Fifty-second Legislature
First Regular Session

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2450
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:
2 "Section 1. Section 42-5071, Arizona Revised Statutes, is amended to
read:

42-5071. Personal property rental classification
A. The personal property rental classification is comprised of the
business of leasing or renting tangible personal property for a
consideration. The tax does not apply to:
1. Leasing or renting films, tapes or slides used by theaters or
movies, which are engaged in business under the amusement classification, or
used by television stations or radio stations.
2. Activities engaged in by the Arizona exposition and state fair
board or county fair commissions in connection with events sponsored by such
entities.
3. Leasing or renting tangible personal property by a parent
corporation to a subsidiary corporation or by a subsidiary corporation to
another subsidiary of the same parent corporation if taxes were paid under
this chapter on the gross proceeds or gross income accruing from the initial
sale of the tangible personal property. For the purposes of this paragraph,
"subsidiary" means a corporation of which at least eighty percent (80%) of
the voting shares are owned by the parent corporation.
4. Operating coin-operated washing, drying and dry cleaning machines
or coin-operated car washing machines at establishments for the use of such
machines.
5. Leasing or renting tangible personal property for incorporation
into or comprising any part of a qualified environmental technology facility
as described in section 41-1514.02. This paragraph shall apply for ten full
consecutive calendar or fiscal years following the first lease or rental by
each qualified environmental technology manufacturer, producer or processor.
6. Leasing or renting aircraft, flight simulators or similar training
equipment to students or staff by nonprofit, accredited educational
institutions that offer associate or baccalaureate degrees in aviation or
aerospace related fields.
7. Leasing or renting photographs, transparencies or other creative works used by this state on internet websites, in magazines or in other publications that encourage tourism.

8. Leasing or renting certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

9. LEASING OR RENTING BILLBOARDS THAT ARE DESIGNED, INTENDED OR USED TO ADVERTISE OR INFORM AND ARE VISIBLE FROM ANY STREET, ROAD OR OTHER HIGHWAY.

B. The tax base for the personal property rental classification is the gross proceeds of sales or gross income derived from the business, but the gross proceeds of sales or gross income derived from the following shall be deducted from the tax base:

1. Reimbursements by the lessee to the lessor of a motor vehicle for payments by the lessor of the applicable fees and taxes imposed by sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15, article 2 and article IX, section 11, Constitution of Arizona, to the extent such amounts are separately identified as such fees and taxes and are billed to the lessee.

2. Leases or rentals of tangible personal property that, if it had been purchased instead of leased or rented by the lessee, would have been exempt under:
   (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 49 or 54.
   (b) Section 42-5061, subsection B, except that a lease or rental of new machinery or equipment is not exempt pursuant to:
      (i) Section 42-5061, subsection B, paragraph 13 if the lease is for less than two years.
      (ii) Section 42-5061, subsection B, paragraph 21.
      (c) Section 42-5061, subsection J, paragraph 1.
      (d) Section 42-5061, subsection N.

3. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739 and sales of aviation fuel that are subject to the tax imposed under section 28-8344.

4. Leasing or renting a motor vehicle subject to the fee has been paid under title 28, chapter 16, article 4. Upon which the

5. Amounts received by a motor vehicle dealer for the first month of a lease payment if the lease and the lease payment for the first month of the lease are transferred to a third-party leasing company.
C. Sales of tangible personal property to be leased or rented to a person engaged in a business classified under the personal property rental classification are deemed to be resale sales.

D. In computing the tax base, the gross proceeds of sales or gross income from the lease or rental of a motor vehicle does not include any amount attributable to the car rental surcharge under section 5-839, 28-5810 or 48-4234.

E. Until December 31, 1988, leasing or renting animals for recreational purposes is exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from leasing or renting animals for recreational purposes is subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the monies paid as taxes will be returned to the customer.

Sec. 2. Retroactivity; refunds

A. Section 42-5071, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after December 31, 2007.

B. Any claim for refund of transaction privilege or use tax based on the retroactive application of section 42-5071, subsection A, paragraph 9, Arizona Revised Statutes, as added by this act, relating to leasing or renting billboards after December 31, 2007 shall be submitted to the department of revenue on or before September 30, 2015, pursuant to section 42-1118, Arizona Revised Statutes. A failure to file a claim on or before September 30, 2015 constitutes a waiver of the claim for refund under this section.

C. The burden is on the taxpayer to establish by competent evidence the amount of tax paid and qualifying for refund for taxable periods as provided by this section. The department of revenue shall:

1. Review all timely filed claims.

2. Determine, on audit if necessary, the correct amount of each claim.

3. Notify the taxpayer of its determination. The notice is final unless a taxpayer appeals in the manner provided in section 42-1251, Arizona Revised Statutes.

D. Notwithstanding section 42-1119, Arizona Revised Statutes, the department of revenue may not make a refund until after determination of the amount of all refund claims filed pursuant to this section. If a taxpayer appeals the department's determination, the department, pursuant to the rules protecting confidentiality under title 42, chapter 2, article 1, Arizona Revised Statutes, may notify other taxpayers who have filed claims as to the nature of any delay and, if possible, estimate the possible extent of the delay.
E. The aggregate amount of refunds under this section may not exceed ten thousand dollars and shall be paid according to the order in which the department receives the claims.

F. Interest is not allowed on any refundable amount if paid before March 1, 2016, but if the amount cannot be determined or paid until after March 1, 2016, interest accrues after that date under section 42-1123, Arizona Revised Statutes.”

Amend title to conform