

# ARIZONA DEPARTMENT OF REVENUE

## ARIZONA TRANSACTION PRIVILEGE TAX RULING

### TPR 93-32

(Note: On 9/10/2020, the Statute and rule references were updated to show the current numbers. 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:**

Mining of flux.

#### **APPLICABLE LAW:**

Arizona Revised Statutes (A.R.S.) § 42-5072(A)<sup>1</sup> states that the mining classification is comprised of the business of mining, quarrying or producing for sale, profit or commercial use any nonmetalliferous mineral product.

A.R.S. § 42-5072(B)<sup>2</sup> states that the tax base for the mining classification is the gross proceeds of sales or gross income derived from the business.

A.R.S. § 42-5072(C)<sup>3</sup> states that the tax base includes the value of the entire product mined, quarried or produced for sale, profit or commercial

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<sup>1</sup>This ruling originally cited A.R.S. § 42-1310.12.A which was renumbered to A.R.S. § 42-5072(A).

<sup>2</sup> This ruling originally cited A.R.S. § 42-1310.12.B which was renumbered to A.R.S. § 42-5072(B).

<sup>3</sup> This ruling originally cited A.R.S. § 42-1310.12.C which was renumbered to A.R.S. § 42-5072(C).

use in this state, regardless of the place of sale of the product or of the fact that deliveries may be made to points without this state.

A.R.S. § 42-5072(F)<sup>4</sup> states that a person who conducts a business classified under the mining classification may be deemed also to be engaged in business classified under the retail classification to the extent that the person's activities comprise business under the retail classification if the tax is paid at the rate imposed on the retail classification. If the transaction is not subject to taxation under the retail classification, the transaction shall be included in the tax base for the mining classification.

A.R.S. § 42-5072(G)<sup>5</sup> defines "nonmetalliferous mineral product" as oil, natural gas, limestone, sand, gravel or any other nonmetalliferous mineral product, compound or combination of nonmetalliferous mineral products.

Arizona Administrative Code (A.A.C.) R15-5-902(A)<sup>6</sup> states that sales to retailers or others for resale are taxable under the mining classification.

A.A.C. R15-2-902(C)<sup>7</sup> states that income derived from sales of mineral products to final customers is taxable under the retail classification, and not under the mining classification.

A.R.S. § 42-5061(A)<sup>8</sup> states that the retail classification is comprised of the business of selling tangible personal property at retail.

## **DISCUSSION:**

Flux is a material used in the process of smelting metalliferous ores. In a smelter, ore concentrate is melted to yield metal. Flux is added to the molten metal in the smelter. Flux combines with impurities, floats to the top of the molten metal, and is drawn off for further processing or disposed of as waste. The molten metal is then removed from the smelter for further refining.

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<sup>4</sup> This ruling originally cited A.R.S. § 42-1310.12.F which was renumbered to A.R.S. § 42-5072(F).

<sup>5</sup> This ruling originally cited A.R.S. § 42-1310.12.G which was renumbered to A.R.S. § 42-5072(G).

<sup>6</sup> This ruling originally cited A.A.C. R15-5-902.1 which was moved to A.A.C. R15-5-902(A).

<sup>7</sup> This ruling originally cited A.A.C. R15-5-906 which was repealed. The information contained in the repealed rule was moved to A.A.C. R15-5-902(C).

<sup>8</sup> This ruling originally cited A.R.S. § 42-1310.01.A which was renumbered to A.R.S. § 42-5061(A).

The most common substance used as flux is silica. Silica is a nonmetalliferous mineral product similar in nature and composition to sand. Like sand, silica is mined from various locations in the state. As a nonmetalliferous mineral product, the business of mining, quarrying or producing flux (silica) for sale, profit or commercial use is subject to tax under the mining classification.

A person conducting business under the mining classification may also be deemed to be engaged in business under the retail classification. If a transaction is not taxable under the retail classification, it will be taxable under the mining classification.

**RULING:**

Sales of flux (silica) to final customers are taxable under the retail classification unless otherwise exempt.

Sales of flux (silica) to persons for resale are taxable under the mining classification. Out-of-state sales of flux (silica) are taxable under the mining classification.

Harold Scott, Director  
Signed May 10, 1993

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 which are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement which provides interpretation, details or supplementary information concerning the 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 92-1 for more detailed information regarding documents issued by the Department of Revenue.