

ARIZONA DEPARTMENT OF REVENUE ARIZONA

TRANSACTION PRIVILEGE TAX RULING TPR 91-1

(Note: On 8/21/2020 the statute references were updated to show their current number. See footnotes for details. No Substantive changes were made)

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:

Application of the Arizona telecommunications transaction privilege tax on income derived from the publication of telephone or telecommunications directories by persons engaged in the business of telecommunications services.

APPLICABLE LAW:

A.R.S. § 42-5064¹ provides that the privilege tax is imposed on the gross proceeds of sales or gross income from "intrastate telecommunications services, including gross income derived from tolls, subscriptions and services on behalf of subscribers, or from the publication of a directory of the names of subscribers. (Emphasis added.)

A.R.S. § 42-5155² levies an excise tax on the storage, use or consumption in this state of tangible personal property purchased from a retailer as a percentage of the sales price. Every person storing, using or otherwise consuming in this state tangible personal property purchased from a retailer is liable for the use tax.

DISCUSSION:

¹ The original reference in this document was to A.R.S. § 42-1310.04 which was renumbered to A.R.S. § 42-5064.

² The original reference in this document was to A.R.S. § 42-1408 which was renumbered to A.R.S. § 42-5155.

Arizona transaction privilege tax statutes do not define the term "directory." Webster's Third New International Dictionary defines "directory" as:

"an alphabetical or classified list containing the names and addresses of the inhabitants or organizations of a locality or the names, location, and identifying data of persons or organizations connected with a particular profession or occupation or that are subscribers of a particular service."

Relating to telecommunications services, directories are listings of subscribers to telephone or telecommunications services. With every subscription to a telephone or telecommunications number, a customer normally receives a basic listing in a directory for which the telecommunications company makes no specific additional charge and for which the customer does not pay a specific charge. This basic listing is normally included free with the monthly telephone or telecommunications subscription charge. That directory listing which the subscriber receives free in conjunction with the telephone or telecommunications subscription is herein called the basic listing. Premium listings are additional or enhanced listings beyond a free basic listing and for which a fee is charged or consideration is given.

Pursuant to current statute, the gross income derived from the publication of directories was and continues to be taxable under either job printing, publishing or telecommunications classifications, unless excepted by statute. Persons engaged in telecommunications activity who publish a directory of the names of the subscribers are subject to tax on any gross proceeds derived therefrom. The telecommunications statute contains no exemption for gross proceeds from directories.

Other persons, not engaged in telecommunications, may be subject to tax on income connected with the publication of a directory. A person engaged in publishing may have taxable gross proceeds from publishing a directory. A person engaged in job printing may have taxable gross proceeds from printing a directory.

CONCLUSION:

As related to telecommunications activities, the publication of a directory of subscribers by a person engaged in telecommunications activities is taxable according to the following:

As the cost of a free basic listing is included in the charges for a monthly telephone or telecommunications subscription, there is no separate tax consequence to this basic listing. The gross income from the customer's monthly telephone or telecommunications charges is one part of the tax base under the telecommunications classifications.

The gross income from premium or enhanced listing charges is income derived from the publication of a directory of subscribers and is one part of the tax base under the telecommunications classification.

The gross income from premium or enhanced charges in all directories published by the telecommunications company which either list or categorize and list subscribers to telephone or telecommunications service is taxable under the telecommunication classification.

The telecommunications transaction privilege tax applies to any income derived from the sale of directories to customers by persons engaged in telecommunications activities.

Paul Waddell, Director
Signed February 13, 1991