

# ARIZONA TRANSACTION PRIVILEGE TAX PROCEDURE

## TPP 00-4

### Procedure for Taxation Under Title 42 of Transactions Engaged in by Tax-Exempt Organizations

(This procedure supersedes TPP 93-4)

This procedure provides an overview of the exemptions from transaction privilege tax which are available to tax-exempt organizations engaged in business under the classifications listed below. This procedure does not discuss exemptions from property tax that may be available to non-profit organizations. See Arizona Transaction Privilege Tax Procedure TPP 99-5 for exemptions available to qualified hospitals and health care organizations.

#### APPLICABLE LAW:

- A.R.S. § 42-5001 "Definitions"
- A.R.S. § 42-5061 "Retail classification; definitions"
- A.R.S. § 42-5069 "Commercial lease classification; definitions"
- A.R.S. § 42-5070 "Transient lodging classification"
- A.R.S. § 42-5073 "Amusement classification"
- A.R.S. § 42-5074 "Restaurant classification"

#### DISCUSSION:

##### General Provisions

Arizona imposes a transaction privilege tax that differs from the sales tax imposed by most states. The Arizona transaction privilege ("sales") tax is a tax imposed on the privilege of conducting business in the State of Arizona. This tax is levied on the seller, not the purchaser. The seller may pass the burden of the tax on to the purchaser; however, the seller is ultimately liable to Arizona for the tax.

Tax-exempt organizations are nonprofit organizations that have been granted an exemption from federal and state income taxes. Nonprofit organizations may be exempt from federal income tax after applying to the Internal Revenue Service and receiving a "Letter of Determination" that grants this status.

Arizona does not provide an overall exemption from transaction privilege tax for nonprofit organizations. However, Arizona tax law provides that certain specifically delineated organizations are exempt from transaction privilege tax under some business classifications. Please note that these exemptions are available for sales **by** the tax-exempt organizations, not for sales **to** the tax-exempt organizations. Generally sales to a nonprofit organization are subject to the transaction privilege and use tax unless the organization is a qualified hospital or health care organization (see Arizona Transaction Privilege Tax Procedure TPP 99-5). In addition, Arizona Transaction Privilege Tax Rulings TPR 94-10 and TPR 94-11 respectively, discuss exempt sales of tangible personal property and sales of food to certain nonprofit charitable organizations.

Arizona law provides for exemptions from the transaction privilege tax under several tax classifications for transactions by certain tax-exempt organizations. The various classifications under the transaction privilege tax statutes have differing requirements by which an organization may qualify for an exemption from transaction privilege tax. Therefore, a tax-exempt organization must consult the statutory requirements for each exemption to determine whether it qualifies.

### Tax-Exempt Organizations may Qualify for an Exemption From Transaction Privilege Tax Under Various Classifications

The following lists the type of organizations and the classifications under which an exemption exists.

1. An organization which has been granted tax-exempt status under Section 501(c)(3) of the Internal Revenue Code by the Internal Revenue Service.
  - The retail classification  
[A.R.S. § 42-5061(A)(4)]
  - The restaurant classification  
[A.R.S. § 42-5074(B)(6)]
2. An association, institution, government agency, or corporation of which no part of the net earnings of the entity inures to the benefit of any private shareholder or individual, that operates any structure for religious, charitable or educational purposes.
  - The transient lodging classification  
[A.R.S. § 42-5070(B)(1)]

3. Bona fide religious or educational institutions.

- The amusement classification  
[A.R.S. § 42-5073(A)(1)]

4. A musical, dramatic or dance group or botanical garden, museum or zoo that has qualified for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

- The amusement classification  
[A.R.S. § 42-5073(A)(4)]

5. An organization that is associated with a major league baseball team or a national touring professional golfing association and that is exempt from taxation under Sections 501(c)(3), 501(c)(4) or 501(c)(6) of the Internal Revenue Code.

- The retail classification  
[A.R.S. § 42-5061(A)(30)]
- The amusement classification  
(limited to exhibition events)  
[A.R.S. § 42-5073(A)(5)]
- The restaurant classification  
[A.R.S. § 42-5074(B)(4)]

6. A nonprofit organization that is exempt from taxation under Sections 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the Internal Revenue Code and that sponsors or operates a rodeo featuring primarily farm and ranch animals.

- The retail classification  
[A.R.S. § 42-5061(A)(32)]
- The amusement classification  
[A.R.S. § 42-5073(A)(6)]
- The restaurant classification  
[A.R.S. § 42-5074(B)(5)]

7. A nonprofit organization selling admissions to intercollegiate football contests and that is exempt from tax under Section 501(c)(3) of the Internal Revenue Code.

- The amusement classification  
[A.R.S. § 42-5073(A)(7)]

8. Sales by churches, fraternal benefit societies and other nonprofit organizations defined in Section 501 of the Internal Revenue Code that do not regularly engage in the restaurant business for the purpose of fundraising.

- The restaurant classification  
[A.R.S. § 42-5074(B)(3)]

Tax-exempt organizations must meet the requirements of the specific statutes delineated above to qualify for an exemption from transaction privilege tax.

### PROCEDURE:

The following information is provided to assist tax-exempt organizations in complying with the requirements of the statute under which an exemption from transaction privilege tax is claimed.

### For Recognition of Tax-Exempt Status by the Internal Revenue Service

An organization qualifying for an exemption from transaction privilege tax under category 1, 4, 5, 6, 7 or 8 must contact the Internal Revenue Service for information on acquiring tax-exempt status under the Internal Revenue Code. An organization that has been granted tax-exempt status by the Internal Revenue Service should retain adequate documentation in its records to establish its tax-exempt status for state purposes.

### Procedure for Nonprofit Organizations to Follow if Recognition of Tax-Exempt Status is not Required by the Statute

An organization qualifying for an exemption from transaction privilege tax under category 2 or 3 should keep appropriate documentation in its records to demonstrate that it is a bona fide religious or educational institution, or that it is a nonprofit entity with no part of its net earnings inuring to the benefit of any private shareholder or individual.

Mark W. Killian, Director  
Signed: October 3, 2000

### Explanatory Notice

The purpose of a tax procedure is to provide procedural guidance to the general public and to department personnel. A tax procedure is a written statement issued by the department to assist in the implementation of tax laws, administrative rules, and tax rulings by delineating procedures to be followed in order to achieve compliance with the law. Relevant statute, case law, or administrative rules, as well as a subsequent procedure, may modify or negate any or all of the provisions of any tax procedure. See GTP 96-1 for more detailed information

regarding documents issued by the Department of Revenue.