

REFERENCE TITLE: municipal tax exemption; residential lease

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

# HB 2254

Introduced by  
Representative Mitchell

AN ACT

AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL  
EXCISE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 42-6004, Arizona Revised Statutes, is amended to  
3 read:  
4 42-6004. Exemption from municipal tax  
5 A. A city, town or special taxing district shall not levy a  
6 transaction privilege, sales, use or other similar tax on:  
7 1. Exhibition events in this state sponsored, conducted or operated by  
8 a nonprofit organization that is exempt from taxation under section  
9 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
10 organization is associated with a major league baseball team or a national  
11 touring professional golfing association and no part of the organization's  
12 net earnings inures to the benefit of any private shareholder or individual.  
13 2. Interstate telecommunications services, which include that portion  
14 of telecommunications services, such as subscriber line service, allocable by  
15 federal law to interstate telecommunications service.  
16 3. Sales of warranty or service contracts.  
17 4. Sales of motor vehicles to nonresidents of this state for use  
18 outside this state if the motor vehicle dealer ships or delivers the motor  
19 vehicle to a destination outside this state.  
20 5. Interest on finance contracts.  
21 6. Dealer documentation fees on the sales of motor vehicles.  
22 7. Sales of food or other items purchased with United States  
23 department of agriculture food stamp coupons issued under the food stamp act  
24 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section  
25 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,  
26 section 4302; 42 United States Code section 1786) but may impose such a tax  
27 on other sales of food. If a city, town or special taxing district exempts  
28 sales of food from its tax or imposes a different transaction privilege rate  
29 on the gross proceeds of sales or gross income from sales of food and nonfood  
30 items, it shall use the definition of food prescribed by rule adopted by the  
31 department pursuant to section 42-5106.  
32 8. Orthodontic devices dispensed by a dental professional who is  
33 licensed under title 32, chapter 11 to a patient as part of the practice of  
34 dentistry.  
35 9. Sales of internet access services to the person's subscribers and  
36 customers. For the purposes of this paragraph:  
37 (a) "Internet" means the computer and telecommunications facilities  
38 that comprise the interconnected worldwide network of networks that employ  
39 the transmission control protocol or internet protocol, or any predecessor or  
40 successor protocol, to communicate information of all kinds by wire or radio.  
41 (b) "Internet access" means a service that enables users to access  
42 content, information, electronic mail or other services over the internet.  
43 Internet access does not include telecommunication services provided by a  
44 common carrier.

1           10. The gross proceeds of sales or gross income retained by the Arizona  
2 exposition and state fair board from ride ticket sales at the annual Arizona  
3 state fair.

4           11. Through August 31, 2014, sales of Arizona centennial medallions by  
5 the historical advisory commission.

6           12. Leasing real property between affiliated companies, businesses,  
7 persons or reciprocal insurers. For the purposes of this paragraph:

8           (a) "Affiliated companies, businesses, persons or reciprocal insurers"  
9 means the lessor holds a controlling interest in the lessee, the lessee holds  
10 a controlling interest in the lessor, affiliated persons hold a controlling  
11 interest in both the lessor and the lessee, or an unrelated person holds a  
12 controlling interest in both the lessor and lessee.

13           (b) "Affiliated persons" means members of the individual's family or  
14 persons who have ownership or control of a business entity.

15           (c) "Controlling interest" means direct or indirect ownership of at  
16 least eighty ~~per-cent~~ PERCENT of the voting shares of a corporation or of the  
17 interests in a company, business or person other than a corporation.

18           (d) "Members of the individual's family" means the individual's spouse  
19 and brothers and sisters, whether by whole or half blood, including adopted  
20 persons, ancestors and lineal descendants.

21           (e) "Reciprocal insurer" has the same meaning prescribed in section  
22 20-762.

23           13. The gross proceeds of sales or gross income derived from a contract  
24 for the installation, assembly, repair or maintenance of machinery, equipment  
25 or other tangible personal property THAT IS described in section 42-5061,  
26 subsection B and that has independent functional utility, pursuant to the  
27 following provisions:

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

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

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

36           (iii) Any activity that is related to the activities described in  
37 items (i) and (ii) of this subdivision, including inspecting the installation  
38 of or testing the machinery, equipment or other tangible personal property.

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

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

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

8 (i) Assembling the machinery, equipment or other tangible personal  
9 property.

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

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

15 (iv) Stabilizing or protecting the machinery, equipment or other  
16 tangible personal property during operation by bolting, burying or performing  
17 other dissimilar nonpermanent connections to either real property or real  
18 property improvements.

19 14. The leasing or renting of certified ignition interlock devices  
20 installed pursuant to the requirements prescribed by section 28-1461. For  
21 the purposes of this paragraph, "certified ignition interlock device" has the  
22 same meaning prescribed in section 28-1301.

23 15. Computer data center equipment purchased by the owner, operator or  
24 qualified colocation tenant of the computer data center or an authorized  
25 agent of the owner, operator or qualified colocation tenant during the  
26 qualification period for use in a computer data center that is certified by  
27 the Arizona commerce authority under section 41-1519. To qualify for this  
28 deduction, at the time of purchase, the owner, operator or qualified  
29 colocation tenant must present to the retailer its certificate that is issued  
30 pursuant to section 41-1519 and that establishes its qualification for the  
31 deduction. For the purposes of this paragraph, "computer data center",  
32 "computer data center equipment", "qualification period" and "qualified  
33 colocation tenant" have the same meanings prescribed in section 41-1519.

34 16. The gross proceeds of sales or gross income derived from a contract  
35 with the owner of real property or the person owning the improvements to the  
36 real property for the maintenance, repair, ~~or~~ replacement or alteration of  
37 existing property ~~is not subject to tax under this section~~ if the contract  
38 does not include modification activities, except as specified in this  
39 paragraph. The gross proceeds of sales or gross income derived from a  
40 de minimis amount of modification activity that is essential to the  
41 completion of the maintenance, repair, replacement or alteration contract  
42 does not subject the entire contract to tax under this section. For the  
43 purposes of this paragraph:

44 (a) Each contract or project is independent of another contract.

1 (b) "Modification" means construction, alteration, addition,  
2 subtraction, improvement, movement, wreckage or demolition.

3 17. Monitoring services relating to an alarm system as defined in  
4 section 32-101.

5 18. Tangible personal property, job printing or publications sold to or  
6 purchased by, or tangible personal property leased, rented or licensed for  
7 use to or by, a qualifying health sciences educational institution as defined  
8 in section 42-5001.

9 19. The transfer of title or possession of coal back and forth between  
10 an owner or operator of a power plant and a person who is responsible for  
11 refining coal if both of the following apply:

12 (a) The transfer of title or possession of the coal is for the purpose  
13 of refining the coal.

14 (b) The title or possession of the coal is transferred back to the  
15 owner or operator of the power plant after completion of the coal refining  
16 process. For the purposes of this subdivision, "coal refining process" means  
17 the application of a coal additive system that aids the reduction of power  
18 plant emissions during the combustion of coal and the treatment of flue gas.

19 20. The gross proceeds of sales or gross income from sales of low or  
20 reduced cost articles of food or drink to eligible elderly, ~~disabled~~ or  
21 homeless persons **OR PERSONS WITH A DISABILITY** by a business subject to tax  
22 under section 42-5074 that contracts with the department of economic security  
23 and that is approved by the food and nutrition service of the United States  
24 department of agriculture pursuant to the supplemental nutrition assistance  
25 program established by the food and nutrition act of 2008 (P.L. 110-246; 122  
26 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the  
27 purchases are made with the benefits issued pursuant to the supplemental  
28 nutrition assistance program.

29 B. A city, town or other taxing jurisdiction shall not levy a  
30 transaction privilege, sales, use, franchise or other similar tax or fee,  
31 however denominated, on natural gas or liquefied petroleum gas used to propel  
32 a motor vehicle.

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

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

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

42 3. The sale of a motor vehicle and any repair and replacement parts  
43 and tangible personal property becoming a part of such motor vehicle to a  
44 motor carrier who is subject to a fee prescribed in title 28, chapter 16,

1 article 4 and who is engaged in the business of leasing, renting or licensing  
2 such property.

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

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

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

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

15 (b) The attributable amount is equal to the total amount of  
16 development fees paid by the taxpayer or by a contractor providing services  
17 to the taxpayer and the total development fees credited in exchange for the  
18 construction of, contribution to or dedication of real property for providing  
19 public infrastructure, public safety or other public services necessary to  
20 the development. The real property must be the subject of the development  
21 fees.

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

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

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

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

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

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

42 G. A CITY, TOWN OR OTHER TAXING JURISDICTION SHALL NOT LEVY A  
43 TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE,  
44 HOWEVER DENOMINATED, ON THE BUSINESS OF RENTING OR LEASING REAL PROPERTY FOR  
45 RESIDENTIAL PURPOSES, EXCEPT THAT A CITY, TOWN OR OTHER TAXING JURISDICTION

1 THAT LEVIES A TAX OR FEE ON THE BUSINESS OF RENTING OR LEASING REAL PROPERTY  
2 FOR RESIDENTIAL PURPOSES ON JANUARY 1, 2015 SHALL NOT THEREAFTER INCREASE THE  
3 RATE OF THE TAX OR FEE BUT SHALL ANNUALLY REDUCE THE RATE BY TWENTY-FIVE  
4 PERCENT OF THE INITIAL RATE FOR FOUR CONSECUTIVE YEARS BEGINNING ON JULY 1,  
5 2016 AND EACH JULY 1 THEREAFTER. BEGINNING FROM AND AFTER JUNE 30, 2019, A  
6 CITY, TOWN OR OTHER TAXING JURISDICTION SHALL REPEAL ANY TAX OR FEE ON THE  
7 BUSINESS OF RENTING OR LEASING REAL PROPERTY FOR RESIDENTIAL PURPOSES. THIS  
8 SUBSECTION APPLIES REGARDLESS OF WHETHER A CITY OR TOWN HAS ADOPTED THE MODEL  
9 CITY TAX CODE PURSUANT TO ARTICLE 2 OF THIS CHAPTER. FOR THE PURPOSES OF  
10 THIS SUBSECTION, REAL PROPERTY FOR RESIDENTIAL PURPOSES:

11 1. INCLUDES A DWELLING UNIT, LODGING FACILITY OR TRAILER OR MOBILE  
12 HOME SPACE IF THE UNIT, FACILITY OR SPACE IS INTENDED TO SERVE AS THE  
13 PRINCIPAL OR PERMANENT PLACE OF RESIDENCE FOR THE LESSEE OR RENTER OR IS  
14 LEASED OR RENTED TO A SINGLE TENANT FOR AT LEAST THIRTY CONSECUTIVE DAYS.

15 2. DOES NOT INCLUDE HEALTH CARE FACILITIES, LONG-TERM CARE FACILITIES  
16 OR HOTEL, MOTEL OR OTHER TRANSIENT LODGING BUSINESSES.

17 Sec. 2. Retroactivity

18 This act applies retroactively to from and after December 31, 2014.