the sale of liquefied petroleum gas or natural gas used to propel a motor vehicle are exempt from transaction privilege tax.

D. Aviation fuel is subject to tax under A.R.S. § 28-8344 only.

E. Gross receipts from the retail sale of jet fuel are subject to the jet fuel excise and use tax under A.R.S. § 42-5352.

Historical Note
Renumbered from R15-5-3004 and amended effective August 9, 1993 (Supp. 93-3). Section amended by final rulemaking at 10 A.A.R. 4480, effective December 4, 2004 (Supp. 04-4).

R15-5-128. Electric Power Transmission and Distribution
A. Gross receipts from the sale of machinery, equipment, or transmission lines for direct use in a transmission system are deductible from the tax base. Gross receipts from the sale of machinery, equipment, or lines for use in a distribution system are taxable.

B. Machinery and equipment used to facilitate the production of voltage up to and including 34,500 volts shall be considered part of a distribution system.

1. Gross receipts from the sale of such equipment are subject to transaction privilege tax.

2. If tangible personal property was purchased as exempt, subsequent nonexempt use shall subject the gross purchase price to use tax according to statutory provisions.

C. Machinery and equipment used to facilitate the production of voltage above 34,500 volts shall be categorized as part of a transmission or distribution system based on the following definitions.

1. “Transmission system” means:

a. All land, conversion structures, and equipment employed at a primary source of supply to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission;

b. All land, structures, lines, switching and conversion stations, high tension apparatus and their control and protective equipment between a generating or receiving point and the entrance to a distribution center or wholesale point; and

c. All lines and equipment whose primary purpose is to augment, integrate, or tie together the sources of power supply.

2. “Distribution system” means all land, structures, conversion equipment, lines, line transformers, and other facilities employed between the primary source of supply and of delivery to customers, which are not includible in a transmission system whether or not such land, structures, and facilities are operated as part of a transmission system or as part of a distribution system. Stations which change electricity from transmission to distribution voltage shall be classified as distribution stations.

3. “Primary source of supply” means a generating station or point of receipt in the case of purchased power.

4. Dual-use equipment shall be designated as follows:

a. If poles or towers support both transmission and distribution conductors, the poles, towers, anchors, guys, and rights-of-way shall be classified as a transmission system. The conductors, crossarms, braces, grounds, tiewire, insulators, and other similar tangible personal property shall be classified as transmission or distribution facilities, according to the purpose for which they are used.

b. If underground conduit contains both transmission and distribution conductors, the underground conduit and the right-of-way shall be classified as a distribution system. The conductors shall be classified as transmission or distribution facilities according to the purpose for which they are used.

c. Based on statutory provisions, transformers and control equipment utilized operationally at transmission substation sites are considered to be a part of a transmission system and, therefore, are exempt from transaction privilege and use tax.

D. Machinery, equipment, or transmission lines for direct use in a transmission system are only those which are recorded as being part of a transmission system in accordance with the definitions in subsection (C).

1. Gross receipts from the sale of such equipment are exempt from the tax.

2. If such machinery and equipment is removed from inventory to be used as part of a distribution system, the purchase price is subject to use tax.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-129. Discounts, Refunds, and Coupon Redemption
A. Cash discounts allowed the purchaser for timely payment are permissible as deductions from the sale price.

B. Refunds in cash or credit given on returned merchandise are considered to be a reduction of sales.

C. When coupons issued by a manufacturer are redeemed by a retailer the amounts refunded to the purchaser are not permissible as deductions from the selling price of articles sold by the retailer. In these cases, the gross selling price is taxable.
When the property traded in is subsequently sold at retail, the trade-in deduction shall be limited to the amount of the property, the dollar amount of the payment represented by the trade-in is deductible from the retailer’s gross receipts from that sale.

Gross receipts from lay-away agreements shall be taxable when title or possession transfers to the purchaser or at the time receipts from the transaction are determined to be nonrefundable, whichever occurs first.

Gross receipts from deposits received on returnable containers are taxable. Deposit refunds paid to purchasers on the return of such containers shall be deductible from the retailer’s tax base in the month refunded.

Gross receipts from sales of returnable containers which contain taxable food shall be taxable. Gross receipts from deposits received on returnable containers which contain non-taxable food shall not be taxable. Therefore refunds paid on such deposits shall not reduce the tax base.

A warranty or service provision is not subject to use tax as the transaction privilege tax was paid under the retail classification unless statutorily exempt.

For purposes of this rule, the following definitions apply:

1. “Covered” means included in the warranty or service provision.
2. “Warranty or service provision” means a manufacturer’s or vendor’s warranty that is sold automatically with tangible personal property and, for no extra charge, applies to any tangible personal property used in the servicing of the provision.

An exclusion from gross receipts is not allowed for a warranty or service contract under A.R.S. § 42-5061(A).

Tangible personal property sold in conjunction with the servicing of a warranty or service provision, is a sale of tangible personal property that is subject to tax under the retail classification unless statutorily exempt.

Tangible personal property that is covered under a warranty or service provision and used in the servicing of the provision is not subject to use tax as the transaction privilege tax was paid when the tangible personal property was acquired.

For purposes of this rule, the following definition applies:

Adopted effective August 9, 1993 (Supp. 93-3).
“Covered” means included in the warranty or service contract for which the warranty or service contract holder does not pay a separate charge for any tangible personal property used in the servicing of the contract.

B. Gross receipts from the sale of warranty or service contracts are not subject to tax when the contracts are sold as a distinct and separate item and the charge for the warranty or service contract is stated separately on a sales invoice.

C. Tangible personal property sold in conjunction with the servicing of a warranty or service contract, but not covered by the contract, is a sale of tangible personal property that is subject to tax under the retail classification unless statutorily exempt.

D. Tangible personal property that is covered under a warranty or service contract, and used in the servicing of the contract, is subject to use tax unless transaction privilege tax was paid when the tangible personal property was acquired or the tangible personal property is otherwise statutorily exempt.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 679, effective April 7, 2007 (Supp. 07-1).

R15-5-139. Reserved
R15-5-140. Reserved
R15-5-141. Reserved
R15-5-142. Reserved
R15-5-143. Reserved
R15-5-144. Reserved
R15-5-145. Reserved
R15-5-146. Reserved
R15-5-147. Reserved
R15-5-148. Reserved
R15-5-149. Reserved

R15-5-150. Sale of Photography

A. In this Section:
1. “Motion picture” has the same meaning as prescribed in A.R.S. § 41-1517.
2. “Motion picture production company” has the same meaning as prescribed in A.R.S. § 41-1517.
3. “Photography” means the process of taking and supplying images to customers, using film, video, or another data storage medium.
4. “Qualified motion picture production company” means a motion picture production company that holds a valid certificate issued pursuant to A.R.S. § 42-5009(H), establishing the company’s qualification for the A.R.S. § 42-5061(B)(23) exemption.

B. Gross income or gross proceeds derived from a sale of photography are subject to tax under this Article, unless, under A.A.C. R15-5-104(C), the sale of such photography is considered an inconsequential element of nontaxable activities that are associated with the sale. Examples of nontaxable activities that are associated with a sale of photography include research; script consulting; director, crew, and equipment charges; preproduction or postproduction charges; location scouting fees; and music charges. Activities that are associated with the sale of photography are nontaxable if one of the following applies:
1. The vendor is engaged in both a professional or personal service occupation or a service business under A.R.S. § 42-5061(A)(1) and the business of selling photography at retail; or
2. The activities are not part of the manufacture, creation, or fabrication of photography and are not otherwise subject to tax under another Article of this Chapter.

C. Gross income or gross proceeds derived from a sale of photography used directly in motion picture production by a qualified motion picture production company are exempt from tax under this Article pursuant to A.R.S. § 42-5061(B)(23).

Historical Note
Renumbered from R15-5-1836 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-151. Artists and Sales of Artwork

A. Gross receipts from the sale of paintings, drawings, etchings, sculptures, craftwork, other artwork or reproductions of such items to final consumers shall be taxable under the retail classification if the person is making regular sales of these items.

B. Gross receipts from the sale of paintings, canvasses, frames, sculpture ingredients, and other items which will become an integral part of the finished product shall not be taxable if sold to a creating artist who is regularly engaged in the business of creating and selling paintings, drawings, etchings, sculptures, craftwork, other artwork, or reproductions of such items. Sales of brushes, easels, tools, and similar items to be consumed by the creating artist shall be taxable.

C. Except as otherwise provided in A.R.S. § 42-6017, gross receipts from the sale by the creating artist of a painting, drawing, etching, sculpture, or a piece of craftwork that is not a reproduction of an original work shall not be taxable if:
1. The sale is a casual activity or sale; or
2. The sale is a work of fine art at an art auction or gallery in this state to a nonresident of this state for use outside the state.

D. Gross receipts from the sale of commissioned artwork by an individual artist. In this subsection, “commissioned artwork” is a custom, one-of-a-kind art creation made by the individual artist pursuant to the particular requirements of a specific purchaser.

Historical Note

Editor’s Note: R15-5-1812, referenced in subsection (C)(1) above, was repealed. Please refer to R15-5-2001 for information about casual sales.

Editor’s Note: R15-5-2001 referenced in the editor’s note above was renumbered to Section R15-5-101(Supp. 19-3).

R15-5-152. Tangible Personal Property Used in Soil Remediation Activities

The gross receipts from the sale of tangible personal property incorporated or fabricated into any real property, structure, project, development or improvement under a contract specified in A.R.S. § 42-1310.16 (B)(6) are exempt from tax. The gross receipts from the sale of tangible personal property used in soil remediation activities but not incorporated or fabricated into any real property, structure, project, development or improvement are taxable.
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Historical Note

R15-5-153. Four-inch Pipes or Valves
Gross receipts from the sale of pipes, valves, or fire hydrants with an inside diameter of four inches or more are deductible from the tax base if the pipes, valves, or fire hydrants are to be used to transport oil, natural gas, artificial gas, water, or coal slurry.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-154. Computer Hardware and Software
A. Gross receipts derived from services rendered in whole or in part in connection with the sale of computer hardware are exempt, including gross receipts derived from charges imposed for professional and technological services such as analysis, design, support engineering services, classroom instruction, and data conversion services.
B. Except as provided in subsection (C), gross receipts derived from the sale of computer software programs are taxable, regardless of the method that a retail business uses to transfer the programs to its customers.
C. Gross receipts derived from charges imposed for the following business activities originate from nontaxable service activities and are therefore not taxable:
   1. The original creation of an electronic data processing program for the specific use of an individual customer, or
   2. The modification of a prewritten computer software program for the specific use of an individual customer, if the charge for the modification is shown separately on the sales invoice and records.

Historical Note
Renumbered from R15-5-1853 effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 11 A.A.R. 2950, effective September 10, 2005 (Supp. 05-3).

R15-5-155. Delivery Sales of Tobacco Products
A. In this Section:
   1. “Delivery sale” means a sale made by using any of the following:
      a. The mail or a delivery service.
      b. The Internet or a computer network.
      c. Any other electronic method.
   2. “Tobacco product” has the same meaning as prescribed in A.R.S. § 36-798.06.
B. A retailer, including a remote seller or marketplace seller, or marketplace facilitator shall not make or facilitate a delivery sale of any tobacco product that violates A.R.S. § 36-798.06.

Historical Note
New Section made by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

R15-5-156. Sales of Prescription Drugs and Prosthetic Appliances
A. In this Section:
   1. “Drug” means an article that, according to federal or state law, is:
      a. Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to these documents; or
      b. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; or
      c. Not food and is intended to affect the structure or any function of the body of humans or animals; or
   3. “Food” means an article used for food or drink for humans or animals, chewing gum, or an article used as a component of such an article.
   4. “Hearing aid” means any wearable device designed as a remedy or to compensate for defective human hearing, including parts, attachments, accessories, and earmolds.
   5. “Legend drug” means a drug that 21 U.S.C. 353(b)(4)(A) requires to bear the symbol “Rx only” before dispensing.
   6. “Nonprescription product” means a drug or other article that can be purchased by the final consumer of the drug or article without a prescription, regardless of whether purchased on the advice or recommendation of a member of the medical, dental, or veterinarian profession. Examples include over-the-counter drugs and those dietary supplements, vitamins, minerals, herbs, and other similar supplements that do not qualify as prescription drugs.
   7. “Over-the-counter drug” means a drug that is subject to federal labeling requirements in 21 CFR 201.66.
   8. “Prescriber” means a member of the medical, dental, or veterinary profession authorized by federal or state law to prescribe a drug.
   10. “Prescription drug” means a legend drug or a drug that, according to federal or state law, can be dispensed only:
       a. Upon a written prescription of a prescriber for the drug;
       b. Upon an oral prescription by the prescriber for the drug that federal or state law requires be reduced promptly to a form of writing by the prescriber and then filed by a pharmacist or the prescriber; or
       c. By refilling a written or oral prescription if refilling is authorized by the prescriber for the drug either in the original prescription or by oral order that is reduced promptly to writing and then filed by a pharmacist or the prescriber.
   11. “Prescription eyeglasses” includes frames and other component parts of eyeglasses if purchased for use with prescription lenses.
   12. “Prosthetic appliance” means an artificial device that fully or partially replaces a part or function of the human body or increases the acuity of a sense organ.
   13. “Prosthesis” means all of the items that can be purchased by the final consumer of the drug or article that requires to bear the symbol “Rx only” before dispensing.

Historical Note
Chapters 5 and 6 of Title 5, Arizona Revised Statutes, as amended through the Laws of 2020, Chapter 1 (Ch. 1 Supp. 2020) (effective January 1, 2020).

B. Gross receipts from sales of the following kinds of tangible personal property are not subject to tax:
   1. Prescription drugs, including those used in the course of treating patients;
   2. Medical oxygen, pursuant to A.R.S. § 42-5061(A)(8);
   3. Insulin, insulin syringes, and glucose strips, whether or not prescribed;
   4. Prosthetic appliances, prescribed or recommended by a statutorily-authorized individual;
   5. Durable medical equipment, pursuant to A.R.S. § 42-5061(A)(13);
   6. Prescription eyeglasses and contact lenses; and
   7. Hearing aids. Batteries and cords are subject to tax.
C. Gross receipts from the sale of component and repair parts for any tangible personal property that is exempt under either subsection (B) or (F) are not subject to tax.
D. If a written prescription or recommendation is required to purchase tangible personal property, a vendor of the property shall maintain the prescription or recommendation as part of the vendor’s records. The vendor’s records for documenting sales
shall provide reasonable detail to allow the Department, upon inspection, to identify property as exempt.
E. Gross receipts from the sale to the final consumer of nonprescription products and those medical supplies or appliances not provided for under subsection (B) are subject to tax.
F. Gross receipts from the sale of nonprescription products or other medical supplies or appliances to doctors, dentists, or veterinarians are subject to tax unless the sale qualifies as a sale for resale and the doctor, dentist, or veterinarian is a retailer in the business of reselling the property.

Historical Note
Renumbered from R15-5-1819 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 11 A.A.R. 2952, effective September 10, 2005 (Supp. 05-3).

R15-5-157. Membership Fees
A. Membership, admission, or other fees charged by a limited-access retail business shall be considered part of the taxable gross income of the business activity.
B. For purposes of this rule, “a limited-access retail business” means a business which does not sell to the general public but which charges a membership fee or a membership due in order to obtain access to the business or to obtain discounts or preferential treatment in the purchase or rental of tangible personal property from or through the business.
C. Gross income shall not include separately billed amounts paid to secure ownership interests or rights in the business which can be transferred or assigned.

Historical Note
Renumbered from R15-5-3036 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-158. Postage Stamps
A. A retailer’s gross receipts from the sale of postage stamps are not included in the tax base under the retail classification if the stamps are sold for the purpose of transporting mail.
B. A retailer’s gross receipts from the sale of postage stamps are included in the tax base under the retail classification if the stamps are sold for any purpose other than transporting mail.
C. The Department shall presume that a postage stamp is sold for a purpose other than transporting mail if the postage stamp is sold for at least 50% more than its face value. A retailer may overcome the presumption; however, the burden of proof will remain on the retailer.
D. A retailer’s gross receipts from the sale of cancelled postage stamps are included in the tax base under the retail classification.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 4112, effective October 4, 2000 (Supp. 00-4).

R15-5-159. Reserved
R15-5-160. Reserved
R15-5-161. Reserved
R15-5-162. Reserved
R15-5-163. Reserved
R15-5-164. Reserved
R15-5-165. Reserved
R15-5-166. Reserved
R15-5-167. Reserved
R15-5-168. Reserved

R15-5-169. Reserved

R15-5-170. Interstate and Foreign Transactions
A. Gross receipts from sales of tangible personal property made in interstate or foreign commerce are deductible from the tax base if all of the following apply:
1. The order is received from a location outside of Arizona;
2. The retailer ships or delivers the tangible personal property to a location outside of Arizona for use outside of Arizona.
B. In meeting the above requirements, if delivery is made by the retailer to a common carrier for transportation to a location outside Arizona, the common carrier is deemed to be the agent of the retailer for purposes of this rule regardless of who is responsible for payment of the freight charges.
C. Suitable records shall be kept to substantiate the deduction for a sale made in interstate commerce. As such, records shall identify the tangible personal property sold and the delivery destination. The following records may be sufficient to substantiate the exemption:
1. Suitable records for substantiating the receipt of an order from out-of-state may include purchase orders, letters, or written memoranda on the receipt of orders placed by telephone.
2. Suitable records for substantiating out-of-state shipments include:
   a. Internal delivery orders supported by receipts of expenses incurred in delivering the property and signed on the delivery date by the person who delivers the property;
   b. Common carrier’s receipt or bill of lading;
   c. Parcel post receipt;
   d. Export declaration;
   e. Receipt from a licensed broker; or
   f. Proof of export or import signed by a customs officer.

Historical Note
Renumbered from R15-5-1814 and amended effective August 9, 1993 (Supp. 93-3).

R15-5-171. Sales to a Common Carrier
Gross receipts from sales made to a common carrier, engaged in interstate business, for delivery by the common carrier to a location outside of Arizona and for use outside of Arizona shall not be taxable if the order is received from a location outside of Arizona and the Arizona retailer prepays the freight charge.

Historical Note
Adopted effective August 9, 1993 (Supp. 93-3).

R15-5-172. Sales by Florists
A. Gross receipts from sales made by florists are taxable. Delivery and relay or transmittal charges, when separately stated, are deductible from the tax base.
B. Orders received by an Arizona florist from an out-of-state customer for delivery within Arizona are taxable. Orders received by an Arizona florist by an out-of-state customer for delivery out-of-state are not taxable.
C. When the florist conducts transactions through a delivery association, the following shall apply:
1. Gross receipts from sales made by an Arizona florist, where the order is subsequently transmitted to another florist for filling and delivery, whether inside or outside of Arizona, are taxable.
2. Gross receipts from sales by Arizona florists who deliver from a transmitted order of another florist, whether the
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 ordering florist is inside or outside of Arizona, are not taxable.

 Historical Note
 Adopted effective August 9, 1993 (Supp. 93-3).

 R15-5-173. Sales of Property Subsequently Taken Out-of-state
 Gross receipts from sales of tangible personal property by Arizona vendors made to purchasers who subsequently take the property out-of-state do not qualify as exempt unless otherwise specifically exempted by statute.

 Historical Note
 Adopted effective August 9, 1993 (Supp. 93-3).

 R15-5-174. Sales to Non-U.S. Citizens
 Gross receipts from sales to non-U.S. citizens are subject to the tax unless otherwise exempt.

 Historical Note
 Adopted effective August 9, 1993 (Supp. 93-3).

 R15-5-175. Expired

 R15-5-176. Expired

 R15-5-177. Reserved

 R15-5-178. Reserved

 R15-5-179. Reserved

 R15-5-180. Sales by Businesses in Federal Areas
 Gross receipts from sales by businesses not operated by or as an agency of the Federal Government, located on military bases or other federal areas, are subject to tax.

 Historical Note
 Renumbered from R15-5-1825 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

 R15-5-181. Governmental Organizations
 A. Gross receipts from the sale of tangible personal property to the state or its political subdivisions are taxable unless otherwise exempt. Gross receipts from the sale of tangible personal property to the Federal Government or its departments and agencies are taxable at the rate prescribed by statute, unless otherwise exempt.
 B. Gross receipts from the sale of tangible personal property by the state or its political subdivisions, when acting in a proprietary capacity, are taxable unless otherwise exempt.
 C. Gross receipts from the sale of tangible personal property by the Federal Government are not taxable.

 Historical Note
 Renumbered from R15-5-1803 and amended effective August 9, 1993 (Supp. 93-3).

 R15-5-182. Nonprofit Organizations

 A. Gross receipts from the sale of tangible personal property to nonprofit churches, schools, and other nonprofit organizations are subject to tax unless otherwise exempt.
 B. Gross receipts from the sale of tangible personal property by a charitable nonprofit organization, recognized as such for income tax purposes by the Internal Revenue Service, are not subject to tax.
 C. For purposes of the statutory exemption and this rule, the Internal Revenue Service recognition of a charitable nonprofit organization is defined in Internal Revenue Code § 501(c)(3).

 Historical Note
 Renumbered from R15-5-1804 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

 R15-5-183. Exempt Sales to Health Organizations
 A. Gross receipts from the sale of tangible personal property to qualifying hospitals, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers are exempt from tax if such purchases are exempt from tax pursuant to statutory provisions.
 B. The Department may, upon review of the written request and any other information requested by the Department to make a proper determination, provide an Exemption Letter to organization meeting the statutory criteria. The Exemption Letter shall be valid for a period of 12 months from the first day of the month following the issue date of the Exemption Letter unless the organization’s tax exempt status changes prior to the end of the 12-month period, or the organization misrepresented or omitted material information in its exemption request.
 C. Qualifying hospitals, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers shall annually submit to the Department a written request for an Exemption Letter. The request shall be submitted at least 30 days prior to the first day of the exemption period. For purposes of this rule, “exemption period” means the 12-month period beginning on the first day of the month following the issue date of the Exemption Letter or the 12-month period requested by the organization.
 1. Qualifying hospitals shall attach to their annual exemption request a copy of their current license issued by the Department of Health Services.
 2. Qualifying health care organizations shall attach to their exemption request letter the statutorily required annual financial audit and a copy of their Internal Revenue Code 501(c) recognition unless the Department has previously received a copy of this recognition.
 3. Rehabilitation programs for mentally or physically handicapped persons shall attach to their exemption request a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.
 4. Qualifying community health centers shall attach to their exemption request documentation supporting the statutory criteria and a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.

 Historical Note
 Renumbered from R15-5-1821 and amended effective August 9, 1993 (Supp. 93-3). Amended effective April 21, 1995 (Supp. 95-2).
ARTICLE 2. RENUMBERED AND REPEALED

R15-5-201. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-202. Renumbered

Historical Note

R15-5-203. Repealed

Historical Note
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-204. Renumbered

Historical Note
Section R15-5-204 renumbered to R15-5-2002 effective October 14, 1993 (Supp. 93-4).

R15-5-205. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-206. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-207. Repealed

Historical Note

R15-5-208. Repealed

Historical Note

R15-5-209. Repealed

Historical Note
Amended effective November 7, 1978 (Supp. 78-6). Amended effective March 18, 1981 (Supp. 81-2). Renumbered as Section R15-5-3023 effective August 26, 1987 (Supp. 87-3). Renumbered and amended in error; Section R15-5-209 is reprinted herewith as it was amended effective March 18, 1981 (Supp. 88-3). Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-210. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-211. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-212. Renumbered

Historical Note
Emergency rule adopted effective April 10, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days; emergency rule readopted with changes effective June 18, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency rule readopted with changes effective September 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Permanent rule adopted with changes effective December 14, 1990 (Supp. 90-4). Renumbered to Section R15-5-2215 effective October 14, 1993 (Supp. 93-4).

ARTICLE 3. REPEALED

R15-5-301. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-302. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-303. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-304. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-305. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-306. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-307. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 4. AMUSEMENT CLASSIFICATION

R15-5-401. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-402. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-403. Amusement Devices

Gross proceeds of sales or gross income from the operation of coin-operated and other devices that provide amusement are included in the tax base under the amusement classification. Examples include: devices that play prerecorded music, electronic games, pinball games, and billiard tables.

1. The tax base from the business of operating amusement devices is the gross amount received from the amusement devices without deduction for commissions paid, rental cost for the equipment, or other expenses.

2. The individual having direct control of the funds generated by the amusement devices shall pay the tax to the Department.

Historical Note
Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

R15-5-404. Other Income

Gross receipts from the sale of programs, souvenirs, or any other items of tangible personal property are included in the tax base under the retail classification.

Historical Note
Amended effective April 21, 1995 (Supp. 95-2).
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R15-5-506. Health or Fitness Establishments and Private Recreational Establishments
A. The operator of a “health or fitness establishment” or a “private recreational establishment,” as defined in A.R.S. § 42-5073(C), shall exclude from the tax base under the amusement classification all gross proceeds of sales or gross income from membership fees and initiation fees charged for the use of the establishment, or any portion of the establishment, for 28 days or more, and fees charged for the use of the establishment by bona fide accompanied guests of members. Any other fees for the use of a health or fitness establishment or a private recreational establishment, or any portion of the establishment, are included in the tax base of the amusement classification.

B. Gross proceeds of sales or gross income derived from other businesses that are located on the premises of a health, fitness, or recreational business shall not be considered when determining whether a health, fitness, or recreational business is a “health or fitness establishment” or a “private recreational establishment” if the other businesses are separate and independent from the health, fitness, or recreational business. Whether the other businesses are separate and independent depends upon the facts in each case. The Department considers several factors in making this determination including but not limited to the following:
1. Whether the business is open to both members and nonmembers;
2. Whether the primary purpose of the business is closely related to the primary purpose of the health, fitness, or recreational business;
3. Whether the business could exist without the health, fitness, or recreational business; and
4. Whether the business shares assets or employees with the health, fitness, or recreational business.

Historical Note
Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

R15-5-507. Repealed
Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-508. Repealed
Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-509. Repealed
Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-510. Repealed
Historical Note

R15-5-511. Repealed
Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

ARTICLE 5. REPEALED

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 6. PRIME CONTRACTING CLASSIFICATION

R15-5-601. Taxpayer Bonds for Contractors
A. For the purpose of this rule:
1. The principal place of business shall be Arizona if the licensee has continuously operated a facility with at least one full-time employee in Arizona for 12 consecutive months preceding the determination.
2. A surety bond shall include a bond issued by a company authorized to execute and write bonds in Arizona as a surety or composed of securities or cash which are deposited with the Department of Revenue.

B. The businesses subject to these bonds are grouped in accordance with the standard industry classifications by average business activity. The business classes and bond amounts are as follows:
1. Two thousand dollars for:
   a. General contractors of industrial buildings and warehouses;
   b. General contractors nonresidential buildings other than single family; and
   c. Highways and street construction except elevated highways;
2. Seven thousand dollars for:
   a. General contractors of single family housing;
   b. Water, sewer, pipeline, communication and power-line construction;
3. Seventeen thousand dollars for:
   a. General contractors of industrial buildings and warehouses;
   b. General contractors nonresidential buildings other than single family;
   c. Highways and street construction except elevated highways.
4. Twenty-two thousand dollars for:
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a. Heavy construction;
b. Bridge construction;
c. Tunnel construction; and
d. Elevated highway construction.

C. Except as provided in subsection (D), any applicant whose principal place of business is outside Arizona or who has conducted business in Arizona for less than one year shall post a bond before the transaction privilege tax license shall be issued.

D. Any taxpayer subject to bonding requirements may submit a written request to the Director of the Department of Revenue for an exemption from the bond. The exemption request shall provide at least one of the following:
1. Any taxpayer who has been actively engaged in business for at least two years immediately preceding the exemption request may submit statements from an authorized state employee from each state in which the business has been licensed in the last two years verifying that the taxpayer has, for at least two years immediately preceding the date of the statement, made timely payment of all sales taxes and other transaction privilege taxes incurred.
2. Two-year reporting history as described above in subsection (D)(1) and an explanation of good cause for late or insufficient payment of the tax;
3. Documentation which verifies that no potential for Arizona tax liability exists;
4. Bond for a previously issued Arizona transaction privilege license that adequately covers the licensee’s expected transaction privilege tax liability for Arizona for both the previously issued license and for this license.

E. The bond shall not expire prior to two years after the transaction privilege license is issued. Upon lapse or forfeiture of any bond by any licensee, the licensee shall deposit with the Department another bond within five business days of the licensee’s receipt of written notification by the Department.

F. Any licensee, who has had a bond posted for at least two years and fulfills any exception listed in subsection (D), or whose principal place of business becomes Arizona, may request a written waiver and that the bond be returned.

Historical Note

R15-5-602. Expired
Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Correction, subsection (C), paragraph (2) as filed effective November 7, 1978, unless otherwise noted (Supp. 82-1). Section expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692, effective September 28, 2011 (Supp. 11-4).

R15-5-603. Repealed
Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-604. Expired
Historical Note
Section expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692, effective September 28, 2011 (Supp. 11-4).

R15-5-605. Expired

R15-5-606. Expired

R15-5-607. Expired

R15-5-608. Expired

R15-5-609. Repealed

R15-5-610. Repealed

R15-5-611. Repealed

R15-5-612. Expired

R15-5-613. Expired

R15-5-614. Expired

R15-5-615. Expired

R15-5-616. Expired
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Historical Note
Amended effective June 18, 1987 (Supp. 87-2). Section expired under A.R.S. 41-1056(E) at 17 A.A.R. 2692, effective September 28, 2011 (Supp. 11-4).

R15-5-617. Repealed

R15-5-618. Repealed

R15-5-619. Repealed

R15-5-620. Repealed

R15-5-621. Repealed

R15-5-622. Repealed

R15-5-623. Repealed

R15-5-624. Repealed

R15-5-625. Repealed

R15-5-626. Repealed

R15-5-627. Repealed

R15-5-628. Expired

R15-5-629. Expired

ARTICLE 7. REPEALED

R15-5-701. Repealed

ARTICLE 8. REPEALED

R15-5-801. Repealed

R15-5-802. Repealed

R15-5-803. Repealed

R15-5-804. Repealed

ARTICLE 9. MINING CLASSIFICATION

R15-5-901. Definitions
In addition to the definitions provided in A.R.S. § 42-5001, the following definitions apply to this Article:
1. “Mining” means operations involving the extraction of nonmetalliferous mineral products from beneath or at the surface of the earth for commercial use and includes underground, surface, and open-pit operations.
2. “Nonmetalliferous mineral product” has the same meaning as prescribed in A.R.S. § 42-5072.

R15-5-902. General
A. A person engaged in the business of mining is subject to tax under the mining classification on the gross proceeds of sales or gross income received from the sale of a nonmetalliferous mineral product to a purchaser that resells the product in the ordinary course of business.
B. A person engaged in the business of mining is not subject to tax under the mining classification on the gross proceeds of sales or gross income received from the sale of a nonmetalliferous mineral product to a person engaged in business classified under the prime contracting classification if the nonmetalliferous mineral product is to be incorporated into a structure or project as part of the business.
C. A person engaged in the business of mining is subject to tax under the retail classification on the gross income received...
A person engaged in the business of mining is subject to tax on:

**R15-5-904. Manufacturing or Processing Service Charges**

A taxpayer may compute the market value of a nonmetalliferous mineral product shipped out-of-state in the following manner:

1. Establish the total selling price of the product outside Arizona.
2. Deduct, from the total selling price, costs incurred out-of-state that increase the value of the product. These costs include:
   a. The cost of actual freight paid, as provided in R15-5-908, to the point of sale outside Arizona;
   b. The refining or processing cost incurred before the first sale; and
   c. The cost of sales commissions, paid or accrued, in connection with the sale.
3. The market value of the product shipped out-of-state shall not include the cost of processing if the processor has paid the Arizona transaction privilege tax on the gross proceeds of sales or gross income derived from the processing. (See R15-5-904.)

A taxpayer may compute the market value of a nonmetalliferous mineral product shipped out-of-state in any manner that accurately reflects the value of the nonmetalliferous mineral product at the point it enters interstate commerce if the taxpayer gives prior written notification to the Department and the Department approves the computation method.

**Historical Note**

Amended by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

**R15-5-906. Repealed**

Historical Note

Section repealed by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

**R15-5-907. Repealed**

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2).

**R15-5-908. Actual Freight Paid**

A. A person engaged in the business of mining may deduct from the tax base under the mining classification actual freight costs incurred in connection with the sale that are included in the sales price if the actual freight costs incurred are separately stated in the billing to its customer.

B. A person engaged in the business of mining that does not separately state the actual freight costs incurred in the billing to the customer may still deduct the actual freight costs paid to a third party, provided the person keeps books and records to show separately the actual freight paid to the third party.

C. A taxpayer shall not deduct the cost incurred by the taxpayer before a sale for freight from the mining or production location to the sales location.

**Historical Note**

Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2952, effective July 18, 2000 (Supp. 00-3).

**R15-5-909. Repealed**

Historical Note

Repealed effective April 13, 1987 (Supp. 87-2).

**ARTICLE 10. TRANSACTION PRIVILEGE TAX - TRANSIENT LODGING CLASSIFICATION**

**R15-5-1001. Application of the Definition of Transient for Purposes of Taxation under the Transient Lodging Classification**

A. Effective January 1, 1979, the leasing or renting of dwelling units and lodging facilities to a person shall not be taxable under the transient lodging classification if the lodging is obtained for a continuous block of time for 30 or more consecutive days except as provided under A.R.S. § 42-1310.10(B). For purposes of this rule, “person” has the same meaning as under A.R.S. § 42-1301.

B. Gross receipts from providing lodging obtained for a continuous block of time for 30 or more consecutive days shall not be taxable under the transient lodging classification from the first day of occupancy.

1. Lodging obtained for 30 or more consecutive days in increments of time for a period of less than 30 consecutive days rather than for a continuous block of time shall be taxable under the transient lodging classification except as provided under A.R.S. § 42-1310.10(B).

2. A lodger may originally acquire lodging on an incremental basis for a period of less than 30 consecutive days and subsequently change to a continuous block of time for 30 or more consecutive days; however, the lodging originally obtained on an incremental basis of less than 30 consecutive days shall remain subject to tax regardless of any subsequent action on the part of the lodger.

C. If lodging is obtained on a continuous basis for 30 or more consecutive days but the person obtaining the lodging leaves before the 30-day period ends and only pays for a period of 29 days or less, the exclusion shall not apply. The gross receipts...
from providing lodging for 29 days or less shall be subject to tax under the transient lodging classification.

D. The following situations are indicative of the application of the provisions in this rule:

1. A person rents a motel room on a weekly basis for 10 consecutive weeks. The total rental period is greater than 30 consecutive days; however, the method of renting by the week meets the definition of “transient.” Gross receipts from renting lodging space on such a basis are subject to tax under the transient lodging classification.

2. A motion picture company contracts with a hotel to rent a block of 15 rooms for a three-month period during which filming will occur in the area. During that three-month period, a variety of crew members and actors will occupy the rooms. Any one room may have a different occupant during the three-month time period as filming progresses and different actors or crew members are involved in the production of the film. The rental by the motion picture company for the three-month period is not subject to tax under the transient lodging classification since the motion picture company contracted with the hotel to rent for a three-month period and, therefore, does not meet the definition of a transient.

3. An individual reserves a room in a rooming house for two weeks. The individual decides to stay another two weeks. The total number of days’ stay is now at 28 days. Once again, the individual extends the stay by two weeks. Each time period is less than 30 days. Even though the total period of time is over 29 days, after the third extension of two weeks, the individual continues to be a transient for purposes of taxation under the transient lodging classification. If the individual had rented the room for 30 days or more after the first two weeks, gross receipts from the additional time would not be subject to tax. However, the first two-week block of time would remain taxable since that time period falls under the definition of transient.

4. An individual is not sure how long he will be staying at a hotel so, upon registration, gets the room for 35 days. After 21 days the individual decides to leave and pays only for the 21-day stay. Gross receipts are subject to tax under the transient lodging classification. If the individual had a contractual agreement in which, regardless of length of occupancy, he was required to pay for the entire 35 days, the gross receipts from such a transaction would not be taxable.

Historical Note

R15-5-1002. Activities in Addition to Providing Lodging

A. If a transient lodging facility is engaged in the business of providing lodging and engages in the business of providing meals, the gross receipts from lodging shall be separately stated and reported from the gross receipts from restaurant activities.

B. Gross receipts from the providing of meals or room service shall be subject to tax under the restaurant classification.

C. Gross receipts from the sale of tangible personal property by transient lodging facilities such as from magazine stands, gift shops, or in-room food or beverage bars shall be subject to tax under the retail classification.

Historical Note

R15-5-1003. Providing Lodging to Government Agencies

Gross receipts from providing transient lodging to the United States Government, the state or its political subdivisions, or any other government agency or its employees shall be taxable under the transient lodging classification unless otherwise exempt.

Historical Note
Adopted effective April 21, 1995 (Supp. 95-2).

ARTICLE 11. TRANSACTION PRIVILEGE TAX – JOB PRINTING CLASSIFICATION

R15-5-1101. Definitions

For purposes of this Article, the following definitions apply:

1. “Image developing” means the copying or reproducing by a printer of an image by any means from film, paper, video, or another data storage medium to photographic print paper or another storage medium that can visually display the image.

2. “Job printing” means the copying or reproducing by a printer of documents or data directly or indirectly provided by the printer’s customer, including by another person at the customer’s direction, for the ultimate purpose of producing a physical or electronic copy of the document or data. The document or data can be textual or pictorial, and may be received by the printer in physical or electronic form. Examples of methods of job printing include dye sublimation, electrostatic printing, flexography, gravure, inkjet printing, laser printing, lithography, offset printing, optical scanning, photocopying, photofinishing, reprographic printing, screen printing, thermography, xerography, and similar means of duplication.

3. “Photography” means the process of taking and supplying images to customers, using film, video, or another data storage medium.

4. “Printer” means a person that copies or reproduces textual or pictorial material by any means, process, or method of job printing, engraving, embossing, or copying, but that does not distribute the copied or reproduced material on the person’s own behalf.

5. “Printing” means a finished product in physical or electronic form produced by a printer through job printing, engraving, embossing, or copying and that is held for sale by the printer.

6. “Qualifying health care organization” has the same meaning as prescribed in A.R.S. § 42-5001(10).

7. “Qualifying hospital” has the same meaning as prescribed in A.R.S. § 42-5001(11).

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3). New Section made by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1102. Printer’s Sale of Printing

A. Except as otherwise provided in subsection (F) or other applicable A.R.S. § 42-5066(B) exemptions, gross income or gross proceeds derived from all of a printer’s costs or expenses of filling a customer’s printing order are subject to tax under this Article. Examples of costs or expenses include charges for set-up, die cutting, embossing, folding, and binding operations.

B. Gross income or gross proceeds derived from an Arizona printer’s sale of printing within Arizona are subject to tax even when the printer conducts the job printing, engraving, embossing, or copying activity outside the state, unless the printing is shipped or delivered outside the state for use outside the state.
C. If a printer ships or delivers printing to be used outside the state to a common carrier for transportation to a location outside the state, the common carrier is deemed to be the agent of the printer for purposes of determining whether the printing has been shipped or delivered outside the state, regardless of who is responsible for payment of the freight charges.

D. A printer may substantiate a shipment or delivery of printing outside the state by one of the following records:
   1. An internal delivery order that is supported by receipts for expenses incurred in delivery of printing and signed on the delivery date by the person who delivers the printing;
   2. A common carrier’s receipt or bill of lading;
   3. A parcel post receipt;
   4. An export declaration;
   5. A receipt from a licensed broker; or
   6. Proof of export or import, signed by a customs officer.

E. Except as provided in subsection (F) or other applicable A.R.S. § 42-5066(B) exemptions, gross income or gross proceeds derived from an Arizona printer’s charges for the distribution of printing are generally subject to tax under this Article. In the absence of documentation listed in subsection (D), it remains the taxpayer’s burden to substantiate that the gross income or gross proceeds derived from a sale of printing are not taxable because the printing is shipped or delivered outside the state for use outside the state, pursuant to A.R.S. § 42-5066(B)(2). A printer substantiates that printing is shipped or delivered outside the state for use outside the state if the printer shows that the address or number to which the printer distributes the printing does not identify or is incapable of identifying an in-state location.

F. Pursuant to A.R.S. § 42-5066(B)(4), a printer may deduct its gross income or gross proceeds derived from charges for postage and freight if the printer separately states the charges on a customer’s invoice and in the printer’s records, except that the amount deducted shall not exceed the amount paid by the printer to the United States Postal Service or a commercial delivery service. A printer may not deduct its gross income or gross proceeds derived from charges for delivery of the printing using the printer’s own conveyance.

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2). New Section made by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 470, effective February 6, 2007 (Supp. 07-1).

R15-5-1103. Repealed

Historical Note
Section repealed by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1104. Repealed

Historical Note
Section repealed by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1105. Repealed

Historical Note
Section repealed by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1106. Sale of Materials to a Printer
Sales to a printer of materials that do not become an ingredient or component part of a printing fall under the retail classification (see Article 1 of this Chapter) and are subject to tax unless otherwise exempt under A.R.S. § 42-5061. Examples of such materials include color process plates, electrotypes, film processing chemicals, printing plates, and wood mounts. In contrast, sales by the printer of any such materials that are job printed, engraved, embossed, or copied by the printer for the printer’s customer constitute sales of printing and fall under this Article. An example is a printer’s sale to a customer of a printing plate upon which the printer has performed job printing, engraving, embossing, or copying activity for the customer.

Historical Note
Amended by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1107. Repealed

Historical Note
Amended effective November 7, 1978 (Supp. 78-6). Section repealed by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1108. Repealed

Historical Note
Repealed April 13, 1987 (Supp. 87-2).

R15-5-1109. Repealed

Historical Note

R15-5-1110. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1111. Miscellaneous Costs of a Printer Are Not Deductions
A. A printer shall not deduct the cost of subletting job printing, engraving, embossing, or copying activities.
B. A printer shall not deduct the cost of labor or materials employed in the job printing, engraving, embossing, or copying activity of another person.

Historical Note
Amended by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

R15-5-1112. Sale of Image Developing
A. Gross income or gross proceeds derived from a sale of image developing in which the image developing is not part of a sale of photography are subject to tax under this Article.
B. Gross income or gross proceeds derived from a sale of image developing to a business that resells the image developing are nontaxable under this Article.
C. Gross income or gross proceeds derived from a sale of image developing either to a qualifying health care organization that uses the image developing solely to provide health and medical related educational and charitable services or to a qualifying hospital are nontaxable under this Article. An example is image developing of x-ray film or photographs.

Historical Note
Section repealed; new Section made by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).
CHAPTER 5. DEPARTMENT OF REVENUE - TRANSACTION PRIVILEGE AND USE TAX SECTION

ARTICLE 12. REPEALED

R15-5-1201. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1202. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 13. SALES TAX - PUBLISHING CLASSIFICATION

R15-5-1301. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1302. General

A. The gross income derived from the business of publishing within the state is taxable under this classification. Gross income includes revenue from subscriptions, notices, and local advertising.

B. Subscription income includes all circulation revenue. In determining the taxable base, however, there shall be excluded from such revenue those actual amounts retained by or credited to carriers and other vendors as compensation for delivery or sale of newspapers.

1. Carriers are defined as those persons who deliver newspapers to individual subscribers. Such deliveries are confined to a specific area or route.

2. Other vendors are defined as those persons who deliver newspapers to retailers such as news stands, convenience markets, drug stores and to coin-operated vending machines located in or near commercial establishments such as office buildings, hotels, motels, grocery and department stores.

C. Income of publishers from sales of newspapers, whether directly or through other vendors, to news stands, convenience markets, drug stores or other retailers are taxable under this classification. The sales of newspapers by such retailers to consumers are taxable as retail sales. (See R15-5-1802(C))

Historical Note
Amended effective March 18, 1981 (Supp. 81-2).

R15-5-1303. Definitions

A. A “publisher” is one who manufactures and distributes a publication from a point within this state.

B. The term “publication” includes books, newspapers, magazines, music, periodicals, and any other literary work.

C. Effective 9/12/75, the term “publication” shall specifically exclude books. Sales of books directly to a final consumer, however, are taxable under the retail classification (see Article 18).

R15-5-1304. Printing costs

The cost of printing a publication, including the subletting of printing to another person, is not deductible from the gross income.

R15-5-1305. Out-of-state distribution

Income from publications, other than books, mailed or distributed from a point within this state to a point outside the state is subject to the tax under this classification.

R15-5-1306. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 14. TRANSPORTING CLASSIFICATION

R15-5-1401. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1402. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1403. Repealed

Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1404. Excess Baggage Charges

A. Gross proceeds of sales or gross income from charges for excess baggage shipped from one point to another point in this state is included in the tax base under the transporting classification except as provided in subsection (B).

B. Gross proceeds of sales or gross income from charges for excess baggage shipped by motor vehicle from one point to another point in this state is not included in the tax base under the transporting classification if a light motor vehicle fee imposed under A.R.S. § 28-5492 or a motor carrier fee imposed under A.R.S. § 28-5852 is paid to the Department of Transportation on the vehicle used in the transporting.

Historical Note
Amended by final rulemaking at 6 A.A.R. 2594, effective June 12, 2000 (Supp. 00-2).

R15-5-1405. Demurrage Charges

Gross proceeds of sales or gross income from demurrage charges is included in the tax base under the transporting classification unless the transporting to which it relates is excluded from the transporting classification.

Historical Note
Amended by final rulemaking at 6 A.A.R. 2594, effective June 12, 2000 (Supp. 00-2).

R15-5-1406. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1407. Repealed

Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1408. Rental of Aircraft

A. Gross proceeds of sales or gross income from transporting by aircraft freight or property from one point to another point in this state is included in the tax base under the transporting classification.

B. A charge for the use of an aircraft when a pilot is not provided is rent. Gross proceeds of sales or gross income from the rental or leasing of aircraft is included in the tax base under the personal property rental classification unless a specific deduction or exclusion applies.

Historical Note
Amended by final rulemaking at 6 A.A.R. 2594, effective June 12, 2000 (Supp. 00-2).
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Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1502. General
A. Gross income derived from the rental of tangible personal property is included in the tax base under the personal property rental classification unless a specific statutory exemption, exclusion, or deduction applies. Examples of tangible personal property include: televisions, cars, trucks, lawnmowers, floor polishers, tuxedos, uniforms, furniture, towels, and linens.
B. In this Article, the terms “lease,” “rental,” and “leasing” are used synonymously.
C. Gross income from the lease of tangible personal property to a lessee who subleases the property is not taxable under the personal property rental classification if the lessee is engaged in the business of leasing the property under the personal property rental classification.
D. Gross income from the rental of tangible personal property includes charges for installation, labor, insurance, maintenance, repairs, pick-up, delivery, assembly, set-up, personal property taxes, and penalty fees even if these charges are billed as separate items, unless a specific statutory exemption, exclusion, or deduction applies.

Historical Note
Amended subsection (D) and added subsection (E) effective March 18, 1981 (Supp. 81-2). Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

R15-5-1503. Sourcing of Leased Tangible Personal Property
A. In this Section:
   1. “Business location” means the business address that appears on a lessor’s privilege license, but if the lessor does not have a business address in Arizona, business location means the lessee’s residential or primary business street address.
   2. “Source” means to determine the location of leasing or renting activity for tax purposes.
B. The personal property rental classification applies to a person who is engaging or continuing in the business of leasing or renting tangible personal property in Arizona for a consideration. Gross receipts from leasing or renting tangible personal property in Arizona are taxable under this classification.
C. The Department shall source gross receipts from leasing or renting tangible personal property to the business location. Thus, gross receipts of a lessor without a business address in Arizona, derived from leasing or renting tangible personal property, are sourced to the lessee’s residential or primary business street address and are taxable when the property is shipped, delivered, or otherwise brought into the state for use in Arizona.
D. Gross receipts from leasing or renting tangible personal property are not taxable if the property is shipped or delivered outside of the state and intended, at the inception of the lease, for use exclusively outside of the state.
E. Gross receipts from leasing or renting tangible personal property are not taxable if the property is removed from the state and used exclusively outside of the state. Intermittent use of tangible personal property outside of the state does not constitute removal of the property from the state for use exclusively outside of the state, and therefore does not change the business location of the property or liability for the tax. For example, use of a business’s leased tangible personal property by its employees at different locations on business trips and service calls does not change liability for the tax.
F. The burden of proof for establishing the applicability of subsection (D) or (E) is on the lessor.
G. For leasing or renting activity related to a motor vehicle, the Department shall examine whether the motor vehicle is licensed, registered, or primarily used in Arizona.
H. A taxpayer shall not take a deduction or credit for taxes paid in another state on a lease or rental of tangible personal property.

Historical Note
Amended by final rulemaking at 10 A.A.R. 3071, effective September 11, 2004 (Supp. 04-3).

R15-5-1504. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1505. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1506. Rental of Tangible Personal Property to Government Agencies
A lessor’s gross income from the rental of tangible personal property to the United States Government, the state of Arizona, or other governmental subdivisions is taxable under the personal property rental classification unless a specific statutory exemption, exclusion, or deduction applies.

Historical Note
Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

R15-5-1507. Rental of Tangible Personal Property to Schools, Churches, and Other Nonprofit Organizations
A lessor’s gross income from the rental of tangible personal property to a school, church, or other nonprofit organization is taxable under the personal property rental classification unless a specific statutory exemption, exclusion, or deduction applies.

Historical Note
Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

R15-5-1508. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1509. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1510. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1511. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1512. Lease - Purchase Agreements
A. A lessor’s gross income from the leasing of tangible personal property that includes an option to purchase the tangible personal property is taxable under the personal property rental classification until the lessee exercises the purchase option.
B. Gross income received after the lessee exercises the purchase option is taxable under the retail classification.

Historical Note
Amended by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).
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July 18, 2000 (Supp. 00-3).

R15-5-1513. Repealed

Historical Note
Adopted effective November 7, 1978 (Supp. 78-6). Section repealed by final rulemaking at 6 A.A.R. 3091, effective July 18, 2000 (Supp. 00-3).

ARTICLE 16. COMMERCIAL LEASE CLASSIFICATION

R15-5-1601. Definitions
The following definitions apply for purposes of the rules in this Article, unless the context requires otherwise or unless otherwise defined.

1. “Agricultural property” means land or structures which are used for the purposes of growing crops or raising animals including agronomy, horticulture, viticulture, or animal husbandry.

2. “Economic unit of agricultural property” means agricultural property which is rented to the same lessee under one lease or rental agreement but may include more than one parcel or location which is functionally integrated.

3. “Real property used for commercial purposes” means land or structures, including parking lots but not including agricultural property or land or structures used for residential purposes.

4. “Rental” means renting or leasing

5. “Unit” means a single real property location rented or leased to a single tenant under one lease or rental agreement.

Historical Note

R15-5-1602. Casual Leasing Activity

A. For purposes of taxation under the commercial lease classification, there shall be no general exclusion for a casual rental of real property unless delineated under A.R.S. § 42-5059 except as provided in subsection (B) of this rule.

B. For periods ending on or before July 31, 1988, the rental of one unit or real property shall have been deemed to be a casual activity and not subject to transaction privilege tax if:

1. A lessor had income from another source which was unrelated to the income from the rental of real property and such income was of a significant amount so as to indicate that the rental activity was not the sole or main support of the lessor and

2. The scope and degree of the rental activity clearly indicated that the rental activity was an investment activity rather than income from a business.

C. For periods beginning on or after August 1, 1988, gross income from the rental of one or more units of real property used for commercial purposes shall be deemed to be a business activity and shall be taxable under the commercial lease classification.

D. For periods prior to July 17, 1993, gross income from the rental of one economic unit of agricultural property shall not be taxable if the following conditions exist:

1. A lessor had income from another source which was unrelated to the income from the rental of one economic unit of agricultural property and such income was of a significant amount so as to indicate that the rental activity was not the sole or main support of the lessor and

2. The scope and degree of the rental activity clearly indicated that the rental activity was an investment activity rather than income from a business.

E. For periods from and after July 17, 1993, gross income from the rental of agricultural property shall not be subject to tax if the conditions of A.R.S. § 42-5069(C)(12) are met.

F. The following situations are indicative of the application of the general provisions of the commercial lease classification:

1. A three-story office building is lease in its entirety to a large law firm. The building is one unit of property. Prior to August 1, 1988, the lessor of the office building was not considered to be engaged in business under the commercial lease classification if the conditions of subsection (A) existed. Commencing on or after August 1, 1988, the single rental of commercial real property is subject to tax under the commercial lease classification.

2. Individual spaces in a small medical building are rented to three different members of the medical profession on separate leases. The property consists of three units. Regardless of the time period in which the rental occurred, the lessor in this situation has always been engaged in business under the commercial lease classification.

3. A partnership is formed to hold one unit of real property for purposes of leasing. Income received from this activity is taxable since the partnership was formed for business purposes.

4. Two hundred acres of farmland are leased to one tenant. The acreage is one economic unit of agricultural property. The lessor is employed as an engineer and leases the property as an investment. Regardless of the time period in which the lease occurred, the lessor of the property is not engaged in business under the commercial lease classification.

5. Two hundred acres of agricultural property are leased to five unrelated parties on separate leases. The property consists of five economic units of agricultural property. Regardless of the time period in which the leases occurred, the lessor is engaged in business under the commercial lease classification. Five separate lease agreements are not a casual activity and the lessor does not fall within any of the current exemptions under A.R.S. § 42-5069(C)(12).

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2). New Section R15-5-1602 renumbered from R15-5-1607 and amended effective April 21, 1995 (Supp. 95-2). R15-5-1602(A), (E) and (F)(5) corrected to reflect updated citation references to Arizona Revised Statutes (Supp. 06-4).

R15-5-1603. Renumbered

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Section R15-5-1603 renumbered to R15-5-1601 effective April 21, 1995 (Supp. 95-2).

R15-5-1604. Gross Income

A. Gross income under the commercial lease classification shall include all amounts paid to or on behalf of the lessor including but not limited to the following items:

1. Rent;

2. Property tax paid by the lessee either as reimbursement to the lessor or paid directly to the county assessor on the lessor’s behalf;

3. Insurance paid by the lessee either as reimbursement to the lessor or directly on the lessor’s behalf;

4. Common area maintenance charges paid by the lessee;

5. Payments by the lessee for the promotion of the facility or of the lessee;
6. Flat fees paid by the lessee for telephone and reception services, clerical services, library services, reproduction services or facsimile services when such services are contracted for as part of the lease or are obligatory under the lease;

7. Utility connect/disconnect charges;

8. Improvements to the leased property made on behalf of the lessor; or

9. Reimbursement for utility service in excess of the actual amount charged by the utility company.

B. Refundable deposits shall not be subject to tax at the time of receipt if such deposits are separate from gross receipts from commercial leasing and are maintained on the books and records of the lessor as a liability and not as income.

1. Any portion of a refundable deposit which is retained by the lessor as a forfeited deposit shall be included in gross receipts subject to tax.

2. Any portion of a refundable deposit which is not claimed by the tenant at the time the tenant departs shall be presumed to be abandoned property if not claimed within five years from the date of departure pursuant to A.R.S. Title 44, Chapter 3 and shall be reported and delivered as unclaimed property to the Department after the five-year period of time has elapsed.

3. If amounts reported as income are claimed as refundable deposits, the burden of proof shall be on the taxpayer to show that the income reported is not gross receipts subject to tax.

C. Nonrefundable charges, such as cleaning charges, shall be included in gross income at the time of receipt.

Historical Note

R15-5-1605. Rental to Government Agencies
A. Gross receipts from the rental of real property to the United States Government, state of Arizona, or any other government agency shall be taxable under the commercial lease classification unless otherwise exempt.

B. For periods beginning May 24, 1990, and ending on March 31, 1993, the gross receipts from the rental of a single unit of real property to the United States Government shall not be subject to tax if the lessor did not have any other commercial lease income and either of the following conditions existed:

1. The real property was listed on the National Register of Historic Places; or
2. The real property was leased to the United States Postal Service for use as a postal facility.

Historical Note
Amended effective April 21, 1995 (Supp. 95-2).

R15-5-1606. Nonprofit Organizations
A. Nonprofit organizations shall be subject to tax under the commercial lease classification for gross receipts from the rental of real property unless otherwise exempt.

B. Leases of real property to nonprofit organizations shall be subject to tax under the commercial lease classification unless otherwise exempt.

Historical Head
Amended effective April 21, 1995 (Supp. 95-2).

R15-5-1607. Renumbered
Historical Note
Amended effective November 1, 1976 (Supp. 76-5).

R15-5-1608. Commercial property - storage facilities
Income from the rental of storage facilities is taxable, provided the lessee retains the right of direct access to the stored goods. Conversely, the storage of property by a warehouse, when the warehouse proprietor maintains full control over the specific location of the stored goods within the building, is not taxable. Such storage is deemed to be a service rather than rental of real property.

R15-5-1609. Commercial property - licensee agreements
When a department store enters into an agreement with a licensee to provide space within the store which does not give the licensee exclusive right to any specific area within the store, the income from such an agreement is not subject to tax. The transaction is deemed to be a licensee agreement rather than the subleasing of real property.

R15-5-1610. Expired
Historical Note
Amended effective April 21, 1995 (Supp. 95-2). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 4742, effective September 30, 2006 (Supp. 06-4).

R15-5-1611. Repealed
Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1612. Repealed
Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1613. Repealed
Historical Note
Amended effective November 1, 1976 (Supp. 76-5). Repealed effective April 21, 1995 (Supp. 95-2).

R15-5-1614. Renumbered
Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Renumbered to R15-5-1001 (Supp. 94-2).

R15-5-1615. Renumbered
Historical Note

R15-5-1616. Repealed
Historical Note
Repealed effective April 21, 1995 (Supp. 95-2).

R15-5-1617. Repealed
Historical Note
Repealed effective April 21, 1995 (Supp. 95-2).

ARTICLE 17. RESTAURANT CLASSIFICATION

R15-5-1701. Repealed
Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1702. Repealed
Historical Note
Amended effective November 7, 1978 (Supp. 78-6).
R15-5-1703. Repealed

Historical Note
Repealed effective March 18, 1981 (Supp. 81-2).

R15-5-1704. Providing Food or Drink to Government Agencies
A restaurant’s gross proceeds of sales or gross income from sales of
food or drink to the United States Government, the state or its politi
cal subdivisions, or any other government agency, or its employees
is included in the tax base under the restaurant classification unless
exempt as a sale to a qualified hospital under A.R.S. §
42-5074(B)(7) or as a sale for consumption within the premises of a
prison, jail or other institution under the jurisdiction of the state
department of corrections, the department of public safety, the
department of juvenile corrections or a county sheriff under A.R.S.
§ 42-5074(B)(9).

Historical Note
Amended effective December 16, 1997 (Supp. 97-4).
R15-5-1704 corrected to reflect updated citation refer
ences to Arizona Revised Statutes (Supp. 06-4).

R15-5-1705. Amusement Devices
A restaurant’s gross proceeds of sales or gross income from the
operation of amusement devices is included in the tax base under
the amusement classification (see Article 4).

Historical Note
Amended effective December 16, 1997 (Supp. 97-4).

R15-5-1706. Cover Charges
A restaurant’s gross proceeds of sales or gross income from a cover
charge or other minimum charge is included in the tax base under
the restaurant classification.

Historical Note
Amended effective December 16, 1997 (Supp. 97-4).

R15-5-1707. Repealed

Historical Note
Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-1708. Gratuities (Tips)
A. A restaurant’s gross receipts from gratuities that are separately
stated on the check or bill are not included in the restaurant’s
tax base if:
1. The exact amount charged on a check or bill for gratuities
and any amounts attributable to credit card fees for gratu
ities, are segregated on the seller’s records for the account
of the employees actually providing the services; and
2. The amounts so segregated less any amounts attributable
to credit card fees for gratuities, are distributed directly to
the employees providing the services for which the
charges were made;
B. If a restaurant cannot specifically segregate the charges for
gratuities and amounts, if any, attributable to credit card fees
or if any portion of the amounts charged for gratuities less
amounts attributable to credit card fees, is not distributed to
the employees, the total gross receipts from the gratuities
including any amounts attributable to credit card fees, are
included in the tax base under the restaurant classification.

Historical Note
Amended effective December 16, 1997 (Supp. 97-4).
Amended by final rulemaking at 26 A.A.R. 2894, with an
immediate effective date of November 6, 2020 (Supp. 20-
4).

R15-5-1709. Coupon Redemption
A restaurant that accepts coupons is subject to transaction privilege
tax on the full sales price of the food or beverage before the coupon
value is deducted if the restaurant receives advertising, services, or
products in exchange for providing the discounts.

Historical Note
Adopted effective November 7, 1978 (Supp. 78-6).
Amended effective December 16, 1997 (Supp. 97-4).

ARTICLE 18. REPEALED

R15-5-1801. Repealed

Historical Note

R15-5-1802. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1803. Renumbered

Historical Note
Renumbered to R15-5-181 effective August 9, 1993
(Supp. 93-3).

R15-5-1804. Renumbered

Historical Note
Renumbered to R15-5-182 effective August 9, 1993
(Supp. 93-3).

R15-5-1805. Renumbered

Historical Note
Renumbered to R15-5-104 effective August 9, 1993
(Supp. 93-3).

R15-5-1806. Repealed

Historical Note
Amended effective November 7, 1978 (Supp. 78-6).
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1807. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1808. Renumbered

Historical Note
Renumbered to R15-5-111 effective August 9, 1993
(Supp. 93-3).

R15-5-1809. Renumbered

Historical Note
Renumbered to R15-5-110 effective August 9, 1993
(Supp. 93-3).

R15-5-1810. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1811. Renumbered

Historical Note
Amended effective November 7, 1978 (Supp. 78-6).
Renumbered to R15-5-101 effective August 9, 1993
(Supp. 93-3).

R15-5-1812. Repealed
Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

Editor’s Note: The information about casual sales that formerly was contained in R15-5-1812, and which is referenced in subsection R15-5-151(C)(1), now appears in R15-5-2001.

R15-5-1813. Renumbered
Historical Note

R15-5-1814. Renumbered
Historical Note
Amended subsections (A) and (B) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-170 effective August 9, 1993 (Supp. 93-3).

R15-5-1815. Renumbered
Historical Note
Renumbered to R15-5-105 effective August 9, 1993 (Supp. 93-3).

R15-5-1816. Repealed
Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1817. Renumbered
Historical Note
Renumbered to R15-5-103 effective August 9, 1993 (Supp. 93-3).

R15-5-1818. Renumbered
Historical Note
Reumbered to R15-5-132 effective August 9, 1993 (Supp. 93-3).

R15-5-1819. Renumbered
Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended subsection (B), paragraph (1) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-156 effective August 9, 1993 (Supp. 93-3).

R15-5-1820. Renumbered
Historical Note
Reumbered to R15-5-133 effective August 9, 1993 (Supp. 93-3).

R15-5-1821. Renumbered
Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended subsection (B) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-183 effective August 9, 1993 (Supp. 93-3).

R15-5-1822. Renumbered
Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended paragraphs (9) and (10) effective March 18, 1981 (Supp. 81-2). Renumbered to R15-5-120 effective August 9, 1993 (Supp. 93-3).

R15-5-1823. Repealed
Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1824. Repealed
Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1825. Renumbered
Historical Note
Reumbered to R15-5-180 effective August 9, 1993 (Supp. 93-3).

R15-5-1826. Repealed
Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1827. Repealed
Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1828. Repealed
Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1829. Renumbered
Historical Note
Reumbered to R15-5-134 effective August 9, 1993 (Supp. 93-3).

R15-5-1830. Renumbered
Historical Note
Reumbered to R15-5-121 effective August 9, 1993 (Supp. 93-3).

R15-5-1831. Repealed
Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1832. Repealed
Historical Note
Former Section R15-5-1832 repealed, new Section R15-5-1832 adopted effective September 3, 1978 (Supp. 78-6). Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1833. Renumbered
Historical Note

R15-5-1834. Renumbered
Historical Note
Reumbered to R15-5-112 effective August 9, 1993 (Supp. 93-3).

R15-5-1835. Repealed
Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1836. Renumbered
Historical Note
Reumbered to R15-5-150 effective August 9, 1993
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(Supp. 93-3).

R15-5-1837. Repealed

Historical Note
Repealed effective April 15, 1993 (Supp. 93-2).

R15-5-1838. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1839. Renumbered

Historical Note
Renumbered to R15-5-129 effective August 9, 1993 (Supp. 93-3).

R15-5-1840. Renumbered

Historical Note
Renumbered to R15-5-122 effective August 9, 1993 (Supp. 93-3).

R15-5-1841. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1842. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1843. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1844. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1845. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1846. Renumbered

Historical Note

R15-5-1847. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1848. Renumbered

Historical Note
Renumbered to R15-5-126 effective August 9, 1993 (Supp. 93-3).

R15-5-1849. Renumbered

Historical Note
Renumbered to R15-5-123 effective August 9, 1993 (Supp. 93-3).

R15-5-1850. Renumbered

Historical Note

R15-5-1851. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1852. Repealed

Historical Note
Repealed effective August 9, 1993 (Supp. 93-3).

R15-5-1853. Renumbered

Historical Note

ARTICLE 18.1. SALES OF FOOD

R15-5-1860. Definitions

For the purpose of these rules, unless the context requires otherwise, the following definitions will apply:

1. “Accessory food items” means coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments and spices, and other non-staple foods.

2. “Attendant” means a person, generally the employee of the retailer, who waits on the customers, or tends to their needs.

3. “Automatic retailer” means a coin operated mechanical device or system which sells tangible personal property. Such device or system must itself vend or sell the items, i.e., a device or system which delivers the subject of the sale, or by automatic action physically delivers the thing sold. Vending machines are considered automatic retailers.

4. “Caterer” means a person engaged in the business of serving meals, food and drinks on the premises used by his customer, but does not include employees hired by the hour of day.

5. “Delicatessen” means a business which sells specialty food items, such as prepared cold meats, perishable food and grocery items kept under refrigeration.

6. “Facilities for the consumption of food” means appropriate furniture, tableware, or parking areas for sitting both in or out of a motor vehicle.

7. “Food”
   a. Under A.R.S. § 42-1387, the Department is required to promulgate rules defining food as those items that may be purchased from an eligible grocery business with food coupons, but in no event may such definition of food include food for consumption on the premises, alcoholic beverages or tobacco. Even though alcoholic beverages and food for consumption on the premises may be intended for human consumption, such items are not considered food by the statutory provisions. In these rules, items that are considered food by the Statutes, and therefore tax exempt if sold by a qualified retailer, shall be referred to as “tax exempt foods.” Other items that may be intended for human consumption but are excluded from the definition of food by the Statute, and are therefore subject to the Sales Tax, shall be referred to herein as “taxable foods.”
   b. “Food” means: Items intended for human consumption. Food is deemed to be intended for human consumption when its intended or ordinary use is as a
food for human consumption or is an ingredient used in preparing food for human consumption. For example, even though animal food may be used by some humans, its ordinary or intended use is not for human consumption. Also, even though vitamins and other medication may be ingested, its intended or ordinary use is as a health aid or therapeutic agent or a deficiency corrector and is not intended for use as food. Following is a enumeration of items which the Department does not consider food for human consumption:

i. Pet food and supplies
ii. Cosmetics and grooming items
iii. Tobacco products
iv. Soaps and paper products and household supplies
v. Dietary supplements such as vitamins or protein supplements
vi. Medicines
vii. Fertilizer

8. “Food for consumption on the premises”
   a. “Food for consumption on the premises” means the following:
      i. Hot prepared food, including products, items or ingredients of food which are prepared and sold or are intended to be sold in a heated condition. This also includes a combination of hot and cold food items or ingredients if a single price is charged by the retailer.
      ii. Hot or cold sandwiches including frozen sandwiches.
      iii. Food served by an attendant to be eaten at tables, chairs, benches, booths, stools, counters and within parking areas (for in-car consumption).
      iv. Food served with trays, glasses, dishes or other tableware. Food which is generally selected by the customer from available displays and then taken by the customer to a checkout stand for payment is not considered to be served by the retailer.
      v. Beverages sold in cups, glasses or open containers. Beverages shall include items such as milk shakes and ice cream floats.
      vi. Food sold by caterers.
      vii. Food sold within the premises of theaters, exhibitions, fairs, amusement parks, bowling alleys, athletic events, and other shows or contests and any businesses which charge admission, entrance or cover fees for exhibition, amusement, entertainment or instruction. While food for consumption on the premises includes any food sold within the premises of certain businesses, including businesses that charge admission, entrance or cover fees for exhibition, amusement, entertainment or instruction, food for consumption on premises does not include sales of tax exempt food by a qualified retailer within the premises of a full time educational institution that charges tuition for a full course of studies.
   b. Any item enumerated in subparagraph (a) which is sold on a take-out or to-go basis is still considered to be food for consumption on the premises and therefore taxable.

9. “Food intended for home consumption” means food, other than food for consumption on the premises, which is usually intended to be consumed at home. Unless the taxpayer can establish to the contrary, food delivered by a retailer to an office or other business establishment shall not be considered food intended for home consumption.

10. “Home” means a natural person’s usual or habitual dwelling place, including rest homes, nursing homes, jails and other such institutions.

11. “Premises” means the total space and facilities, including buildings, grounds and parking lot that are made available for use by the retailer for the purpose of consuming food sold by such retailer.

12. “Qualified retailer”
   a. A qualified retailer or qualified retail business is one that may be eligible to sell tax exempt food without including the sale of tax exempt food items in its taxable base. A retailer other than a qualified retailer must pay a tax measured by the sale of otherwise exempt food even though the sale of such items would be exempt if sold by a qualified retailer.
   b. Qualified retailers are:
      i. An eligible grocery business, which includes retailers who are eligible to participate in the United States Department of Agriculture Food Stamp Program, whether such retailer actually participates in the food stamp program. If a retailer is eligible to participate in the food stamp program, but does not participate in such program, such retailer may only be an eligible grocery business if the retailer first makes application to the Department to sell food tax exempt. Examples of retailers that might be considered eligible grocery businesses include:
         (1) Grocery stores;
         (2) Convenience stores;
         (3) Butcher shops;
         (4) Bakeries;
         (5) Dairy stores;
         (6) Cheese stores;
         (7) Farmer’s markets.
      ii. Retailers whose primary business is not the sale of food, but who sell food in a manner similar to grocery stores. This category includes stores such as department stores, drug stores, and gas stations.
      iii. Retailers who sell food and who do not provide any facilities for consumption of food on the premises. This category may include certain health food stores, and certain outlets retailing soda and other similar beverages in bottles or cans, but not cups.
      iv. Delicatessen business, if such retailer conducts his business so that the sale of tax exempt foods and other taxable items may be separately accounted for, through, for example, the use of two (2) cash registers, or a cash register with at least two (2) tax computing keys which are used to record taxable and tax exempt sales.
      v. A retailer who is a street or sidewalk vendor who uses a pushcart.
      vi. Vending machines and other automatic retailers.

13. “Staple food” means those food items intended for home preparation and consumption, which includes meat, poul-
try, fish, bread and bread stuffs, cereals, vegetables, fruits, fruit and vegetable juices, and dairy products.

14. “Taxable foods” are items which may be intended for human consumption, but are still subject to the Sales Tax when sold. Examples of taxable foods would be alcoholic beverages, and food for consumption on the premises.

15. Tax-exempt foods
   a. “Tax exempt foods” are generally those items of food intended for home consumption which, if purchased from an eligible grocery business, would be eligible as of January 1, 1979, to be purchased with food coupons issued by the United States Department of Agriculture.
   b. Tax-exempt food shall also include any new items of food intended for human consumption which would have been eligible for purchase with food coupons issued by the United States Department of Agriculture if such items would have existed for sale on January 1, 1979.
   c. The following are examples of items which the Department will consider as tax exempt food:
      - bread and flour products
      - vegetables and vegetable products
      - candy and confectionery
      - sugar, sugar products and substitutes
      - cereal and cereal products
      - butter, oleomargarine, shortening and cooking oils
      - cocoa and cocoa products
      - coffee and coffee substitutes
      - milk and milk products
      - eggs and egg products
      - tea
      - meat and meat products
      - spices, condiments, extracts and food colorings
      - fish and fish products
      - frozen foods
      - soft drinks and soda (including bottles on which a deposit is required to be paid)
      - fruit and fruit products
      - packaged ice cream products
      - dietary substitutes
      - ice cubes and bottled water including carbonated and mineral water
      - purchases of seed and plants for use in gardens to produce food items for personal consumption

16. “Two tax computing keys” shall mean the mechanical or electronic function in a cash register which can separately record and accumulate taxable and nontaxable items without having the items presorted.

Historical Note
Adopted as an emergency effective June 30, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now amended and adopted effective October 15, 1980 (Supp. 80-5).

R15-5-1863. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1864. Repealed

Historical Note
Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1864.01. Repealed

Historical Note
Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1864.02. Repealed

Historical Note
Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1864.03. Repealed

Historical Note
Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1864.04. Repealed

Historical Note
Repealed effective October 17, 1986 (Supp. 86-5).

R15-5-1865. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1866. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1867. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 19. REPEALED

R15-5-1901. Repealed

Historical Note
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-1902. Repealed
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Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1903. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1904. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1905. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-1906. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

ARTICLE 20. GENERAL ADMINISTRATION

R15-5-2001. Renumbered

Historical Note

A. The transaction privilege tax is imposed directly on the person engaged in a taxable business in or within Arizona, including a retailer located outside the state who is engaging or continuing in business in this state as a remote seller or marketplace facilitator and who meets the threshold requirements in A.R.S. § 42-5044. The vendor shall be liable for the tax, regardless of whether or not the vendor passes on the economic burden of the tax to the customer.

B. A retailer establishes its physical presence within Arizona by activities performed in this state on its behalf that are significantly associated with the retailer’s ability to establish and maintain a market in this state for its sales. Activities and factors that, by themselves or in conjunction with others, establish a retailer’s physical presence within Arizona include the following:
1. The retailer maintains an office or other place of business in Arizona, regardless of whether such location performs a sales-related or other business function.
2. The retailer owns or leases real or personal property in Arizona.
3. The retailer maintains an inventory of products in Arizona at its own direction and control.
4. The retailer’s merchandise or goods are delivered into Arizona on vehicles owned or leased by the retailer and the retailer makes such deliveries into Arizona on an ongoing basis.
5. Other local activities performed by the retailer’s employees, agents, representatives, contractors, or affiliated persons in Arizona that enable the retailer to maintain and improve its name recognition, market share or sales volume, goodwill, and individual customer relations may establish physical presence if the activities are not of a transitory nature, as described in subsections (D) and (E). Such activities may include: soliciting sales through an ongoing local marketing contract; delivering, installing or repairing property sold to customers through an ongoing contract with either the customer or a local partner; or conducting training or similar support services for customers or for employees or representatives of the retailer on an ongoing basis.

C. A retailer having a physical presence within Arizona as described in subsection (B) of this Section shall be considered liable for transaction privilege tax as a taxpayer located within Arizona.

D. A retailer’s activities in Arizona are not of a transitory nature if such activities generate gross receipts, are ongoing, and are regularly conducted from within the state. Alternately, a retailer’s activities in Arizona are not of a transitory nature if such activities generate gross receipts and the retailer regularly conducts the same business activities outside of Arizona.
1. Example: Employees who travel to Arizona for a business meeting, conference, or similar event and who do not otherwise engage in a taxable business activity during their time within the state would not establish physical presence in Arizona, regardless of the duration of their stay. Such stays would not be considered ongoing, even though the events take place in Arizona.
2. Example: A retailer that provides remote one-time assistance to a customer who has a specific problem installing or using a product purchased remotely would not establish physical presence. The retailer’s assistance does not appear ongoing and the activity is conducted from outside the state.
3. Example: A retailer that sells WiFi-enabled (IoT) appliances also offers a service contract that allows its technicians to remotely access its customers’ appliances to regularly update, maintain, or troubleshoot firmware. The provision of services through such contracts with Arizona customers would not establish physical presence for the retailer. The retailer’s services, while ongoing, are conducted from outside the state.
4. Example: A retailer that has a salesperson who regularly travels to Arizona for the purposes of selling goods and services and supporting previously sold goods and services may have physical presence, even if the salesperson is a resident of California and only present in Arizona temporarily throughout the calendar year. The retailer’s sales activities, as conducted through its salesperson, are ongoing and conducted from within the state.
5. Example: A retailer’s employee who is a Nevada resident but is working remotely from Arizona while on vacation, performing bookkeeping and other routine business functions, does not establish physical presence in Arizona for the business. The employee’s in-state activities are not significantly associated with a retailer’s ability to establish and maintain a market in Arizona for its sales.
6. Example: A new Utah-based retailer that has never made any sales to Arizona purchasers brings an inventory of crystals to sell at a two-day mineral and fossil show in Arizona. Over the two-day period, the retailer makes $3,000 in sales. As an out-of-state retailer making sales from within Arizona who has not met the threshold requirements in A.R.S. § 42-5044, the retailer will incur an Arizona transaction privilege tax liability on the sales it makes at the show. Such Arizona-based sales are not considered for purposes of meeting the threshold requirements for a remote seller, pursuant to A.R.S. § 42-5044. If the retailer does not anticipate conducting additional sales from within Arizona on an ongoing basis, it should apply for a seasonal license to participate in the show.
7. Example: At the same mineral and fossil show described in subsection (D)(6), an new Arizona-based retailer of semi-precious gems also brings an inventory to sell at the show for the first time. As a retail business located in Arizona, the retailer must be licensed and must report and remit Arizona transaction privilege tax on its sales made at the show.

E. Effective October 1, 2019, a retailer that establishes physical presence in Arizona pursuant to this rule shall continue to be responsible for reporting and remitting transaction privilege tax for the duration of such physical presence. If the retailer terminates its physical presence in the state, it shall report and remit transaction privilege tax for all transactions occurring on or before the last day of the month in which the vendor terminates its physical presence.

Historical Note

Articles 1, 20, and 22 of this Chapter apply to any marketplace facilitator or remote seller who meets the threshold requirements in A.R.S. § 42-5044.

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2). New Section made by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

A. A taxpayer with multiple licenses for separate businesses shall maintain separate records for each licensed business, including details relating to the computation of taxes and exempt sales and digital or hard copies of applicable exemption certificates, as provided in subsection (B).

B. The Department may request that records required to be maintained under this Section be made accessible for inspection or copying. To the extent reasonable or possible, the taxpayer shall make these records available to the Department in an electronic format, if requested.

C. A tax is levied upon the privilege of engaging in specified businesses within Arizona. Class codes for reporting gross receipts subject to tax have been determined by the Department based on statutory provisions. Each business classification is independent of the others even when transacted under one license. A person who engages in more than one type of business under each license shall maintain books and records so that the gross proceeds of sales or gross income of each taxable business classification is shown separately.

D. Except as provided in subsection (E), a marketplace facilitator shall maintain records that separately show sales made on its own behalf and sales made on behalf of marketplace sellers. Such records shall include details relating to the computation of taxes and exempt sales and also include digital or hard copies of applicable exemption certificates, as provided in subsection (B).

E. If a marketplace facilitator reported through non-amended returns and remitted transaction privilege tax on sales made on its own behalf and sales made on behalf of marketplace sellers for tax periods on or before August 27, 2019, the marketplace facilitator shall maintain records that show details relating to the computation of taxes and exempt sales, and also include copies of applicable exemption certificates for both sales made on their own behalf and on behalf of a marketplace seller. A marketplace facilitator shall have an alternate method to demonstrate the portion of sales made on behalf of marketplace sellers if under audit or for the purposes of claiming liability relief under A.R.S. § 42-5043 and R15-5-2216.

F. A remote seller shall maintain records that separately show sales made directly to its own customers and sales made on its behalf through a marketplace facilitator. Such records shall include details relating to the computation of taxes and exempt sales and also include digital or hard copies of applicable exemption certificates, as provided in subsection (B).

G. Failure to maintain appropriate books and records shall result in the imposition of the tax at the highest tax rate on gross proceeds of sales or gross income applicable to a classification under which the taxpayer is doing business.

Historical Note

R15-5-2005. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2006. Repealed

Historical Note
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2007. Credit for Accounting and Reporting Expenses
A. For purposes of this rule, the following definitions apply:

1. “Reporting period” means a calendar month unless another period is authorized pursuant to A.R.S. § 42-1322.

2. “Statutory delinquency date” means the date by which a payment of tax is considered delinquent pursuant to A.R.S. § 42-1322.


4. “Taxable business” means a business which is subject to either transaction privilege or severance tax.

5. “Taxpayer” means taxpayer as defined in A.R.S. § 42-1322.04(C), including an entity which is exempt from state income tax. The following are considered a single taxpayer:

a. Members of an Arizona affiliated group filing a consolidated corporate income tax return under A.R.S. § 43-947;

b. Corporations in a unitary business filing a combined corporate income tax return under A.A.C. R15-2-1131E;

c. Married taxpayers operating separate sole proprietorships and filing a joint income tax return under A.A.C. R15-2-1131E; or

d. Partnerships, S Corporations, trusts, or estates conducting multiple businesses, filing a single income tax return.

B. A taxpayer shall compute the credit, using the full amount of tax as required to be reported on the tax return, including any excess tax collected. The Department shall not allow a credit against taxes other than the state transaction privilege tax and the severance tax.

C. Except as provided in subsection (D), the Department shall not allow a credit if the taxpayer fails to pay the tax due before the
To receive the credit for each reporting period, the taxpayer shall allow the amount of credit which the taxpayer has claimed. The taxpayer may file an amended return to claim any unclaimed portion of the credit if the taxpayer timely paid the tax upon which the credit is based. If the taxpayer overstates the amount of the credit, the Department shall allow the amount of credit actually permitted for the reporting period.

A taxpayer is entitled to one credit, regardless of the number of licenses, businesses, or locations the taxpayer may have. Taxpayers with multiple licenses for separate businesses or separate locations shall elect the manner in which to allocate the credit among their licenses within the $10,000 annual limitation. The election shall be made on a form 51-T. The taxpayer shall file the election on or before January 15 of the first year for which an election is being made or within 30 days prior to beginning operations if the taxpayer is a new business entity. The taxpayer is required to file an election one time; however, a new election may be filed under the following circumstances:

1. If a taxpayer does not claim the entire $10,000 credit during the calendar year, the taxpayer may amend the election at the end of the calendar year to reallocate the unclaimed portion of the credit for that particular year. This amended election shall be filed on or before January 31 of the following year. To claim the reallocated credit, the taxpayer shall file an amended tax return for each reporting period in which a sufficient tax was due and timely paid. For example: an individual owns three separate businesses with different transaction privilege tax licenses. At the beginning of the year, the individual allocates the $10,000 credit as follows: $3,000 to Company A; $2,000 to Company B; and $5,000 to Company C. At the end of the year, Companies A and B have claimed the credit up to their allocated amounts. However, Company C has only claimed $1,000 of its allocated credit. Company A timely paid a sufficient amount of tax during the months of August and September to qualify for an additional $4,000 credit. The individual may amend the election to reallocate the unclaimed credit to Company A. To claim the $4,000 credit, the individual must file an amended tax return for Company A for the months of August and September.

2. If a taxpayer acquires, sells, or terminates a taxable business during the calendar year, the taxpayer may amend the election at that time to reallocate the credit. The taxpayer shall only reallocate the portion of the credit which has not been claimed by the date on which the taxpayer acquires, sells, or terminates the business. The taxpayer shall ensure that the election relates to the acquired, sold, or terminated business and is made on a prospective basis only. The taxpayer shall notify the Department of the reallocation 30 days prior to the due date of the tax return for the reporting period to which the reallocation applies. For example: Corporation A is the common parent of Corporations B and C and elects to file a consolidated corporate state income tax return. Each of the three corporations conducts a taxable business activity. Since the three corporations file state income tax as one entity, Corporation A is required to allocate the $10,000 credit among the three corporations. At the beginning of the year, Corporation A elects to allocate the entire $10,000 credit to Corporation B. On July 1, Corporation A acquires Corporation D which also conducts a taxable business activity. Corporation A may amend its election at this time to take into account Corporation D. Corporation A may reallocate the portion of the credit not already claimed by Corporation B to Corporation D.

G. Where a taxpayer is allocating the $10,000 credit, the following rules apply:

1. The Department shall allow a unitary business, filing a combined corporate state income tax return, or an Arizona affiliated group, filing a consolidated corporate state income tax return, one $10,000 credit. The unitary business or affiliated group may allocate the credit among its members. If the unitary business or affiliated group fails to allocate the $10,000 credit, the Department shall allocate the credit to the corporation in whose name the unitary business or affiliated group files its state income tax return regardless of whether the corporation conducts a taxable business.

a. If a corporation joins an Arizona affiliated group or unitary business during the calendar year, the Department shall classify the corporation as a separate taxpayer for the period before it joins the affiliated group or unitary business. The Department shall classify the corporation as the same taxpayer, an affiliated group, or unitary business for the period after it joins the affiliated group or unitary business. An affiliated group or unitary business may allocate the $10,000 credit, even if a member corporation claimed the credit before it joined the affiliated group or unitary business.

b. If a corporation leaves an affiliated group or unitary business during the calendar year, the Department shall classify the corporation as the same taxpayer, an affiliated group, or unitary business for the period before it leaves the affiliated group or unitary business. The Department shall not classify the corporation as a separate taxpayer for the period after it leaves the affiliated group or unitary business. The corporation, as a separate taxpayer or part of a separate taxpayer, may allocate the $10,000 credit, even if the corporation claimed the credit before it left an affiliated group or unitary business.

2. If a partnership, S corporation, trust, or estate conducts multiple taxable businesses, the Department shall allow the partnership, S corporation, trust, or estate one $10,000 credit. The partnership, S corporation, trust, or estate may allocate the credit among its businesses. The credit shall not be allocated to the partners of a partnership, shareholders of an S corporation, or beneficiaries of a trust or estate.

3. In cases where the taxpayers are married and each spouse conducts a taxable business, the Department shall allow one $10,000 credit per income tax return. If the married
CHAPTER 5. DEPARTMENT OF REVENUE - TRANSACTION PRIVILEGE AND USE TAX SECTION

D. In this Section, “affiliated person” has the same meaning as Sellers Are Marketplace Facilitators, Marketplace Sellers, or Remote Sellers

A. In this Section, “affiliated person” has the same meaning as prescribed in A.R.S. § 42-5043.

B. For the purposes of determining whether a remote seller or marketplace facilitator meets the threshold requirements in A.R.S. § 42-5044, the sales of marketplace facilitators and remote sellers who are affiliated persons shall be aggregated. If the threshold is met after aggregation of such sales, then all affiliated marketplace facilitators and remote sellers shall register with the Department for the filing and remission of retail transaction privilege tax. Marketplace facilitators and remote sellers who are affiliated persons are required to register with the Department and obtain a transaction privilege tax license under this Section for each affiliated person even if some or none of the affiliated persons would meet the threshold on an individual basis.

C. A marketplace facilitator or remote seller with affiliated persons who meets the threshold requirements in A.R.S. § 42-5044 are not required to file consolidated returns.

D. For the purposes of determining whether a remote seller meets the threshold requirements in A.R.S. § 42-5044, only the remote seller’s sales that are not facilitated on a marketplace shall be counted towards its threshold.

Historical Note
New Section made by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

R15-5-2010. Transactions Between Affiliated Persons

A. For purposes of this rule, the following definitions apply:

1. “Actual ownership” means direct ownership and control but does not include ownership by or through affiliated persons.

2. “Affiliated persons” means members of the individual’s family or persons who have ownership or control of a business entity.

3. “Constructive purchase price” means the fair market value or, if the fair market value cannot be determined, the value established by expert appraisal that takes into consideration all factors relevant to the transaction.

4. “Control of a business entity” means direct or indirect ownership or control of more than 50% of the business entity. The following guidelines, as to indirect ownership, shall apply for purposes of determining control of a business entity.

a. A corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries.

b. An individual shall be considered as owning directly or indirectly that portion which is owned by or for members of the individual’s family.

c. The ownership of stock by a corporation, partnership, estate, or trust shall be considered actual ownership to its shareholders, partners, or beneficiaries for purposes of making another individual a constructive owner.

d. Ownership based on a family relationship shall not be treated as actual ownership by the related party for the purpose of making another individual a constructive owner.

5. “Fair market value” means the gross receipts that the transaction would have brought in the open market at a time and location similar to that of the affiliated party transaction and between a willing purchaser and a willing seller, who are not affiliated and have reasonable knowledge of the relevant facts.

6. “Members of the individual’s family” means the relationship of spouse, brothers, and sisters, whether by whole or half blood and including adopted persons, ancestors, and lineal descendants.

B. The tax shall be computed upon the constructive purchase price when:

1. The transaction is between affiliated persons, and

2. The facts and circumstances indicate that the reported gross receipts from the transaction are not indicative of the fair market value of the transaction.

Historical Note
Renumbered from Section R15-5-1850 and amended effective October 14, 1993 (Supp. 93-4). Corrected typographical error to reflect what was filed with the Office of the Secretary of State October 14, 1993; changed “owner” to “owned” in subsection (A)(4)(a) (Supp. 97-1).

R15-5-2011. Bad Debts

A. The deduction of a bad debt shall be allowed from gross receipts if the following conditions apply:

1. The gross receipts from the transaction on which the bad debt deduction is being taken have been reported as taxable; and

2. The facts and circumstances indicate that the reported bad debt deduction is being taken have been reported as taxable.

B. A debt shall be considered worthless if:

1. The surrounding circumstances indicate that the debt is uncollectible; and

2. Legal action to enforce payment has not or, in all probability, would not result in the satisfaction of the debt.

C. The bad debt deduction shall be computed by subtracting the amount received on the debt from the amount originally reported as taxable. The portion of the amounts received on the debt representing carrying charges, interest, and repossession expenses, which have not been reported as taxable, shall not be allowed as a bad debt deduction.

D. A bad debt deduction shall be taken in the month in which the conditions of subsection (A) apply.

E. A bad debt deduction shall be allowed, pursuant to the provisions in this rule, on conditional or installment sales if:

1. The tax liability is paid on the full sales price of the tangible personal property at the time of the sale; or

2. A contract or other financial obligation is sold to a third party as a sale with recourse and principal payments are made by the vendor to the third party, pursuant to the default of the original payor. Such principal payments may be taken as a bad debt deduction if the tax was paid by the vendor on the original sale of the tangible personal property or on the subsequent sale of the financing contract.

3. For purposes of the bad debt deduction in situations of default on conditional or installment sales, a “sale with recourse” means that a vendor sells a contract or other
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The Department may issue a transaction privilege tax license to a third party but retains liability for payment upon default of the original payor.

F. Any recovery of a bad debt subsequent to a bad debt deduction shall be reported as taxable gross receipts when received.

**Historical Note**
Renumbered from Section R15-5-1813 and amended effective October 14, 1993 (Supp. 93-4). Corrected misspelling in subsection (E)(3) from “retails” to “retains” (Supp. 94-2).

**ARTICLE 21. UTILITIES CLASSIFICATION**

R15-5-2101. Repealed

**Historical Note**
Repealed effective August 13, 1987 (Supp. 87-3).

R15-5-2102. Renumbered

**Historical Note**
Renumbered to R15-5-3024 (Supp. 86-6).

R15-5-2103. Repealed

**Historical Note**
Repealed effective April 13, 1987 (Supp. 87-2).

R15-5-2104. Interstate and Foreign Sales
A person engaged in business under the utilities classification may deduct from the tax base gross receipts from sales of electricity, gas, or water, delivered through transmission lines or pipelines to a point in another state or country, from a point in this state and used outside this state.

**Historical Note**
Amended effective October 17, 1997 (Supp. 97-4).

R15-5-2105. Locally Delivered Utilities
A person engaged in business under the utilities classification is subject to tax on the gross receipts from sales of electricity, gas, or water, produced outside this state that is delivered through transmission lines or pipelines to a point in this state, for use in this state unless an exemption applies.

**Historical Note**
Amended effective October 17, 1997 (Supp. 97-4).

R15-5-2106. Compressed and Bottled Liquids
The gross receipts from sales of bottled gases and bottled water are subject to tax under the retail classification unless otherwise exempt.

**Historical Note**

R15-5-2107. Sales to Irrigation Districts
A person engaged in business under the utilities classification is subject to tax on the gross receipts from producing and furnishing or furnishing electricity or gas to an irrigation district for the purpose of producing water for irrigation of farm lands or lands subdivided for residential purposes which are entitled to irrigation water unless an exemption applies.

**Historical Note**
Amended effective October 17, 1997 (Supp. 97-4).

R15-5-2108. Repealed

**Historical Note**
Repealed effective October 17, 1997 (Supp. 97-4).

R15-5-2109. Repealed

**Historical Note**
Repealed effective April 13, 1987 (Supp. 87-2).

**R15-5-2110. Security Deposits**
Gross receipts from customer deposits that are held as security for payment of utility billings are not subject to tax until recognized as income. A deposit that is not applied to a customer’s bill or refunded to a customer when utility services are discontinued shall be presumed to be abandoned property if the customer does not claim it within the period established under A.R.S. Title 44, Chapter 3. Customer deposits that are presumed to be abandoned property under A.R.S. Title 44, Chapter 3, shall be reported and delivered to the Department as unclaimed property. Amounts delivered to the Department as unclaimed property are not included in the tax base. For example:

1. A utility company requires a new customer to deposit $150 before it provides utility service. The customer moves and notifies the utility company to discontinue service. The customer’s final bill is $130. The utility applies the deposit to the final bill and refunds $20 to the customer. The amount applied to the utility bill is recognized as income and subject to tax. The amount refunded to the customer is not recognized by the utility as income and is not subject to tax.

2. A utility company requires a new customer to deposit $150 before it provides utility service. The customer notifies the utility company to discontinue service. The customer’s final bill is $130. The utility applies the deposit to the final bill. The customer does not provide a forwarding address to the utility. Therefore, the utility company is not able to refund the remaining $20 to the customer. The amount applied to the utility bill is recognized as income and subject to tax. The remaining $20 is presumed to be abandoned property if not claimed under A.R.S. Title 44, Chapter 3. The amount presumed to be abandoned property shall be reported and delivered to the Department as unclaimed property under A.R.S. Title 44, Chapter 3. The amount delivered to the Department as unclaimed property is not recognized as income by the utility and is not subject to tax.

**Historical Note**
Amended effective October 17, 1997 (Supp. 97-4).

**ARTICLE 22. TRANSACTION PRIVILEGE TAX - ADMINISTRATION**

R15-5-2201. Display and Issuance of License
A. A person maintaining a public place of business in Arizona shall display the transaction privilege tax license in a location conspicuous to the public. For the purposes of this subsection, a remote seller or marketplace facilitator who lacks an in-state physical presence as provided in R15-5-2002 is not considered to maintain a public place of business in Arizona.

B. If a person maintains more than one place of business in Arizona, a transaction privilege tax license shall be displayed at each location.

C. For lessors engaged in the business of commercial leasing, a transaction privilege tax license shall be displayed at each location from which the lessor engages in business transactions.

D. The Department may issue a transaction privilege tax license to a licensee in either a hard copy format or digitally, including through AZTaxes.gov. Licensees shall maintain copies or equivalent documentation of their transaction privilege tax licenses for the record retention period prescribed in A.R.S. Title 42, Chapter 1.
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E. A transaction privilege tax license issued by the Department is for administering and collecting transaction privilege tax and is not issued for the purpose of authorizing a business to operate in this state, pursuant to A.R.S. § 41-1080 and except as otherwise required by law.

Historical Note

R15-5-2202. Change in Ownership
A. A transaction privilege tax or use tax license is issued to a specific person. The license shall not be transferred to the new owner when selling a business. The new owner shall apply to the state for a new license before engaging in business transactions.
B. Court-appointed trustees, receivers, and others in cases of liquidation or operational bankruptcies shall obtain a transaction privilege tax or use tax license.

Historical Note

R15-5-2203. Change of Name or Trade Name
If a change is made in the name or trade name under which the business is operating and the ownership remains the same, the taxpayer shall apply for a new license.

Historical Note

R15-5-2204. Repealed

Historical Note

R15-5-2205. Surrender of License upon Sale or Termination of Business
A. If a business is sold or terminated, the taxpayer shall notify the Department of the date of sale or termination by submitting a form prescribed by the Department or through AZTaxes.gov and shall surrender the transaction privilege tax or use tax license to the Department.
B. For the purposes of A.R.S. § 42-5005 and this Section, the Department shall consider a license surrendered if the licensee submits a request to cancel its license by submitting a form prescribed by the Department or through AZTaxes.gov.

Historical Note

R15-5-2206. Cancellation of License
A. In this Section, “affiliated person” has the same meaning as prescribed in A.R.S. § 42-5043.
B. The Department may cancel a license if:
1. During any consecutive 12-month period, the licensee reports no taxable transaction; and
2. The licensee is not a subcontractor or wholesaler.
C. The Department shall notify a licensee in writing of its intention to cancel the license. The notice shall explain the action the licensee may take to contest cancellation of the license and when cancellation is final.
D. The Department shall cancel a license 30 days after the notice of intention to cancel is mailed unless, within 30 days, the licensee objects to the cancellation in writing and produces documentation that the licensee is actively engaged in a taxable business. Suitable documentation includes, but is not limited to, the following:
1. Evidence that the licensee holds an inventory of raw or finished tangible personal property for sale or resale;
2. Evidence that the licensee maintains segregated bank accounts for the purpose of transacting business;
3. Bona fide contracts for future sale or resale of tangible personal property;
4. Profit and loss statements for federal or state income tax purposes; or
5. Evidence that the licensee otherwise actually engages in bona fide business activities.
E. Within 30 days of receipt of the licensee’s objections and documentation, the Department shall notify the licensee in writing of its decision to cancel or retain the license. If the decision is to cancel the license, the licensee may request an administrative hearing.
F. Except as provided in subsection (G), a marketplace facilitator or remote seller may choose not to renew a license or cancel a license for the following calendar year if the sales of the marketplace facilitator or remote seller to Arizona purchasers fall below the current year threshold in A.R.S. § 42-5044 in the prior year.
G. A marketplace facilitator or remote seller may choose not to renew a license or cancel a license for the following calendar year if the current year sales of the marketplace facilitator or remote seller, together with the aggregated sales of all affiliated persons of the marketplace facilitator or remote seller to Arizona purchasers, fall below the current year threshold in A.R.S. § 42-5044 in the prior year.

Historical Note

R15-5-2207. Taxpayer Bonds
A. The amount of the bond required under A.R.S. § 42-1102 shall be the greater of five hundred dollars, or:
1. For licensees reporting monthly, four times the average monthly liability;
2. For licensees reporting quarterly, six times the average monthly tax liability; or
3. For licensees reporting annually, fourteen times the average monthly tax liability.
B. For purposes of determining the bond amount, the average monthly tax liability is equal to the average monthly tax due...
from the licensee for the preceding six consecutive months. If an applicant does not have a six-month payment history, the bond amount shall be a minimum of five hundred dollars.

C. If a licensee provides a surety bond and the bond lapses, the licensee must deposit with the Department cash or other security in an amount equal to the lapsed surety bond within five business days of the licensee’s receipt of written notification by the Department.

D. The bond amount may be increased or decreased as necessary based upon a change in the licensee’s previous filing period, filing compliance record, or payment history. If the bond amount has been increased above the amount computed under subsection (B) of this rule, the licensee may request a hearing pursuant to A.R.S. § 42-1102 to show why the order increasing the bond amount is in error.

E. Except as required under A.R.S. § 42-1102, this Section shall not be construed to require a bond under A.R.S. § 42-5006 for any license issued pursuant to the criteria established in A.R.S. § 42-5044.

Historical Note

R15-5-2208. Expired
Historical Note

R15-5-2209. Renumbered
Historical Note
Section R15-5-2209 renumbered to R15-5-2205 effective October 14, 1993 (Supp. 93-4).

R15-5-2210. Collection of Tax by the Vendor
A. The vendor may pass on the economic burden of the transaction privilege tax, either as an unspecified portion of the overall selling price or as a separate and distinct item of charge.
1. If a vendor elects to pass on the economic burden of the tax as a separate and distinct item of charge, the vendor’s tax base shall not include any collected state, county, city, or town taxes.
2. If the vendor does not pass on the tax as a separate and distinct item of charge, the vendor may factor out the tax. See R15-5-2210.01.
3. The amount of tax on a transaction shall be the same whether the tax is stated as a separate and distinct item of charge or the tax is calculated using the factoring method.
4. Calculation of the amount of the tax using the separate and distinct item of charge method shall be as follows:
   - Price of tangible personal property $100
   - Multiply the price by the applicable tax rate $100 times 5% equals the tax as calculated $5
   - Total cost to the consumer $105

B. All taxes collected shall be remitted to the Department and applicable taxing jurisdictions. If a vendor has collected tax in excess of the tax liability for the reporting period, the excess tax shall also be remitted.

Historical Note

R15-5-2210.01. Factoring
“Factoring” means a method by which the taxpayer may determine the amount of the tax when the tax is collected as an unspecified part of the selling price.
1. The taxpayer may use any factoring method resulting in a tax amount equal to the tax as calculated using the separate and distinct item of charge method.
2. The following factoring method is approved and recommended by the Department.
   To calculate the tax under the factoring method, the total cost to the consumer is divided by one plus the cumulative amount of the state and applicable county, city, and town tax rates, stated as a decimal. The result of this calculation is then multiplied by the cumulative tax rate to arrive at the amount of the tax on the sale. The gross receipts subject to tax, plus the cumulative tax on that amount, shall equal the total cost to the consumer.
   To factor:
   - Total cost to the consumer $105
   - Divide the total cost to the consumer by 1 plus the tax rate (1.00 plus .05) $105 divided by 1.05 equals the price of tangible personal property $100
   - Tax as calculated ($100 times 5%) $5

Historical Note
New Section adopted effective October 14, 1993 (Supp. 93-4).

R15-5-2211. Election of Basis to Report and Pay Taxes
A. For purposes of this Section, the following definitions apply:
1. “Accrual method” means a sale is reported in the reporting period in which the sale occurs regardless of when payment is received.
2. “Cash receipts method” means a sale is reported in the reporting period in which payment is received.
4. “Payment” means all consideration received including cash, credit, property, and services.
5. “Reporting period” means a calendar month or as prescribed by A.R.S. § 42-5014.

B. A taxpayer shall elect a method of reporting based on either the accrual or the cash receipts method at the time of making the application for a transaction privilege tax license or use tax registration.

C. A taxpayer shall report allowable exclusions, deductions, and exemptions in a manner consistent with the method of reporting elected under subsection (B).

D. A taxpayer shall provide written notification to the Department prior to changing its method of reporting elected under subsection (B). The Department may audit the books of the taxpayer to adjust any tax liability resulting from the change in the method of reporting.

Historical Note
Repealed effective July 23, 1985 (Supp. 85-4). New Section renumbered from R15-5-2213 and amended effective October 14, 1993 (Supp. 93-4). Amended by final rulemaking at 14 A.A.R. 3616, effective November 8,
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2008 (Supp. 08-3).

R15-5-2212. Reporting by Marketplace Facilitators and Remote Sellers

Marketplace facilitators and remote sellers registered with the Department shall report and remit the applicable taxes payable pursuant to A.R.S. § 42-5044 in aggregate total amounts for each applicable jurisdiction designated by AZTaxes.gov. A marketplace facilitator shall not be required to list or otherwise identify any individual marketplace seller on any return or attachment to a return.

Historical Note


R15-5-2213. Repealed

Historical Note


R15-5-2214. Establishing the Right to a Deduction by Use of a Certificate or Other Documentation

A. The vendor is responsible for the payment of tax and therefore shall provide sufficient documentation in support of all deductions.

B. The vendor may establish a deduction or exclusion from the tax base pursuant to A.R.S. § 42-1316 or 42-1328.

1. If the purchaser does not have a valid license number, the purchaser shall indicate the reason on any certificate.

2. Marking an invoice may be done either by recording the purchaser’s transaction privilege tax license number on the invoice or by cross referencing the specific transaction to the specific exemption certificate of the specific purchaser.

3. The Department has prescribed a certificate for establishing entitlement to statutory deductions. Reproductions of the blank prescribed original certificate shall be acceptable for use.

4. The appropriate certificate shall be accurately and fully completed by the purchaser.

5. If the vendor has reason to believe that the information contained in the certificate is not accurate, complete, or applicable to the transaction, the vendor may refuse to accept the certificate.

6. If at any time the vendor has reason to believe that the certificate is not applicable to a transaction, the vendor may refuse to honor the certificate for that transaction.

7. The Department may challenge the certificate as accepted by the vendor if the Department has reason to believe that the information in the certificate is incomplete, inaccurate, or if the exemption claimed is not based on statutory provisions. The burden of proof lies with the Department when a vendor accepts a completed departmental certificate and marks the applicable invoice pursuant to statute.

C. A blanket certificate may be accepted if the vendor and purchaser agree. The blanket certificate may continue in force, for applicable transactions, for a period of time as set forth on the certificate. For purposes of this rule, a blanket certificate is one which covers the indicated type of transaction over a specified period of time.

1. The vendor may refuse to honor a blanket certificate and shall cancel such a certificate if, at any time, the vendor has reason to believe that the information contained in the certificate is no longer accurate or complete or no longer applies.

2. A new, accurate, and complete certificate may then be accepted.

D. Documentation, including a certificate other than a departmental certificate, may be accepted by the vendor to establish the right to a deduction.

1. If the vendor accepts a form of documentation other than a completed departmental certificate, the burden of proof remains with the vendor to establish the right to the deduction.

2. Other documentation necessary to establish a deduction from the tax base shall contain the information required by A.R.S. § 42-1316(A)

E. Documentation or a certificate to establish a deduction from the tax base shall be provided for each transaction or if a blanket certificate is used for each different exemption category.

F. The vendor shall retain all documentation for the required statutory period pursuant to A.R.S. § 42-113.

Historical Note


R15-5-2215. Return and Payment of Estimated Tax

A. For purposes of this rule, the following definitions apply:

1. “Annual estimated tax payment” means ½ of the total tax liability for the entire month of May or the total tax liability for the first 15 days of the month of June.

2. “Annual tax liability” means a total tax liability of in the preceding calendar or a reasonable anticipation of a total tax liability in the current year as follows:

a. $1,000,000 in 2019,
b. $1,600,000 in 2020,
c. $2,300,000 in 2021,
d. $3,100,000 in 2022,
e. $4,100,000 in 2023 and thereafter.

3. “Taxpayer” has the meaning set forth in A.R.S. § 42-5014(S). The following are considered a single taxpayer:

a. Members of an Arizona-affiliated group filing a consolidated corporate income tax return under A.R.S. § 43-947;
b. Corporations in a unitary business filing a combined corporate income tax return under R15-2D-401;
c. Married taxpayers operating separate sole proprietorships and filing a joint income tax return; or
d. Partnerships, Limited Liability Companies, S Corporations, trusts, or estates conducting multiple businesses, filing a single income tax return.

4. “Total tax liability” means the combined total of the transaction privilege tax, telecommunications services excise tax, and county excise tax liabilities.

B. The requirement to make an annual estimated tax payment is based on the annual tax liability. Use tax and severance tax are not subject to the estimated tax provisions.

1. A taxpayer shall make an annual estimated tax payment if during the current calendar year the taxpayer, through use of ordinary business care and prudence, can anticipate incurring the annual tax liability. For example:

ABC Company has been selling home electronics for several years. Its tax liability for previous calen-
A. Remote Sellers

1. “Affiliated person” has the same meaning as prescribed in A.R.S. § 42-5043.
2. “Incorrect information” means any information that was given to the marketplace facilitator by the marketplace seller and that is not accurate. Incorrect information does not include any of the following:
   a. Mistakes related to the process of filing a return, such as the frequency, non-filing, or manner of filing;
   b. Mistakes related to the manner of remitting tax liability to the Department;
   c. Failure to remit all amounts collected and represented as tax.
3. “Errors other than sourcing” means errors related to the details of a sale and errors related to tax rates. “Errors other than sourcing” does not include any of the following:
   a. Mistakes related to the process of filing a return, such as the frequency, non-filing, or manner of filing.
   b. Mistakes related to the manner of remitting tax liability to the Department.
   c. Failure to remit all amounts collected and represented as tax.
4. “Taxable sales” means gross sales sourced to this state less any allowable deductions or exemptions.

B. A marketplace facilitator or remote seller may apply for liability relief pursuant to A.R.S. § 42-5043 as outlined by Department-issued procedure.

C. A marketplace facilitator or remote seller may not obtain liability relief under A.R.S. § 42-5043 if the marketplace facilitator or remote seller does not act in good faith. “Good faith” means acting with honesty and with no knowledge of circumstances that would render the marketplace facilitator or remote seller ineligible for liability relief.

D. In processing an application for liability relief pursuant to A.R.S. § 42-5043, the Department will waive penalties and interest when reasonable cause exists. Whether reasonable cause exists is based on the facts and circumstances of the specific request for relief, which may include whether the marketplace facilitator should have known that the information provided by the marketplace seller was incorrect; whether the marketplace facilitator or remote seller applied for liability relief for the same errors other than the sourcing in the prior 12 months; and other relevant factors.

E. The liability relief limitations provided in A.R.S. § 42-5043 for a marketplace facilitator shall be applied in relation to the total tax liability of all the marketplace sellers selling on the marketplace facilitator’s marketplace. Nothing in this rule shall be construed as allowing any liability relief for a marketplace facilitator in relation to its own sales or sales on behalf of any of its affiliates.
The Department must consider a taxpayer requesting waiver of civil penalties. Pursuant to A.R.S. 42-1125, the Department shall not apply civil penalties to have reasonable cause if a failure to pay transaction privilege tax due or file a required transaction privilege tax return if reasonable cause exists and the failure to pay was not due to willful neglect or fraud. Generally, reasonable cause exists whenever a taxpayer uses prudent and timely business practices but nonetheless fails to fully comply with its tax remittance and reporting requirements due to circumstances beyond the taxpayer’s control.

B. The Department must consider a taxpayer requesting waiver of civil penalties to have reasonable cause if a failure to pay transaction privilege tax due or file a required transaction privilege tax return was due to a system outage or other system unavailability—whether scheduled or unscheduled—of AZTaxes.gov that prevents or substantially interferes with a taxpayer’s ability to access, submit, or otherwise complete a required return or payment and submit the return or payment in the time required by law.

C. The Department must consider a taxpayer requesting waiver of civil penalties to have reasonable cause if a failure to pay the full and correct amount of transaction privilege tax due or file a complete and correct transaction privilege tax return was due to a software- or application-based error by either AZTaxes.gov or a Department-approved vendor’s software to calculate and file a transaction privilege tax return, if the error demonstrably results in the incorrect calculation or payment of any taxes due.

D. Except as provided in subsection (E), a taxpayer requesting waiver of civil penalties for reasonable cause shall notify the Department of the issue or error in writing within a reasonable time after becoming aware of the issue or error.

E. The Department may waive civil penalties without requiring a written taxpayer request for any system outage, system unavailability, or other event or anomaly as described in subsections (B) and (C) if it becomes aware of the event or anomaly before issuing a penalty assessment.

Historical Note

R15-5-2217. Reasonable Cause for Waiver of Civil Penalties
A. Pursuant to A.R.S. 42-1125, the Department shall not apply specified civil penalties for failure to pay a required amount of transaction privilege tax or file a required transaction privilege return if reasonable cause exists and the failure to pay was not due to willful neglect or fraud. Generally, reasonable cause exists whenever a taxpayer uses prudent and timely business practices but nonetheless fails to fully comply with its tax remittance and reporting requirements due to circumstances beyond the taxpayer’s control.

B. The Department must consider a taxpayer requesting waiver of civil penalties to have reasonable cause if a failure to pay transaction privilege tax due or file a required transaction privilege tax return was due to a system outage or other system unavailability—whether scheduled or unscheduled—of AZTaxes.gov that prevents or substantially interferes with a taxpayer’s ability to access, submit, or otherwise complete a required return or payment and submit the return or payment in the time required by law.

C. The Department must consider a taxpayer requesting waiver of civil penalties to have reasonable cause if a failure to pay the full and correct amount of transaction privilege tax due or file a complete and correct transaction privilege tax return was due to a software- or application-based error by either AZTaxes.gov or a Department-approved vendor’s software to calculate and file a transaction privilege tax return, if the error demonstrably results in the incorrect calculation or payment of any taxes due.

D. Except as provided in subsection (E), a taxpayer requesting waiver of civil penalties for reasonable cause shall notify the Department of the issue or error in writing within a reasonable time after becoming aware of the issue or error.

E. The Department may waive civil penalties without requiring a written taxpayer request for any system outage, system unavailability, or other event or anomaly as described in subsections (B) and (C) if it becomes aware of the event or anomaly before issuing a penalty assessment.

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

R15-5-2301. Definitions

In this Article:

1. “Purchases” means purchase for storage, use, or consumption in Arizona.

2. “Retailer” has the same meaning as prescribed in A.R.S. § 42-5151, but does not include a marketplace facilitator or remote seller who meets the threshold requirements in A.R.S. § 42-5044.

3. “Utility business” has the same meaning as prescribed in A.R.S. § 42-5151.

R15-5-2302. General

A. A.R.S. § 42-5155 imposes Arizona use tax upon a purchaser that purchases tangible personal property from an out-of-state retailer or utility business if the retailer or utility business’s gross receipts from the sale have not already been included in the measure of Arizona transaction privilege tax. Because Arizona transaction privilege tax and Arizona use tax are complementary taxes, only one of the taxes is imposed on a given transaction.

B. Arizona use tax generally applies to the use, storage, or consumption in this state of tangible personal property purchased from an out-of-state retailer or utility business.

C. If a purchaser pays to an out-of-state retailer or utility business a tax of another state levied on the sale or use of tangible personal property that is subject to Arizona use tax, the purchaser may apply the amount of tax paid to the other state against the purchaser’s use tax liability.

D. A purchaser that purchases tangible personal property exempt from tax because the property is purchased for resale in the ordinary course of business but subsequently uses or consumes the tangible personal property shall pay Arizona use tax.

R15-5-2303. Repealed

Historical Note

Repealed effective January 16, 1997 (Supp. 97-1).

R15-5-2304. Presumption of Taxability of Property Brought into Arizona

A. If tangible personal property was purchased outside Arizona and is subsequently brought into this state for use, storage, or consumption, the purchaser of such property shall be subject to the Arizona use tax unless the purchaser establishes to the satisfaction of the Department:

1. That the property is not used in conducting a business in Arizona; and

2. That the property was purchased for bona fide use or consumption outside Arizona. Unless shown otherwise, it shall be presumed that the property was purchased for bona fide use or consumption outside Arizona if the property was purchased at least three months prior to its initial entry into Arizona; or

3. If the property was purchased by a nonresident individual, that the first actual use or consumption of the property occurred outside Arizona.

B. It shall be presumed that property brought into the state is subject to the use tax. The burden of proof that a purchase is not subject to use tax rests upon the purchaser.
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Historical Note
Former Section R15-5-2311 repealed, new Section R15-5-2311 adopted effective August 7, 1985 (Supp. 85-4).
Former Section R15-5-2304 repealed, new Section R15-5-2304 renumbered from R15-5-2311 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2305. Expired

Historical Note
Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1744, effective March 31, 2007 (Supp. 07-2).

R15-5-2306. Repealed

Historical Note
Section repealed by final rulemaking at 11 A.A.R. 2293, effective August 6, 2005 (Supp. 05-2).

R15-5-2307. Repealed

Historical Note
Section repealed by final rulemaking at 11 A.A.R. 2293, effective August 6, 2005 (Supp. 05-2).

R15-5-2308. Repealed

Historical Note
Section repealed by final rulemaking at 11 A.A.R. 2293, effective August 6, 2005 (Supp. 05-2).

R15-5-2309. Exemptions - Purchases for Resale or Lease
A. Purchases of tangible personal property from a retailer for resale in the ordinary course of the purchaser’s business are not subject to use tax.
B. Purchases of tangible personal property from a retailer for subsequent leasing or renting in the ordinary course of the purchaser’s business are not subject to use tax.

Historical Note

R15-5-2310. Payment of Use Tax by Purchaser
A. Use tax must be paid to:
   1. An out-of-state vendor holding a certificate of authority for the collection of use tax, or
   2. The Department, in cases where the vendor is not a marketplace facilitator or remote seller liable for transaction privilege tax under A.R.S. § 42-5044 or is not registered for the collection of use tax.
B. A one-time, nonrecurring payment of use tax may be remitted to the Department under a cover letter rather than on a standard report form.
C. Arizona purchasers making recurring purchases from out of state may apply to the Department for a registration certificate and remit payment directly to the state on a monthly report form in lieu of making payment to the vendor.
D. The purchaser will be relieved of his liability for the tax when payment is made directly to the out-of-state vendor registered and a receipt of the tax paid is obtained by him.

Historical Note

R15-5-2311. Renumbered

Historical Note
Former Section R15-5-2311 repealed, new Section R15-5-2311 adopted effective August 7, 1985 (Supp. 85-4).
Former Section R15-5-2311 renumbered to R15-5-2304 effective September 29, 1993 (Supp. 93-3).

R15-5-2312. Casual Sales
Tangible personal property purchased in a casual sale, as defined in R15-5-2001, is not taxable.

Historical Note
Former Section R15-5-2312 repealed, new Section R15-5-2312 adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2313. Expired

Historical Note

R15-5-2314. Purchases from Trustees, Receivers, and Assignees
A. Tangible personal property purchased for storage, use, or consumption in Arizona from a trustee, receiver, or assignee is subject to use tax if the purchase of the tangible personal property from the owner would be subject to use tax.
B. Tangible personal property purchased for storage, use, or consumption in Arizona from a trustee, receiver, or assignee is not subject to use tax if the purchase of the property from the owner would not be subject to use tax.

Historical Note

R15-5-2315. Renumbered

Historical Note

R15-5-2316. Repealed

Historical Note
Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2317. Renumbered

Historical Note
Former Section R15-5-2317 renumbered to R15-5-2352 effective September 29, 1993 (Supp. 93-3).

R15-5-2318. Repealed

Historical Note
Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2319. Renumbered

Historical Note
Former Section R15-5-2319 renumbered to R15-5-2353
R15-5-2320. Exemptions - Machinery or Equipment
A. Machinery or equipment used in manufacturing or processing includes machinery or equipment that constitutes the entire primary manufacturing or processing operation from the initial stage where actual processing begins through the completion of the finished end product, and that is used in the production, manufacture, fabrication, processing, finishing, or packaging of articles of commerce. Manufacturing is the performance as a business of an integrated series of operations which place tangible personal property in a form, composition, or character different from that in which it was acquired, and transforms it into a different product with a distinctive name, character, or use.

B. Purchase of repair or replacement parts for exempt machinery or equipment is not subject to the use tax. Repair or replacement parts are defined as those individual component and constituent items which, together, comprise exempt machinery or equipment.

Historical Note
Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended subsection (B) effective March 18, 1981 (Supp. 81-2). Former Section R15-5-2320 renumbered to R15-5-2362, new Section R15-5-2320 renumbered from R15-5-2321 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2321. Expired

R15-5-2322. Renumbered

R15-5-2323. Repealed

Historical Note

R15-5-2324. Repealed

Historical Note
Repeated effective September 29, 1993 (Supp. 93-3).

R15-5-2325. Repealed

Historical Note
Repeated effective September 29, 1993 (Supp. 93-3).

R15-5-2326. Manufacturing Labor
The cost of labor employed in the manufacturing, processing, or fabricating of tangible personal property shall not be allowed as a deduction from the sales price on a purchase of such property.

Historical Note
Former Section R15-5-2326 repealed, new Section R15-5-2326 adopted effective September 29, 1993 (Supp. 93-3).
R15-5-2331. Repealed

Historical Note
Adopted as an emergency effective July 1, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now adopted effective October 15, 1980 (Supp. 80-5). Repealed effective September 29, 1993 (Supp. 93-3).

R15-5-2332. Delivery Charges
A charge by a retailer for delivery from the retailer’s location to the purchaser’s location, if separately stated on the sales invoice, is not taxable.

Historical Note

R15-5-2333. Reserved

R15-5-2334. Purchases of Restaurant Accessories
A. If a person engaged in the restaurant business purchases disposable containers, paper napkins, and other similar food accessories and, transfers these accessories in the regular course of business to facilitate the consumption of the food, drink, or condiment provided, the purchases are considered purchases for resale.

B. If a person engaged in the restaurant business purchases matchbooks, advertisement fliers, and other similar tangible personal property and transfers this property for the convenience, operation, or benefit of the restaurant business, the purchases are subject to tax.

Historical Note

R15-5-2335. Reserved

R15-5-2336. Reserved

R15-5-2337. Reserved

R15-5-2338. Reserved

R15-5-2339. Reserved

R15-5-2340. Tangible Personal Property Used in Soil Remediation Activities
The purchase of tangible personal property for incorporation or fabrication into any real property, structure, project, development or improvement under a contract specified in A.R.S. § 42-5075(B)(6) is exempt from tax. The purchase of tangible personal property used in soil remediation activities but not incorporated or fabricated into any real property, structure, project, development or improvement is taxable.

Historical Note

R15-5-2341. Four-inch Pipes or Valves
Purchases of pipes, valves, or fire hydrants with an inside diameter of four inches or more are not taxable if the pipes, valves, or fire hydrants are to be used to transport oil, natural gas, artificial gas, water, or coal slurry.

Historical Note
Adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2342. Computer Hardware and Software
Purchases of computer hardware and software are subject to the use tax based on the same provisions as delineated in R15-5-154.

Historical Note
Adopted effective September 29, 1993 (Supp. 93-3).

R15-5-2343. Purchases of Prescription Drugs and Prosthetic Appliances
A. In this Section:
1. “Drug” means an article that, according to federal or state law, is:
   a. Recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to these documents; or
   b. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; or
   c. Not food and is intended to affect the structure or any function of the body of humans or animals; or
   d. Intended for use as a component of any article specified in subsections (a), (b), or (c).
3. “Food” means an article used for food or drink for humans or animals, chewing gum, or an article used as a component of such an article.
4. “Hearing aid” means any wearable device designed as a remedy or to compensate for defective human hearing, including parts, attachments, accessories, and earmolds.
5. “Legend drug” means a drug that 21 U.S.C. 353(b)(4)(A) requires to bear the symbol “Rx only” before dispensing.
6. “Nonprescription product” means a drug or other article that can be purchased by the final consumer of the drug or article without a prescription, regardless of whether purchased on the advice or recommendation of a member of the medical, dental, or veterinarian profession. Examples include over-the-counter drugs and those dietary supplements, vitamins, minerals, herbs, and other similar supplements that do not qualify as prescription drugs.
7. “Over-the-counter drug” means a drug that is subject to federal labeling requirements in 21 CFR 201.66.
8. “Prescriber” means a member of the medical, dental, or veterinarian profession authorized by federal or state law to prescribe a drug.
10. “Prescription drug” means a legend drug or a drug that, according to federal or state law, can be dispensed only:
   a. Upon a written prescription of a prescriber for the drug;
   b. Upon an oral prescription by the prescriber for the drug that federal or state law requires be reduced promptly to a form of writing by the prescriber and then filed by a pharmacist or the prescriber;
   c. By refilling a written or oral prescription if refilling is authorized by the prescriber for the drug either in the original prescription or by oral order that is first reduced promptly to writing and then filed by a pharmacist or the prescriber.
11. “Prescription eyeglasses” includes frames and other component parts of eyeglasses if purchased for use with the prescription lenses.
12. “Prosthetic appliance” means an artificial device that fully or partially replaces a part or function of the human body or increases the acuity of a sense organ.

B. The storage, use, or consumption in this state of the following kinds of tangible personal property is not subject to tax:

1. Prescription drugs, including those used in the course of treating patients;
2. Medical oxygen, pursuant to A.R.S. § 42-5159(A)(16);
3. Insulin, insulin syringes, and glucose strips, whether or not prescribed;
4. Prosthetic appliances, prescribed or recommended by a statutorily-authorized individual;
5. Durable medical equipment, pursuant to A.R.S. § 42-5159(A)(21);
6. Prescription eyeglasses and contact lenses; and
7. Hearing aids. Batteries and cords are subject to tax.

C. The purchase of component and repair parts for any tangible personal property that is exempt under either subsection (B) or (F) is not subject to tax.

D. If a written prescription or recommendation is required to purchase tangible personal property, a taxpayer shall maintain the prescription or recommendation as part of the taxpayer’s records. The taxpayer’s records for documenting purchases shall provide reasonable detail to allow the Department, upon inspection, to identify property as exempt.

E. Purchases by a final consumer of nonprescription products and those medical supplies or appliances not provided for under subsection (B) are subject to tax.

F. Purchases of nonprescription products or other medical supplies or appliances by doctors, dentists, or veterinarians are subject to tax unless the purchase qualifies as a purchase for resale and the doctor, dentist, or veterinarian is a retailer in the business of reselling the property.

Historical Note

R15-5-2344. Postage Stamps

A. The purchase of postage stamps is not subject to use tax if the stamps are purchased for the purpose of transporting mail.

B. The purchase of postage stamps is subject to use tax if the stamps are purchased for any purpose other than transporting mail.

C. The Department shall presume that a postage stamp is purchased for a purpose other than transporting mail if the postage stamp is purchased for at least 50% more than its face value. A purchaser may overcome the presumption; however, the burden of proof will remain on the purchaser.

D. The purchase of cancelled postage stamps is subject to use tax.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 4112, effective October 4, 2000 (Supp. 00-4).

R15-5-2345. Reserved
R15-5-2346. Reserved
R15-5-2347. Reserved
R15-5-2348. Reserved
R15-5-2349. Reserved
R15-5-2350. Repealed

Historical Note
Adopted effective December 6, 1990 (Supp. 90-4).
R15-5-2362. Exempt Purchases by Health Organizations
A. Purchases by qualifying hospitals, nursing care institutions, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers are exempt from tax pursuant to statutory provisions.
B. The Department may, upon review of the written request and any other information requested by the Department to make a proper determination, provide an Exemption Letter to organizations meeting the statutory criteria. The Exemption Letter shall be valid for a period of 12 months from the first day of the month following the issue date of the Exemption Letter unless the organization’s tax exempt status changes prior to the end of the 12-month period, or the organization misrepresented or omitted material information in its exemption request.
C. Qualifying hospitals, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers shall annually submit to the Department a written request for an Exemption Letter. The request shall be submitted at least 30 days prior to the first day of the exemption period. For purposes of this rule, “exemption period” means the 12-month period beginning on the first day of the month following the issue date of the Exemption Letter or the 12-month period requested by the organization.
1. Qualifying hospitals shall attach to their annual exemption request a copy of their current license issued by the Department of Health Services.
2. Qualifying health care organizations shall attach to their exemption request letter the statutorily required annual financial audit and a copy of their Internal Revenue Code 501(c) recognition unless the Department has previously received a copy of this recognition.
3. Rehabilitation programs for mentally or physically handicapped persons shall attach to their exemption request a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.
4. Qualifying community health centers shall attach to their exemption request documentation supporting the statutory criteria and a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.

Historical Note
Section R15-5-2362 renumbered from R15-5-2310 and amended effective September 29, 1993 (Supp. 93-3).

R15-5-2363. Renumbered

Historical Note

ARTICLE 24. REPEALED

R15-5-2401. Repealed

Historical Note
Repealed effective October 14, 1993 (Supp. 93-4).

R15-5-2402. Repealed

Historical Note
Repealed effective October 14, 1993 (Supp. 93-4).
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R15-5-2419. Repealed
Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2420. Repealed
Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2421. Repealed
Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2422. Repealed
Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2423. Repealed
Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2424. Repealed
Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2425. Repealed
Historical Note
Repealed effective September 24, 1986 (Supp. 86-5).

R15-5-2426. Repealed
Historical Note
Repealed effective April 21, 1995 (Supp. 95-2).

ARTICLE 25. REPEALED

R15-5-2501. Repealed
Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2502. Repealed
Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2503. Repealed
Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2504. Repealed
Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2505. Repealed
Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2506. Repealed
Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2507. Repealed
Historical Note
Amended effective March 18, 1981 (Supp. 81-2). Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

ARTICLE 26. REPEALED

R15-5-2601. Repealed
Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2602. Repealed
Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2603. Repealed
Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2604. Repealed
Historical Note

R15-5-2605. Repealed
Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2606. Repealed
Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2607. Repealed
Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2608. Repealed
Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2609. Repealed
Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2610. Repealed
Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2611. Repealed
Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2612. Repealed
Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2613. Repealed
Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).
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Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2614. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2615. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2616. Repealed

Historical Note
Repealed by final rulemaking at 6 A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-2617. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2618. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2619. Repealed

Historical Note
Repealed effective February 22, 1989 (Supp. 89-1).

R15-5-2620. Repealed

Historical Note
Repealed effective April 21, 1995 (Supp. 95-2).

ARTICLE 27. RESERVED
ARTICLE 28. RESERVED
ARTICLE 29. RESERVED
ARTICLE 30. EXPIRED

R15-5-3001. Reserved
R15-5-3002. Reserved
R15-5-3003. Reserved
R15-5-3004. Renumbered

Historical Note

R15-5-3005. Renumbered

Historical Note

R15-5-3006. Renumbered

Historical Note
R15-5-3026. Reserved
R15-5-3027. Reserved
R15-5-3028. Reserved
R15-5-3029. Reserved
R15-5-3030. Reserved
R15-5-3031. Reserved
R15-5-3032. Repealed

Historical Note
(A.R.S. § 42-1472) Adopted effective September 24, 1986 (Supp. 86-5). Repealed by final rulemaking at 6

A.A.R. 956, effective February 15, 2000 (Supp. 00-1).

R15-5-3033. Reserved
R15-5-3034. Reserved
R15-5-3035. Expired

Historical Note

R15-5-3036. Renumbered

Historical Note