

ARIZONA DEPARTMENT OF REVENUE

ARIZONA TRANSACTION PRIVILEGE TAX RULING

TPR 95-12

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.

(Note: On 10/15/2020 the statute cites and the number for the referenced procedure were updated to reflect the current numbers. See footnotes for details. No substantive changes were made.)

ISSUE:

The imposition of transaction privilege tax on the sale, or use tax on the purchase, of furniture for use in a model home.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-5061(A)¹ levies the transaction privilege tax on persons engaged in the business of selling tangible personal property at retail.

A.R.S. § 42-5075² levies the transaction privilege tax on persons engaged in the business of prime contracting and the dealership of manufactured buildings.

A.R.S. § 42-5061(A)(27)³ provides an exemption from the transaction

¹ This ruling originally cited A.R.S. § 42-1310.01.A which has been renumbered as A.R.S. § 42-5061(A).

² This ruling originally cited A.R.S. § 42-1310.16 which has been renumbered as A.R.S. § 42-5075.

³ This ruling originally cited A.R.S. § 42-1310.01.A.27 which has been renumbered as A.R.S.

privilege tax for the sale of tangible personal property sold to a person engaged in business under the prime contracting classification if the person is subject to tax under this article by reason of being engaged in such business, or to a subcontractor working under the control of a prime contractor subject to tax under this article, if the property so sold is to be incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business. No deduction is available for the sale of tangible personal property not to be so incorporated or fabricated.

A.R.S. § 42-5155⁴ levies the use 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.

A.R.S. § 42-5159 (A)(1)⁵ provides that the use tax does not apply to the storage, use or consumption in this state of tangible personal property sold in this state if the gross receipts from the sale are included in the measure of the transaction privilege tax.

A.R.S. § 42-5159 (A)(13)(g)⁶ provides an exemption from the use tax for tangible personal property purchased by a person holding a privilege tax license to engage or continue in business classified under the prime contracting classification if the tangible personal property is incorporated or fabricated by the contractor into a structure, project, development or improvement in fulfillment of a contract.

DISCUSSION:

All sales of tangible personal property are subject to transaction privilege tax under the retail classification unless specifically exempted by statute. A sale is defined as a sale for any purpose other than for resale in the regular course of business.

Use tax is imposed on the storage, use or consumption in this state of

§ 42-5061(A)(27).

⁴ This ruling originally cited A.R.S. § 42-1408.A which has been renumbered as A.R.S. § 42-5155.

⁵ This ruling originally cited A.R.S. § 42-1409.A.1 which has been renumbered as A.R.S. § 42-5159(A)(1).

⁶ This ruling originally cited A.R.S. § 42-1409.A.12(g) which has been renumbered as A.R.S.

§ 42-5159(A)(13)(g).

tangible personal property which is purchased from a retailer. The use tax does not apply to the purchase of tangible personal property if transaction privilege tax was paid on the gross proceeds derived from the sale.

Sales of furniture for use in a model home are not exempt from transaction privilege tax as sales to a prime contractor under the exemption provided for property which will be incorporated or fabricated into real property. Furniture for use in a model home is subject to tax as being used in the prime contractor's business.

If a prime contractor purchases model home furniture using a departmental certificate which states that such furniture is tax exempt, then the prime contractor will be liable for the amount of tax, penalty and interest which would otherwise have been the liability of the vendor on the sale of the furniture. *Arizona Transaction Privilege Tax Procedure TPP 17-1*⁷, *Procedure for Use of Exemption Certificates*, explains the use of exemption certificates.

RULING:

Transaction privilege tax is imposed on the sale, or use tax is imposed on the purchase, of furniture used in a model home. The transaction privilege and use tax exemptions for sales or purchases of tangible personal property to be incorporated or fabricated into real property by prime contractors do not apply to the sale or purchase of furniture for use in a model home.

Harold Scott, Director

Signed: April 17, 1995

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

⁷ This ruling originally referenced TPP 92-1. The current version of the procedure dealing with the use of exemption certificates is TPP 17-1.

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.