



Douglas A. Ducey  
Governor

David Briant  
Director

**ARIZONA LUXURY TAX RULING**  
**LTR 17-02**

**Use of Vehicle or Residence to Store, Sell  
or Distribute Tobacco Products**

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

**ISSUE:**

This ruling addresses recent legislation that clarifies existing law regarding the use of a vehicle or residential location to store, sell, transfer or distribute tobacco products in Arizona.

**RULING:**

Licensed tobacco distributors may not hold or store tobacco products for sale or distribution at a residential location or in a vehicle as a condition of their licensure. With limited exception, no person may use a vehicle as a place of business for selling, transferring or distributing tobacco products.

**DISCUSSION:**

**Effective August 9, 2017**, statutory changes clearly prohibit tobacco distributors from holding or storing tobacco products for sale or distribution in Arizona at a residential location or in a vehicle as a condition of their licensure. Arizona Revised Statutes (“A.R.S.”) 42-3401(D)(2).

In addition, state law has been clarified to prohibit any person from using a vehicle as a place of business for selling, transferring or distributing tobacco products. A.R.S. § 42-3403(B).

This law does not prohibit licensed distributors from lawfully delivering tobacco products in their own vehicles or transferring taxed and untaxed cigarettes, roll-your-own and other tobacco products from one of the licensee’s places of business to another. It is the Department’s position

## **ARIZONA LUXURY TAX RULING**

### **LTR 17-02**

Page 2

that a “delivery” is the act of delivering tobacco products to an identified customer or recipient pursuant to a lawful sale or order.

The law also permits the use of a vehicle to transport taxed and untaxed cigarettes, roll-your-own and other tobacco products (1) to a licensed distributor as part of a lawful sale or (2) in interstate commerce to a manufacturer, distributor or retailer. A.R.S. § 42-3403(C).

#### **APPLICABLE LAW:**

A.R.S. § 42-3401 requires every distributor acquiring or possessing tobacco products for the purpose of making the initial sale or distribution of the product in Arizona to obtain a license from the Department.

A.R.S. § 42-3401(D) establishes the conditions for licensure for tobacco distributors.

A.R.S. § 42-3401(D)(2) prohibits licensed tobacco distributors from holding or storing tobacco products for sale or distribution in Arizona at a residential location or in a vehicle as a condition of their licensure.

A.R.S. § 42-3403(B) prohibits any person from using a vehicle as a place of business for selling, transferring or otherwise distributing tobacco products. The statute does not prohibit the lawful delivery of tobacco products by a licensed distributor in a vehicle owned, operated or contracted by the distributor.

A.R.S. § 42-3403(C) permits the business activities authorized in A.R.S. §§ 42-3454 and 42-3502 for both taxed and untaxed tobacco products.

A.R.S. § 42-3454(A) prohibits any person from holding, storing or transporting unstamped cigarettes or untaxed roll-your-own tobacco for sale or distribution in Arizona in any vehicle.

A.R.S. § 42-3454(B) establishes that the prohibition in A.R.S. § 42-3454(A) does not apply to: (1) a vehicle owned, operated or contracted by a licensed distributor that is transporting unstamped cigarettes or untaxed roll-your-own tobacco from one of the licensee’s places of business to another; or (2) a vehicle that is transporting unstamped cigarettes or untaxed roll-your-own tobacco to a licensed distributor as part of a lawful sale or in interstate commerce to a person lawfully operating as a manufacturer, distributor or retailer.

A.R.S. § 42-3502(A) prohibits any person from holding, storing or transporting untaxed other tobacco products for sale or distribution in Arizona in any vehicle.

A.R.S. § 42-3502(B) establishes that the prohibition in A.R.S. § 3502(A) does not apply to: (1) a vehicle owned, operated or contracted by a licensed distributor that is transporting untaxed other tobacco products from one of the licensee’s places of business to another; or (2) a vehicle that is

## **ARIZONA LUXURY TAX RULING**

**LTR 17-02**

Page 3

transporting untaxed other tobacco products to a licensed distributor as part of a lawful sale or in interstate commerce to a person lawfully operating as a manufacturer, distributor or retailer.

Grant Nülle, Deputy Director

Signed: July 28, 2017

### **EXPLANATORY NOTICE**

The purpose of a tax ruling is to provide interpretive guidance to the general public and to Department personnel. A tax ruling is intended to encompass issues of law that are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement that provides interpretation, detail, or supplementary information concerning application of the law. Relevant statute, case law, or administrative rules, as well as a subsequent ruling, may modify or negate any or all of the provisions of any tax ruling. See GTP 96-1 for more detailed information regarding documents issued by the Department of Revenue.