

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2674

AN ACT

AMENDING SECTIONS 42-5073 AND 42-6004, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND EXCISE TAX CLASSIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5073, Arizona Revised Statutes, is amended to
3 read:

4 42-5073. Amusement classification

5 A. The amusement classification is comprised of the business of
6 operating or conducting theaters, movies, operas, shows of any type or
7 nature, exhibitions, concerts, carnivals, circuses, amusement parks,
8 menageries, fairs, races, contests, games, billiard or pool parlors, bowling
9 alleys, public dances, dance halls, boxing and wrestling matches, skating
10 rinks, tennis courts, except as provided in subsection B of this section,
11 video games, pinball machines, sports events or any other business charging
12 admission or user fees for exhibition, amusement or entertainment, including
13 the operation or sponsorship of events by a tourism and sports authority
14 under title 5, chapter 8. For the purposes of this section, admission or
15 user fees include, but are not limited to, any revenues derived from any form
16 of contractual agreement for rights to or use of premium or special seating
17 facilities or arrangements. The amusement classification does not include:

18 1. Activities or projects of bona fide religious or educational
19 institutions.

20 2. Private or group instructional activities. For the purposes of
21 this paragraph, "private or group instructional activities" includes, but is
22 not limited to, performing arts, martial arts, gymnastics and aerobic
23 instruction.

24 3. The operation or sponsorship of events by the Arizona exposition
25 and state fair board or county fair commissions.

26 4. A musical, dramatic or dance group or a botanical garden, museum or
27 zoo that is qualified as a nonprofit charitable organization under section
28 501(c)(3) of the United States internal revenue code and if no part of its
29 net income inures to the benefit of any private shareholder or individual.

30 5. Exhibition events in this state sponsored, conducted or operated by
31 a nonprofit organization that is exempt from taxation under section
32 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
33 organization is associated with major league baseball teams or a national
34 touring professional golfing association and no part of the organization's
35 net earnings inures to the benefit of any private shareholder or individual.

36 6. Operating or sponsoring rodeos that feature primarily farm and
37 ranch animals in this state and that are sponsored, conducted or operated by
38 a nonprofit organization that is exempt from taxation under section
39 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
40 revenue code and no part of the organization's net earnings inures to the
41 benefit of any private shareholder or individual.

42 7. Sales of admissions to intercollegiate football contests if the
43 contests are both:

44 (a) Operated by a nonprofit organization that is exempt from taxation
45 under section 501(c)(3) of the internal revenue code and no part of the

1 organization's net earnings inures to the benefit of any private shareholder
2 or individual.

3 (b) Not held in a multipurpose facility that is owned or operated by
4 the tourism and sports authority pursuant to title 5, chapter 8.

5 8. Activities and events of, or fees and assessments received by, a
6 homeowners organization from persons who are members of the organization or
7 accompanied guests of members. For the purposes of this paragraph,
8 "homeowners organization" means a mandatory membership organization comprised
9 of owners of residential property within a specified residential real estate
10 subdivision development or similar area and established to own property for
11 the benefit of its members where both of the following apply:

12 (a) No part of the organization's net earnings inures to the benefit
13 of any private shareholder or individual.

14 (b) The primary purpose of the organization is to provide for the
15 acquisition, construction, management, maintenance or care of organization
16 property.

17 9. Activities and events of, or fees received by, a nonprofit
18 organization that is exempt from taxation under section 501(c)(6) of the
19 internal revenue code if the organization produces, organizes or promotes
20 cultural or civic related festivals or events and no part of the
21 organization's net earnings inures to the benefit of any private shareholder
22 or individual.

23 10. Arranging an amusement activity as a service to a person's
24 customers if that person is not otherwise engaged in the business of
25 operating or conducting an amusement personally or through others. This
26 exception does not apply to businesses that operate or conduct amusements
27 pursuant to customer orders and send the billings and receive the payments
28 associated with that activity, including when the amusement is performed by
29 ~~third-party~~ THIRD-PARTY independent contractors. For the purposes of this
30 paragraph, "arranging" includes billing for or collecting amusement charges
31 from a person's customers on behalf of the persons providing the amusement.

32 11. EVENTS THAT ARE OPERATED OR SPONSORED BY NONPROFIT ORGANIZATIONS
33 THAT ARE EXEMPT FROM TAXATION UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE
34 CODE AND THAT CONSIST OF ANONCOMPETITIVE RUN, WALK, SWIM OR BICYCLE RIDE OR
35 A SIMILAR EVENT, OR ANY COMBINATION OF THESE EVENTS, IN WHICH THE
36 PARTICIPANTS ARE AMATEUR INDIVIDUALS, OR AN EVENT THAT ALLOWS FEWER THAN TWO
37 PERCENT OF THE PARTICIPANTS TO BE PROFESSIONAL OR AMATEUR COMPETITORS FOR
38 SPECIAL RECOGNITION OR PRIZES.

39 B. The tax base for the amusement classification is the gross proceeds
40 of sales or gross income derived from the business, except that the following
41 shall be deducted from the tax base:

42 1. The gross proceeds of sales or gross income derived from
43 memberships, including initiation fees, ~~which~~ THAT provide for the right to
44 use a health or fitness establishment or a private recreational
45 establishment, or any portion of an establishment, including tennis and other

1 racquet courts at that establishment, for participatory purposes for
2 twenty-eight days or more and fees charged for use of the health or fitness
3 establishment or private recreational establishment by bona fide accompanied
4 guests of members, except that this paragraph does not include additional
5 fees, other than initiation fees, charged by a health or fitness
6 establishment or a private recreational establishment for purposes other than
7 memberships which provide for the right to use a health or fitness
8 establishment or private recreational establishment, or any portion of an
9 establishment, for participatory purposes for twenty-eight days or more and
10 accompanied guest use fees.

11 2. Amounts that are exempt under section 5-111, subsection H.

12 3. The gross proceeds of sales or gross income derived from membership
13 fees, including initiation fees, that provide for the right to use a
14 transient lodging recreational establishment, including golf courses and
15 tennis and other racquet courts at that establishment, for participatory
16 purposes for twenty-eight days or more, except that this paragraph does not
17 include additional fees, other than initiation fees, that are charged by a
18 transient lodging recreational establishment for purposes other than
19 memberships and that provide for the right to use a transient lodging
20 recreational establishment or any portion of the establishment for
21 participatory purposes for twenty-eight days or more.

22 4. The gross proceeds of sales or gross income derived from sales to
23 persons engaged in the business of transient lodging classified under section
24 42-5070, if all of the following apply:

25 (a) The persons who are engaged in the transient lodging business sell
26 the amusement to another person for consideration.

27 (b) The consideration received by the transient lodging business is
28 equal to or greater than the amount to be deducted under this subsection.

29 (c) The transient lodging business has provided an exemption
30 certificate to the person engaging in business under this section.

31 5. The gross proceeds of sales or gross income derived from:

32 (a) Business activity that is properly included in any other business
33 classification under this article and that is taxable to the person engaged
34 in that classification, but the gross proceeds of sales or gross income to be
35 deducted shall not exceed the consideration paid to the person conducting the
36 activity.

37 (b) Business activity that is arranged by the person who is subject to
38 tax under this section and that is not taxable to the person conducting the
39 activity due to an exclusion, exemption or deduction under this section or
40 section 42-5062, but the gross proceeds of sales or gross income to be
41 deducted shall not exceed the consideration paid to the person conducting the
42 activity.

43 (c) Business activity that is arranged by a person who is subject to
44 tax under this section and that is taxable to another person under this
45 section who conducts the activity, but the gross proceeds of sales or gross

1 income to be deducted shall not exceed the consideration paid to the person
2 conducting the activity.

3 C. For the purposes of subsection B of this section:

4 1. "Health or fitness establishment" means a facility whose primary
5 purpose is to provide facilities, equipment, instruction or education to
6 promote the health and fitness of its members and at least eighty ~~per cent~~
7 PERCENT of the monthly gross revenue of the facility is received through
8 accounts of memberships and accompanied guest use fees which provide for the
9 right to use the facility, or any portion of the facility, under the terms of
10 the membership agreement for participatory purposes for twenty-eight days or
11 more.

12 2. "Private recreational establishment" means a facility whose primary
13 purpose is to provide recreational facilities, such as tennis, golf and
14 swimming, for its members and where at least eighty ~~per cent~~ PERCENT of the
15 monthly gross revenue of the facility is received through accounts of
16 memberships and accompanied guest use fees which provide for the right to use
17 the facility, or any portion of the facility, for participatory purposes for
18 twenty-eight days or more.

19 3. "Transient lodging recreational establishment" means a facility
20 whose primary purpose is to provide facilities for transient lodging, that is
21 subject to taxation under this chapter and that also provides recreational
22 facilities, such as tennis, golf and swimming, for members for a period of
23 twenty-eight days or more.

24 D. Until December 31, 1988, the revenues from hayrides and other
25 animal-drawn amusement rides, from horseback riding and riding instruction
26 and from recreational tours using motor vehicles designed to operate on and
27 off public highways are exempt from the tax imposed by this section.
28 Beginning January 1, 1989, the gross proceeds or gross income from hayrides
29 and other animal-drawn amusement rides, from horseback riding and from
30 recreational tours using motor vehicles designed to operate on and off public
31 highways are subject to taxation under this section. Tax liabilities,
32 penalties and interest paid for taxable periods before January 1, 1989 shall
33 not be refunded unless the taxpayer requesting the refund provides proof
34 satisfactory to the department that the taxes will be returned to the
35 customer.

36 E. If a person is engaged in the business of offering both exhibition,
37 amusement or entertainment and private or group instructional activities, the
38 person's books shall be kept to show separately the gross income from
39 exhibition, amusement or entertainment and the gross income from
40 instructional activities. If the books do not provide this separate
41 accounting, the tax is imposed on the person's total gross income from the
42 business.

43 F. The department shall separately account for revenues collected
44 under the amusement classification for the purposes of section 42-5029,
45 subsection D, paragraph 4, subdivision (b).

1 G. For THE purposes of section 42-5032.01, the department shall
2 separately account for revenues collected under the amusement classification
3 from sales of admissions to:

4 1. Events that are held in a multipurpose facility that is owned or
5 operated by the tourism and sports authority pursuant to title 5, chapter 8,
6 including intercollegiate football contests that are operated by a nonprofit
7 organization that is exempt from taxation under section 501(c)(3) of the
8 internal revenue code.

9 2. Professional football contests that are held in a stadium located
10 on the campus of an institution under the jurisdiction of the Arizona board
11 of regents.

12 Sec. 2. Section 42-6004, Arizona Revised Statutes, is amended to read:
13 42-6004. Exemption from municipal tax; definitions

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

16 1. Exhibition events in this state sponsored, conducted or operated by
17 a nonprofit organization that is exempt from taxation under section
18 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
19 organization is associated with a major league baseball team or a national
20 touring professional golfing association and no part of the organization's
21 net earnings inures to the benefit of any private shareholder or individual.

22 2. Interstate telecommunications services, which include that portion
23 of telecommunications services, such as subscriber line service, allocable by
24 federal law to interstate telecommunications service.

25 3. Sales of warranty or service contracts.

26 4. Sales of motor vehicles to nonresidents of this state for use
27 outside this state if the motor vehicle dealer ships or delivers the motor
28 vehicle to a destination outside this state.

29 5. Interest on finance contracts.

30 6. Dealer documentation fees on the sales of motor vehicles.

31 7. Sales of food or other items purchased with United States
32 department of agriculture food stamp coupons issued under the food stamp act
33 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
34 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
35 section 4302; 42 United States Code section 1786) but may impose such a tax
36 on other sales of food. If a city, town or special taxing district exempts
37 sales of food from its tax or imposes a different transaction privilege rate
38 on the gross proceeds of sales or gross income from sales of food and nonfood
39 items, it shall use the definition of food prescribed by rule adopted by the
40 department pursuant to section 42-5106.

41 8. Orthodontic devices dispensed by a dental professional who is
42 licensed under title 32, chapter 11 to a patient as part of the practice of
43 dentistry.

44 9. Sales of internet access services to the person's subscribers and
45 customers. For the purposes of this paragraph:

1 (a) "Internet" means the computer and telecommunications facilities
2 that comprise the interconnected worldwide network of networks that employ
3 the transmission control protocol or internet protocol, or any predecessor or
4 successor protocol, to communicate information of all kinds by wire or radio.

5 (b) "Internet access" means a service that enables users to access
6 content, information, electronic mail or other services over the internet.
7 Internet access does not include telecommunication services provided by a
8 common carrier.

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

12 ~~11. Through August 31, 2014, sales of Arizona centennial medallions by~~
13 ~~the historical advisory commission.~~

14 ~~12.~~ 11. Leasing real property between affiliated companies,
15 businesses, persons or reciprocal insurers. For the purposes of this
16 paragraph:

17 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
18 means the lessor holds a controlling interest in the lessee, the lessee holds
19 a controlling interest in the lessor, affiliated persons hold a controlling
20 interest in both the lessor and the lessee, or an unrelated person holds a
21 controlling interest in both the lessor and lessee.

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

24 (c) "Controlling interest" means direct or indirect ownership of at
25 least eighty percent of the voting shares of a corporation or of the
26 interests in a company, business or person other than a corporation.

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

30 (e) "Reciprocal insurer" has the same meaning prescribed in section
31 20-762.

32 ~~13.~~ 12. The gross proceeds of sales or gross income derived from a
33 contract for the installation, assembly, repair or maintenance of machinery,
34 equipment or other tangible personal property that is described in section
35 42-5061, subsection B and that has independent functional utility, pursuant
36 to the following provisions:

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

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

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

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

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

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

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

17 (i) Assembling the machinery, equipment or other tangible personal
18 property.

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

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

24 (iv) Stabilizing or protecting the machinery, equipment or other
25 tangible personal property during operation by bolting, burying or performing
26 other dissimilar nonpermanent connections to either real property or real
27 property improvements.

28 ~~14.~~ 13. The leasing or renting of certified ignition interlock
29 devices installed pursuant to the requirements prescribed by section 28-1461.
30 For the purposes of this paragraph, "certified ignition interlock device" has
31 the same meaning prescribed in section 28-1301.

32 ~~15.~~ 14. Computer data center equipment purchased by the owner,
33 operator or qualified colocation tenant of the computer data center or an
34 authorized agent of the owner, operator or qualified colocation tenant during
35 the qualification period for use in a computer data center that is certified
36 by the Arizona commerce authority under section 41-1519. To qualify for this
37 deduction, at the time of purchase, the owner, operator or qualified
38 colocation tenant must present to the retailer its certificate that is issued
39 pursuant to section 41-1519 and that establishes its qualification for the
40 deduction. For the purposes of this paragraph, "computer data center",
41 "computer data center equipment", "qualification period" and "qualified
42 colocation tenant" have the same meanings prescribed in section 41-1519.

43 ~~16.~~ 15. The gross proceeds of sales or gross income derived from a
44 contract with the owner of real property or improvements to real property for
45 the maintenance, repair, replacement or alteration of existing property,

1 except as specified in this paragraph. The gross proceeds of sales or gross
2 income derived from a de minimis amount of modification activity does not
3 subject the contract or any part of the contract to tax. For the purposes of
4 this paragraph:

5 (a) Each contract is independent of another contract, except that any
6 change order that directly relates to the scope of work of the original
7 contract shall be treated the same as the original contract under this
8 ~~chapter~~ PARAGRAPH, regardless of the amount of modification activities
9 included in the change order. If a change order does not directly relate to
10 the scope of work of the original contract, the change order shall be treated
11 as a new contract, with the tax treatment of any subsequent change order to
12 follow the tax treatment of the contract to which the scope of work of the
13 subsequent change order directly relates.

14 (b) Any term not defined in this paragraph that is defined in section
15 42-5075 has the same meaning prescribed in section 42-5075.

16 (c) This paragraph does not apply to a contract that primarily
17 involves surface or subsurface improvements to land and that is subject to
18 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
19 contract also includes vertical improvements. If a city or town imposes a
20 tax on contracts that are subject to procurement processes under those
21 provisions, the city or town shall include in the request for proposals a
22 notice to bidders when those projects are subject to the tax. This
23 subdivision does not apply to contracts with:

24 (i) Community facilities districts, fire districts, county television
25 improvement districts, community park maintenance districts, cotton pest
26 control districts, hospital districts, pest abatement districts, health
27 service districts, agricultural improvement districts, county free library
28 districts, county jail districts, county stadium districts, special health
29 care districts, public health services districts, theme park districts,
30 regional attraction districts or revitalization districts.

31 (ii) Any special taxing district not specified in item (i) of this
32 subdivision if the district does not substantially engage in the
33 modification, maintenance, repair, replacement or alteration of surface or
34 subsurface improvements to land.

35 ~~17-~~ 16. Monitoring services relating to an alarm system as defined in
36 section 32-101.

37 ~~18-~~ 17. Tangible personal property, job printing or publications sold
38 to or purchased by, or tangible personal property leased, rented or licensed
39 for use to or by, a qualifying health sciences educational institution as
40 defined in section 42-5001.

41 ~~19-~~ 18. The transfer of title or possession of coal back and forth
42 between an owner or operator of a power plant and a person who is responsible
43 for refining coal if both of the following apply:

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

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

6 ~~20-~~ 19. The gross proceeds of sales or gross income from sales of low
7 or reduced cost articles of food or drink to eligible elderly or homeless
8 persons or persons with a disability by a business subject to tax under
9 section 42-5074 that contracts with the department of economic security and
10 that is approved by the food and nutrition service of the United States
11 department of agriculture pursuant to the supplemental nutrition assistance
12 program established by the food and nutrition act of 2008 (P.L. 110-246; 122
13 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the
14 purchases are made with the benefits issued pursuant to the supplemental
15 nutrition assistance program.

16 ~~21-~~ 20. Tangible personal property incorporated or fabricated into a
17 project described in paragraph ~~16~~ 15 of this subsection, that is located
18 within the exterior boundaries of an Indian reservation for which the owner,
19 as defined in section 42-5075, of the project is an Indian tribe or an
20 affiliated Indian. For the purposes of this paragraph:

21 (a) "Affiliated Indian" means an individual native American Indian who
22 is duly registered on the tribal rolls of the Indian tribe for whose benefit
23 the Indian reservation was established.

24 (b) "Indian reservation" means all lands that are within the limits of
25 areas set aside by the United States for the exclusive use and occupancy of
26 an Indian tribe by treaty, law or executive order and that are recognized as
27 Indian reservations by the United States department of the interior.

28 (c) "Indian tribe" means any organized nation, tribe, band or
29 community that is recognized as an Indian tribe by the United States
30 department of the interior and includes any entity formed under the laws of
31 that Indian tribe.

32 ~~22-~~ 21. The charges for the leasing or renting of space to make
33 attachments to utility poles as follows:

34 (a) By a person that is engaged in the business of providing or
35 furnishing electrical services or telecommunication services or that is a
36 cable operator.

37 (b) To a person that is engaged in the business of providing or
38 furnishing electrical services or telecommunication services or that is a
39 cable operator.

40 22. UNTIL JANUARY 31, 2017, THE GROSS PROCEEDS OF SALES OR GROSS
41 INCOME DERIVED FROM ENTRY FEES PAID BY PARTICIPANTS FOR EVENTS THAT CONSIST
42 OF A RUN, WALK, SWIM OR BICYCLE RIDE OR A SIMILAR EVENT, OR ANY COMBINATION
43 OF THESE EVENTS.

44 23. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM ENTRY
45 FEES PAID BY PARTICIPANTS FOR EVENTS THAT ARE OPERATED OR CONDUCTED BY

1 NONPROFIT ORGANIZATIONS THAT ARE EXEMPT FROM TAXATION UNDER SECTION 501(c)(3)
2 OF THE INTERNAL REVENUE CODE AND OF WHICH NO PART OF THE ORGANIZATION'S NET
3 EARNINGS INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL, IF
4 THE EVENT CONSISTS OF A RUN, WALK, SWIM OR BICYCLE RIDE OR A SIMILAR EVENT,
5 OR ANY COMBINATION OF THESE EVENTS.

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

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

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

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

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

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

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

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

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

36 (b) The attributable amount is equal to the total amount of
37 development fees paid by the taxpayer or by a contractor providing services
38 to the taxpayer and the total development fees credited in exchange for the
39 construction of, contribution to or dedication of real property for providing
40 public infrastructure, public safety or other public services necessary to
41 the development. The real property must be the subject of the development
42 fees.

43 (c) "Development fees" means fees imposed to offset capital costs of
44 providing public infrastructure, public safety or other public services to a

1 development and authorized pursuant to section 9-463.05, section 11-1102 or
2 title 48 regardless of the jurisdiction to which the fees are paid.

3 D. A city, town or other taxing jurisdiction shall not levy a
4 transaction privilege, sales, use, franchise or other similar tax or fee,
5 however denominated, in excess of one-tenth of one percent of the value of
6 the entire product mined, smelted, extracted, refined, produced or prepared
7 for sale, profit or commercial use, on persons engaged in the business of
8 mineral processing, except to the extent that the tax is computed on the
9 gross proceeds or gross income from sales at retail.

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

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

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

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

19 G. For the purposes of this section:

20 1. "Cable operator" has the same meaning prescribed ~~by~~ IN section
21 9-505.

22 2. "Electrical services" means transmitting or distributing
23 electricity, electric lights, current or power over lines, wires or cables.

24 3. "Telecommunication services" means transmitting or relaying sound,
25 visual image, data, information, images or material over lines, wires or
26 cables by radio signal, light beam, telephone, telegraph or any other
27 electromagnetic means.

28 4. "Utility pole" means any wooden, metal or other pole used for
29 utility purposes and the pole's appurtenances that are attached or authorized
30 for attachment by the person controlling the pole.

31 Sec. 3. Retroactivity

32 A. Section 42-5073, subsection A, paragraph 11 and section 42-6004,
33 subsection A, paragraph 22, Arizona Revised Statutes, as added by this act,
34 are effective retroactively with respect to entry fees paid by participants
35 for an event that took place before the effective date of this act if the
36 operator or conductor of the event did not collect from the participants
37 amounts necessary to pay the transaction privilege tax liability.

38 B. Any such amount assessed to an operator or sponsor as a tax,
39 interest or a penalty before the effective date of this act is remitted and
40 forgiven.

41 C. Any lien filed pursuant to title 42, chapter 1, article 4, Arizona
42 Revised Statutes, against the operator's or sponsor's property and rights to
43 property to collect such an amount of tax, interest or penalty or any other
44 amount is abated, and the department of revenue shall do all of the
45 following:

- 1 1. Release the property and rights to property from the lien.
- 2 2. Withdraw any recorded notice of lien.
- 3 3. On the written request of the operator or sponsor, issue a
- 4 certificate of release of lien to the operator or sponsor against whom the
- 5 lien was claimed. The certificate constitutes conclusive evidence that the
- 6 property has been released.
- 7 Sec. 4. Effective date
- 8 This act is effective from and after January 31, 2017.