

REFERENCE TITLE: county motor vehicle fuel taxes

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1264

Introduced by
Senator Farley; Representative Steele; Senators Pancrazi, Tovar

AN ACT

AMENDING SECTION 28-5606, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 18, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-6535; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST REGULAR SESSION, CHAPTER 27, SECTION 2, CHAPTER 120, SECTION 2, CHAPTER 153, SECTION 2 AND CHAPTER 236, SECTION 6 AND LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 8; RELATING TO MOTOR FUEL TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-5606, Arizona Revised Statutes, is amended to
3 read:

4 28-5606. Imposition of motor fuel taxes

5 A. In addition to all other taxes provided by law, ~~---~~:

6 1. A tax of eighteen cents per gallon is imposed on motor vehicle fuel
7 possessed, used or consumed in this state.

8 2. A COUNTY MAY LEVY BY ORDINANCE A TAX ON WHOLESALE MOTOR VEHICLE
9 FUEL SOLD IN THE COUNTY NOT TO EXCEED THREE PER CENT OF THE TOTAL SALE OF
10 MOTOR VEHICLE FUEL. THIS PARAGRAPH APPLIES ONLY TO WHOLESALE MOTOR VEHICLE
11 FUEL THAT IS TO BE RESOLD AT RETAIL.

12 B. To partially compensate this state for the use of its highways:

13 1. A use fuel tax is imposed on use fuel used in the propulsion of a
14 light class motor vehicle on a highway in this state at the same rate per
15 gallon as the motor vehicle fuel tax prescribed in subsection A, PARAGRAPH 1
16 of this section, except that there is no use fuel tax on alternative fuels.

17 2. A use fuel tax is imposed on use fuel used in the propulsion of a
18 use class motor vehicle on a highway in this state at the rate of twenty-six
19 cents for each gallon, except that there is no use fuel tax on alternative
20 fuels and use class vehicles that are exempt pursuant to section 28-5432 from
21 the weight fee prescribed in section 28-5433 are subject to the use fuel tax
22 imposed by paragraph 1 of this subsection.

23 3. Through December 31, 2024, a use fuel tax is imposed on use fuel
24 used in the propulsion of a motor vehicle transporting forest products in
25 compliance with the requirements of section 41-1516 on a highway in this
26 state at the rate of nine cents for each gallon, except that there is no use
27 fuel tax on alternative fuels.

28 4. A COUNTY MAY LEVY BY ORDINANCE A TAX ON WHOLESALE USE FUEL SOLD IN
29 THE COUNTY NOT TO EXCEED THREE PER CENT OF THE TOTAL SALE OF USE FUEL. THIS
30 PARAGRAPH APPLIES ONLY TO WHOLESALE USE FUEL THAT IS TO BE RESOLD AT RETAIL.

31 C. The motor vehicle fuel and use fuel taxes imposed pursuant to this
32 section and the aviation fuel taxes imposed pursuant to section 28-8344 are
33 conclusively presumed to be direct taxes on the consumer or user but shall be
34 collected and remitted to the department by suppliers for the purpose of
35 convenience and facility only. Motor vehicle fuel, use fuel and aviation
36 fuel taxes that are collected and paid to the department by a supplier are
37 considered to be advance payments, shall be added to the price of motor
38 vehicle fuel, use fuel or aviation fuel and shall be recovered from the
39 consumer or user.

40 D. Motor vehicle fuel and use fuel taxes imposed pursuant to this
41 section on the use of motor vehicle fuel and use fuel and the aviation fuel
42 taxes imposed pursuant to section 28-8344 on the use of aviation fuel, other
43 than by bulk transfer, arise at the time the motor vehicle, use or aviation
44 fuel either:

1 1. Is imported into this state and is measured by invoiced gallons
2 received outside this state at a refinery, terminal or bulk plant for
3 delivery to a destination in this state.

4 2. Is removed, as measured by invoiced gallons, from the bulk transfer
5 terminal system or from a qualified terminal in this state.

6 3. Is removed, as measured by invoiced gallons, from the bulk transfer
7 terminal system or from a qualified terminal or refinery outside this state
8 for delivery to a destination in this state as represented on the shipping
9 papers if a supplier imports the motor vehicle, use or aviation fuel for the
10 account of the supplier or the supplier has made a tax precollection election
11 pursuant to section 28-5636.

12 E. If motor fuel is removed from the bulk transfer terminal system or
13 from a qualified terminal or is imported into this state, the original
14 removal, transfer or importation of the motor fuel is subject to the
15 collection of the tax. If this motor fuel is transported to another
16 qualified terminal or reenters the bulk transfer terminal system, the
17 subsequent sale of the motor fuel on which tax has been collected is not
18 subject to collection of an additional tax if proper documentation is
19 retained to support the transaction.

20 Sec. 2. Title 28, chapter 18, article 2, Arizona Revised Statutes, is
21 amended by adding section 28-6535, to read:

22 28-6535. Arizona highway user revenue fund distribution; county
23 fuel tax; counties; council of governments

24 NO LATER THAN JUNE 15 OF EACH FISCAL YEAR, THE DEPARTMENT SHALL
25 ALLOCATE AND TRANSFER MONIES THAT ARE DEPOSITED IN THE ARIZONA HIGHWAY USER
26 REVENUE FUND AS A RESULT OF A COUNTY-IMPOSED FUEL TAX TO THE COUNTY IN WHICH
27 THE TAX WAS COLLECTED. THE COUNTY SHALL TRANSFER THE MONIES TO THE COUNCIL
28 OF GOVERNMENTS FOR THE COUNTY. THE COUNCIL OF GOVERNMENTS SHALL DISTRIBUTE
29 THE MONIES.

30 Sec. 3. Section 42-6004, Arizona Revised Statutes, as amended by Laws
31 2013, first regular session, chapter 27, section 2, chapter 120, section 2,
32 chapter 153, section 2 and chapter 236, section 6 and Laws 2013, first
33 special session, chapter 9, section 8, is amended to read:

34 42-6004. Exemption from municipal tax

35 A. A city, town or special taxing district shall not levy a
36 transaction privilege, sales, use or other similar tax on:

37 1. Exhibition events in this state sponsored, conducted or operated by
38 a nonprofit organization that is exempt from taxation under section
39 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
40 organization is associated with a major league baseball team or a national
41 touring professional golfing association and no part of the organization's
42 net earnings inures to the benefit of any private shareholder or individual.

43 2. Interstate telecommunications services, which include that portion
44 of telecommunications services, such as subscriber line service, allocable by
45 federal law to interstate telecommunications service.

- 1 3. Sales of warranty or service contracts.
- 2 4. Sales of motor vehicles to nonresidents of this state for use
3 outside this state if the vendor ships or delivers the motor vehicle to a
4 destination outside this state.
- 5 5. Interest on finance contracts.
- 6 6. Dealer documentation fees on the sales of motor vehicles.
- 7 7. Sales of food or other items purchased with United States
8 department of agriculture food stamp coupons issued under the food stamp act
9 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
10 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
11 section 4302; 42 United States Code section 1786) but may impose such a tax
12 on other sales of food. If a city, town or special taxing district exempts
13 sales of food from its tax or imposes a different transaction privilege rate
14 on the gross proceeds of sales or gross income from sales of food and nonfood
15 items, it shall use the definition of food prescribed by rule adopted by the
16 department pursuant to section 42-5106.
- 17 8. Orthodontic devices dispensed by a dental professional who is
18 licensed under title 32, chapter 11 to a patient as part of the practice of
19 dentistry.
- 20 9. Sales of internet access services to the person's subscribers and
21 customers. For the purposes of this paragraph:
 - 22 (a) "Internet" means the computer and telecommunications facilities
23 that comprise the interconnected worldwide network of networks that employ
24 the transmission control protocol or internet protocol, or any predecessor or
25 successor protocol, to communicate information of all kinds by wire or radio.
 - 26 (b) "Internet access" means a service that enables users to access
27 content, information, electronic mail or other services over the internet.
28 Internet access does not include telecommunication services provided by a
29 common carrier.
- 30 10. The gross proceeds of sales or gross income retained by the Arizona
31 exposition and state fair board from ride ticket sales at the annual Arizona
32 state fair.
- 33 11. Through August 31, 2014, sales of Arizona centennial medallions by
34 the historical advisory commission.
- 35 12. Leasing real property between affiliated companies, businesses,
36 persons or reciprocal insurers. For the purposes of this paragraph:
 - 37 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
38 means the lessor holds a controlling interest in the lessee, the lessee holds
39 a controlling interest in the lessor, an affiliated entity holds a
40 controlling interest in both the lessor and the lessee or an unrelated person
41 holds a controlling interest in both the lessor and lessee.
 - 42 (b) "Controlling interest" means direct or indirect ownership of at
43 least eighty per cent of the voting shares of a corporation or of the
44 interests in a company, business or person other than a corporation.

1 (c) "Reciprocal insurer" has the same meaning prescribed in section
2 20-762.

3 13. The gross proceeds of sales or gross income derived from a contract
4 for the installation, assembly, repair or maintenance of machinery, equipment
5 or other tangible personal property described in section 42-5061, subsection
6 B and that has independent functional utility, pursuant to the following
7 provisions:

8 (a) The deduction provided in this paragraph includes the gross
9 proceeds of sales or gross income derived from all of the following:

10 (i) Any activity performed on machinery, equipment or other tangible
11 personal property with independent functional utility.

12 (ii) Any activity performed on any tangible personal property relating
13 to machinery, equipment or other tangible personal property with independent
14 functional utility in furtherance of any of the purposes provided for under
15 subdivision (d) of this paragraph.

16 (iii) Any activity that is related to the activities described in
17 ~~subdivision (a),~~ items (i) and (ii) of this ~~paragraph~~ SUBDIVISION,
18 including, ~~but not limited to,~~ inspecting the installation of, ~~or testing,~~
19 the machinery, equipment or other tangible personal property.

20 (b) The deduction provided in this paragraph does not include gross
21 proceeds of sales or gross income from the portion of any contracting
22 activity that consists of the development of, or modification to, real
23 property in order to facilitate the installation, assembly, repair,
24 maintenance or removal of machinery, equipment or other tangible personal
25 property described in section 42-5061, subsection B.

26 (c) The deduction provided in this paragraph shall be determined
27 without regard to the size or useful life of the machinery, equipment or
28 other tangible personal property.

29 (d) For the purposes of this paragraph, "independent functional
30 utility" means that the machinery, equipment or other tangible personal
31 property can independently perform its function without attachment to real
32 property, other than attachment for any of the following purposes:

33 (i) Assembling the machinery, equipment or other tangible personal
34 property.

35 (ii) Connecting items of machinery, equipment or other tangible
36 personal property to each other.

37 (iii) Connecting the machinery, equipment or other tangible personal
38 property, whether as an individual item or as a system of items, to water,
39 power, gas, communication or other services.

40 (iv) Stabilizing or protecting the machinery, equipment or other
41 tangible personal property during operation by bolting, burying or performing
42 other dissimilar nonpermanent connections to either real property or real
43 property improvements.

44 14. The leasing or renting of certified ignition interlock devices
45 installed pursuant to the requirements prescribed by section 28-1461. For

1 the purposes of this paragraph, "certified ignition interlock device" has the
2 same meaning prescribed in section 28-1301.

3 15. Computer data center equipment purchased by the owner, operator or
4 qualified colocation tenant of the computer data center or an authorized
5 agent of the owner, operator or qualified colocation tenant during the
6 qualification period for use in a computer data center that is certified by
7 the Arizona commerce authority under section 41-1519. To qualify for this
8 deduction, at the time of purchase, the owner, operator or qualified
9 colocation tenant must present to the retailer its certificate that is issued
10 pursuant to section 41-1519 and that establishes its qualification for the
11 deduction. For the purposes of this paragraph, "computer data center",
12 "computer data center equipment", "qualification period" and "qualified
13 colocation tenant" have the same meanings prescribed in section 41-1519.

14 B. EXCEPT AS PROVIDED IN SECTION 28-5606, a city, town or other taxing
15 jurisdiction shall not levy a transaction privilege, sales, use, franchise or
16 other similar tax or fee, however denominated, on natural gas or liquefied
17 petroleum gas used to propel a motor vehicle.

18 C. A city, town or other taxing jurisdiction shall not levy a
19 transaction privilege, sales, gross receipts, use, franchise or other similar
20 tax or fee, however denominated, on gross proceeds of sales or gross income
21 derived from any of the following:

22 1. A motor carrier's use on the public highways in this state if the
23 motor carrier is subject to a fee prescribed in title 28, chapter 16,
24 article 4.

25 2. Leasing, renting or licensing a motor vehicle subject to and upon
26 which the fee has been paid under title 28, chapter 16, article 4.

27 3. The sale of a motor vehicle and any repair and replacement parts
28 and tangible personal property becoming a part of such motor vehicle to a
29 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
30 article 4 and who is engaged in the business of leasing, renting or licensing
31 such property.

32 4. Incarcerating or detaining in a privately operated prison, jail or
33 detention facility prisoners who are under the jurisdiction of the United
34 States, this state or any other state or a political subdivision of this
35 state or of any other state.

36 5. Transporting for hire persons, freight or property by light motor
37 vehicles subject to a fee under title 28, chapter 15, article 4.

38 6. Any amount attributable to development fees that are incurred in
39 relation to the construction, development or improvement of real property and
40 paid by the taxpayer as defined in the model city tax code or by a contractor
41 providing services to the taxpayer. For the purposes of this paragraph:

42 (a) The attributable amount shall not exceed the value of the
43 development fees actually imposed.

44 (b) The attributable amount is equal to the total amount of
45 development fees paid by the taxpayer or by a contractor providing services

1 to the taxpayer and the total development fees credited in exchange for the
2 construction of, contribution to or dedication of real property for providing
3 public infrastructure, public safety or other public services necessary to
4 the development. The real property must be the subject of the development
5 fees.

6 (c) "Development fees" means fees imposed to offset capital costs of
7 providing public infrastructure, public safety or other public services to a
8 development and authorized pursuant to section 9-463.05, section 11-1102 or
9 title 48 regardless of the jurisdiction to which the fees are paid.

10 D. A city, town or other taxing jurisdiction shall not levy a
11 transaction privilege, sales, use, franchise or other similar tax or fee,
12 however denominated, in excess of one-tenth of one per cent of the value of
13 the entire product mined, smelted, extracted, refined, produced or prepared
14 for sale, profit or commercial use, on persons engaged in the business of
15 mineral processing, except to the extent that the tax is computed on the
16 gross proceeds or gross income from sales at retail.

17 E. In computing the tax base, any city, town or other taxing
18 jurisdiction shall not include in the gross proceeds of sales or gross
19 income:

20 1. A manufacturer's cash rebate on the sales price of a motor vehicle
21 if the buyer assigns the buyer's right in the rebate to the retailer.

22 2. The waste tire disposal fee imposed pursuant to section 44-1302.

23 F. A city or town shall not levy a use tax on the storage, use or
24 consumption of tangible personal property in the city or town by a school
25 district or charter school.