REFERENCE TITLE: sales tax holiday; school supplies

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2317

Introduced by
Representatives Pierce J, Forese

AN ACT

AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5041; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6012; RELATING TO TRANSACTION PRIVILEGE AND USE TAX EXEMPTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 42, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 42-5041, to read:

42-5041. Transaction privilege tax: back-to-school sales tax holiday; terms and conditions; definitions

A. NOTWITHSTANDING ANY OTHER LAW, ON THE LAST CONSECUTIVE FRIDAY, SATURDAY AND SUNDAY IN JULY OF EACH YEAR, TRANSACTION PRIVILEGE TAX AND USE TAX ARE NOT IMPOSED ON THE GROSS PROCEEDS OF A SALE OR THE GROSS INCOME FROM A SALE OF THE FOLLOWING TANGIBLE PERSONAL PROPERTY:

1. A CLOTHING ITEM IF THE SALES PRICE OF THE ITEM IS LESS THAN ONE HUNDRED DOLLARS.

2. A SCHOOL SUPPLY ITEM IF THE SALES PRICE IS LESS THAN ONE HUNDRED DOLLARS.

B. ON THE SALES TAX HOLIDAY DATES, A PERSON CONDUCTING BUSINESS THAT IS SUBJECT TO TRANSACTION PRIVILEGE TAX UNDER THE RETAIL CLASSIFICATION PURSUANT TO SECTION 42-5061 AND A RETAILER SUBJECT TO USE TAX UNDER SECTION 42-5155 MAY NOT ADD TO THE SALES PRICE OR COLLECT FROM ANY CUSTOMER ANY AMOUNT DENOMINATED AS TAX WITH RESPECT TO THE SALE OF A CLOTHING ITEM OR A SCHOOL SUPPLY ITEM UNDER SUBSECTION A OF THIS SECTION. ANY AMOUNTS ERRONEOUSLY COLLECTED FROM CUSTOMERS ON THOSE DAYS AS TAX WITH RESPECT TO THE TRANSACTIONS UNDER SUBSECTION A OF THIS SECTION MUST BE REMITTED TO THE DEPARTMENT IN THE NORMAL COURSE AS REQUIRED BY SECTION 42-5014. IF A PERSON REMITS TO THE DEPARTMENT AN AMOUNT ERRONEOUSLY COLLECTED FROM A CUSTOMER AND THEREAFTER REFUNDS TO THE CUSTOMER THE AMOUNT COLLECTED AND REMITTED, THE PERSON MAY APPLY TO THE DEPARTMENT FOR A REFUND OF THAT AMOUNT. THE PERSON MUST PROVIDE SATISFACTORY EVIDENCE OF HAVING CREDITED OR REFUNDED THE TAX TO THE CUSTOMER.

C. THE APPLICATION OF THIS SECTION IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. IF A CUSTOMER PURCHASES AN ITEM OF ELIGIBLE PERSONAL PROPERTY ON A SALES TAX HOLIDAY DATE AND SUBSEQUENTLY EXCHANGES THE ITEM FOR ANOTHER OF THE SAME PRICE, TAX IS NOT DUE WITH RESPECT TO THE EXCHANGE TRANSACTION.

2. A LAYAWAY SALE QUALIFIES AS A TRANSACTION UNDER SUBSECTION A OF THIS SECTION ONLY IF THE FINAL INSTALLMENT PAYMENT IS MADE ON A SALES TAX HOLIDAY DATE. IF THE PRIOR INSTALLMENT PAYMENTS INCLUDED AN AMOUNT DESIGNATED AS TAX, THAT AMOUNT MUST BE CREDITED OR RETURNED TO THE CUSTOMER WHEN THE FINAL PAYMENT IS MADE, AND THE RETAILER MAY APPLY TO THE DEPARTMENT FOR A REFUND OF ANY AMOUNT ALREADY REMITTED TO THE DEPARTMENT AS TAX. THE RETAILER MUST PROVIDE SATISFACTORY EVIDENCE OF HAVING CREDITED OR REFUNDED THE TAX TO THE CUSTOMER.

3. A SPECIAL ORDER TRANSACTION QUALIFIES AS A TRANSACTION UNDER SUBSECTION A OF THIS SECTION ONLY IF THE ORDER IS PAID IN FULL ON A SALES TAX HOLIDAY DATE AND THE TRANSACTION OTHERWISE QUALIFIES UNDER THIS SECTION, EVEN IF THE DELIVERY IS LATER. A SPECIAL ORDER TRANSACTION MADE BEFORE THE SALES TAX HOLIDAY DATES QUALIFIES AS A TRANSACTION UNDER SUBSECTION A OF THIS

SECTION ONLY IF THE CUSTOMER PAYS THE ENTIRE BALANCE DUE ON A SALES TAX HOLIDAY DATE.

4. IF A CUSTOMER PLACES AN ORDER FOR ELIGIBLE PERSONAL PROPERTY BY MAIL OR TELEPHONE OR VIA THE INTERNET, THE TRANSACTION QUALIFIES AS A TRANSACTION UNDER SUBSECTION A OF THIS SECTION ONLY IF THE ORDER IS COMPLETED, SUBMITTED AND PAID FOR ON A SALES TAX HOLIDAY DATE, MOUNTAIN STANDARD TIME, EVEN IF THE DELIVERY IS LATER.

5. TANGIBLE PERSONAL PROPERTY PURCHASED USING A RAIN CHECK QUALIFIES AS A TRANSACTION UNDER SUBSECTION A OF THIS SECTION ONLY IF THE PROPERTY IS ACTUALLY PURCHASED ON A SALES TAX HOLIDAY DATE, REGARDLESS OF WHEN THE RAIN CHECK WAS ISSUED.

6. RENTALS OF TANGIBLE PERSONAL PROPERTY DO NOT QUALIFY AS TRANSACTIONS UNDER SUBSECTION A OF THIS SECTION.

D. THE REPORTING REQUIREMENTS OF THIS ARTICLE REMAIN IN EFFECT FOR ALL GROSS PROCEEDS OF SALES AND GROSS INCOME FROM THE BUSINESS ON SALES TAX HOLIDAY DATES. EXCEPT AS PROVIDED BY SUBSECTION B OF THIS SECTION, THE DEPARTMENT MAY NOT REQUIRE A BUSINESS TO PAY TRANSACTION PRIVILEGE TAX ON THE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM TRANSACTIONS UNDER SUBSECTION A OF THIS SECTION.

E. FOR THE PURPOSES OF THIS SECTION:

1. "CLOTHING ITEM" MEANS AN ARTICLE OF CLOTHING OR FOOTWEAR DESIGNED TO BE WORN ON OR ABOUT THE HUMAN BODY.

2. "PAYMENT" MEANS THE EVENT THAT OCCURS WHEN A BUSINESS RECEIVES PAYMENT IN FULL, WHETHER BY CASH, A CREDIT CARD NUMBER, A DEBIT AUTHORIZATION, A CHECK OR A MONEY ORDER, OR WHEN THE CUSTOMER AND BUSINESS ENTER INTO FINANCING ARRANGEMENTS.

3. "SCHOOL SUPPLY ITEM" MEANS AN ITEM COMMONLY USED BY A STUDENT IN A COURSE OF STUDY, INCLUDING APPOINTMENT BOOKS, BINDERS, BOOK BAGS, BOOK COVERS, CALCULATORS, CELLOPHANE TAPE, BLACKBOARD CHALK, COMPASSES, COMPOSITION BOOKS, CRAYONS, ERASERS, FOLDERS INCLUDING EXPANDABLE, POCKET, PLASTIC AND MANILA FOLDERS, GLUE, PASTE, PASTE STICKS, HIGHLIGHTERS, INDEX CARDS, INDEX CARD BOXES, LEGAL PADS, LUNCH BOXES, MARKERS, NOTEBOOKS, PAPER, LOOSE-LEAF RULED NOTEBOOK PAPER, COPY PAPER, GRAPH PAPER, TRACING PAPER, MANILA PAPER, COLORED PAPER, POSTER BOARD, CONSTRUCTION PAPER, PENCIL BOXES AND OTHER SCHOOL SUPPLY BOXES, PENCIL SHARPENERS, PENCILS, PENS, PROTRACTORS, RULERS, SCISSORS, WRITING TABLETS, BACKPACKS, FANNY PACKS AND DIAPER BAGS.

4. "TANGIBLE PERSONAL PROPERTY" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5001 AND CONSISTS SOLELY OF ITEMS WITH RESPECT TO WHICH THE TRANSACTION PRIVILEGE TAX ON THE RETAIL CLASSIFICATION APPLIES PURSUANT TO SECTION 42-5061.

Sec. 2. Title 42, chapter 6, article 1, Arizona Revised Statutes, is amended by adding section 42-6012, to read:

42-6012. Municipal tax; back-to-school sales tax holiday; terms and conditions; definitions

A. A CITY OR TOWN MAY NOT LEVY A TRANSACTION PRIVILEGE OR USE TAX ON THE LAST CONSECUTIVE FRIDAY, SATURDAY AND SUNDAY IN JULY OF EACH YEAR ON THE FOLLOWING TANGIBLE PERSONAL PROPERTY:

1. A CLOTHING ITEM IF THE SALES PRICE OF THE ITEM IS LESS THAN ONE HUNDRED DOLLARS.

2. A SCHOOL SUPPLY ITEM IF THE SALES PRICE IS LESS THAN ONE HUNDRED DOLLARS.

B. ON THE SALES TAX HOLIDAY DATES, A PERSON CONDUCTING BUSINESS THAT IS SUBJECT TO MUNICIPAL TRANSACTION PRIVILEGE OR USE TAX ON RETAIL SALES MAY NOT ADD TO THE SALES PRICE OR COLLECT FROM ANY CUSTOMER ANY AMOUNT DENOMINATED AS TAX WITH RESPECT TO THE SALE OF A CLOTHING ITEM OR A SCHOOL SUPPLY ITEM UNDER SUBSECTION A OF THIS SECTION. ANY AMOUNTS ERRONEOUSLY COLLECTED FROM CUSTOMERS ON THOSE DAYS AS TAX WITH RESPECT TO THE TRANSACTIONS UNDER SUBSECTION A OF THIS SECTION MUST BE REMITTED TO THE CITY OR TOWN IN THE NORMAL COURSE. IF A PERSON REMITS TO THE CITY OR TOWN AN AMOUNT ERRONEOUSLY COLLECTED FROM A CUSTOMER AND THEREAFTER REFUNDS TO THE CUSTOMER THE AMOUNT COLLECTED AND REMITTED, THE PERSON MAY APPLY TO THE CITY OR TOWN FOR A REFUND OF THAT AMOUNT. THE PERSON MUST PROVIDE SATISFACTORY EVIDENCE OF HAVING CREDITED OR REFUNDED THE TAX TO THE CUSTOMER.

C. THE APPLICATION OF THIS SECTION IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. IF A CUSTOMER PURCHASES AN ITEM OF ELIGIBLE PERSONAL PROPERTY ON A SALES TAX HOLIDAY DATE AND SUBSEQUENTLY EXCHANGES THE ITEM FOR ANOTHER OF THE SAME PRICE, TAX IS NOT DUE WITH RESPECT TO THE EXCHANGE TRANSACTION.

2. A LAYAWAY SALE QUALIFIES AS A TRANSACTION UNDER SUBSECTION A OF THIS SECTION ONLY IF THE FINAL INSTALLMENT PAYMENT IS MADE ON A SALES TAX HOLIDAY DATE. IF THE PRIOR INSTALLMENT PAYMENTS INCLUDED AN AMOUNT DESIGNATED AS TAX, THAT AMOUNT MUST BE CREDITED OR RETURNED TO THE CUSTOMER WHEN THE FINAL PAYMENT IS MADE, AND THE RETAILER MAY APPLY TO THE CITY OR TOWN FOR A REFUND OF ANY AMOUNT ALREADY REMITTED TO THE CITY OR TOWN AS TAX. THE RETAILER MUST PROVIDE SATISFACTORY EVIDENCE OF HAVING CREDITED OR REFUNDED THE TAX TO THE CUSTOMER.

3. A SPECIAL ORDER TRANSACTION QUALIFIES AS A TRANSACTION UNDER SUBSECTION A OF THIS SECTION ONLY IF THE ORDER IS PAID IN FULL ON A SALES TAX HOLIDAY DATE AND THE TRANSACTION OTHERWISE QUALIFIES UNDER THIS SECTION, EVEN IF THE DELIVERY IS LATER. A SPECIAL ORDER TRANSACTION MADE BEFORE THE SALES TAX HOLIDAY DATES QUALIFIES AS A TRANSACTION UNDER SUBSECTION A OF THIS SECTION ONLY IF THE CUSTOMER PAYS THE ENTIRE BALANCE DUE ON A SALES TAX HOLIDAY DATE.

4. IF A CUSTOMER PLACES AN ORDER FOR ELIGIBLE PERSONAL PROPERTY BY MAIL OR TELEPHONE OR VIA THE INTERNET, THE TRANSACTION QUALIFIES AS A TRANSACTION UNDER SUBSECTION A OF THIS SECTION ONLY IF THE ORDER IS COMPLETED, SUBMITTED AND PAID FOR ON A SALES TAX HOLIDAY DATE, MOUNTAIN STANDARD TIME, EVEN IF THE DELIVERY IS LATER.

5. TANGIBLE PERSONAL PROPERTY PURCHASED USING A RAIN CHECK QUALIFIES AS A TRANSACTION UNDER SUBSECTION A OF THIS SECTION ONLY IF THE PROPERTY IS ACTUALLY PURCHASED ON A SALES TAX HOLIDAY DATE, REGARDLESS OF WHEN THE RAIN CHECK WAS ISSUED.

6. RENTALS OF TANGIBLE PERSONAL PROPERTY DO NOT QUALIFY AS TRANSACTIONS UNDER SUBSECTION A OF THIS SECTION.

D. THE REPORTING REQUIREMENTS OF THIS ARTICLE REMAIN IN EFFECT FOR ALL GROSS PROCEEDS OF SALES AND GROSS INCOME FROM THE BUSINESS ON SALES TAX HOLIDAY DATES. EXCEPT AS PROVIDED BY SUBSECTION B OF THIS SECTION, THE CITY OR TOWN MAY NOT REQUIRE A BUSINESS TO PAY TRANSACTION PRIVILEGE OR USE TAX ON THE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM TRANSACTIONS UNDER SUBSECTION A OF THIS SECTION.

E. FOR THE PURPOSES OF THIS SECTION:

1. "CLOTHING ITEM" MEANS AN ARTICLE OF CLOTHING OR FOOTWEAR DESIGNED TO BE WORN ON OR ABOUT THE HUMAN BODY.

2. "PAYMENT" MEANS THE EVENT THAT OCCURS WHEN A BUSINESS RECEIVES PAYMENT IN FULL, WHETHER BY CASH, A CREDIT CARD NUMBER, A DEBIT AUTHORIZATION, A CHECK OR A MONEY ORDER, OR WHEN THE CUSTOMER AND BUSINESS ENTER INTO FINANCING ARRANGEMENTS.

3. "SCHOOL SUPPLY ITEM" MEANS AN ITEM COMMONLY USED BY A STUDENT IN A COURSE OF STUDY, INCLUDING APPOINTMENT BOOKS, BINDERS, BOOK BAGS, BOOK COVERS, CALCULATORS, CELLOPHANE TAPE, BLACKBOARD CHALK, COMPASSES, COMPOSITION BOOKS, CRAYONS, ERASERS, FOLDERS INCLUDING EXPANDABLE, POCKET, PLASTIC AND MANILA FOLDERS, GLUE, PASTE, PASTE STICKS, HIGHLIGHTERS, INDEX CARDS, INDEX CARD BOXES, LEGAL PADS, LUNCH BOXES, MARKERS, NOTEBOOKS, PAPER, LOOSE-LEAF RULED NOTEBOOK PAPER, COPY PAPER, GRAPH PAPER, TRACING PAPER, MANILA PAPER, COLORED PAPER, POSTER BOARD, CONSTRUCTION PAPER, PENCIL BOXES AND OTHER SCHOOL SUPPLY BOXES, PENCIL SHARPENERS, PENCILS, PENS, PROTRACTORS, RULERS, SCISSORS, WRITING TABLETS, BACKPACKS, FANNY PACKS AND DIAPER BAGS.

4. "TANGIBLE PERSONAL PROPERTY" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5001 AND CONSISTS SOLELY OF ITEMS WITH RESPECT TO WHICH THE TRANSACTION PRIVILEGE TAX ON THE RETAIL CLASSIFICATION APPLIES PURSUANT TO SECTION 42-5061.