

REFERENCE TITLE: tax exemption; residential solar electricity

State of Arizona
Senate
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SB 1229

Introduced by
Senators Griffin: Biggs, Driggs, McComish, Melvin, Pierce S, Reagan,
Yarbrough; Representatives Crandell, Gowan, Montenegro, Stevens

AN ACT

AMENDING SECTION 42-5001, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION
PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5001, Arizona Revised Statutes, is amended to
3 read:

4 42-5001. Definitions

5 In this article and article 2 of this chapter, unless the context
6 otherwise requires:

7 1. "Business" includes all activities or acts, personal or corporate,
8 engaged in or caused to be engaged in with the object of gain, benefit or
9 advantage, either directly or indirectly, but DOES not INCLUDE:

10 (a) Casual activities or sales.

11 (b) THE NONCOMMERCIAL TRANSMISSION OF ELECTRICITY FROM A RESIDENTIAL
12 SOLAR PHOTOVOLTAIC GENERATION SYSTEM TO AN ELECTRIC UTILITY DISTRIBUTION
13 SYSTEM.

14 2. "Distribution base" means the portion of the revenues derived from
15 the tax levied by this article and articles 5 and 8 of this chapter
16 designated for distribution to counties, municipalities and other purposes
17 according to section 42-5029, subsection D.

18 3. "Engaging", when used with reference to engaging or continuing in
19 business, includes the exercise of corporate or franchise powers.

20 4. "Gross income" means the gross receipts of a taxpayer derived from
21 trade, business, commerce or sales and the value proceeding or accruing from
22 the sale of tangible personal property or service, or both, and without any
23 deduction on account of losses.

24 5. "Gross proceeds of sales" means the value proceeding or accruing
25 from the sale of tangible personal property without any deduction on account
26 of the cost of property sold, expense of any kind or losses, but cash
27 discounts allowed and taken on sales are not included as gross income.

28 6. "Gross income" and "gross proceeds of sales" do not include goods,
29 wares or merchandise, or value thereof, returned by customers if the sale
30 price is refunded either in cash or by credit, nor the value of merchandise
31 traded in on the purchase of new merchandise when the trade-in allowance is
32 deducted from the sales price of the new merchandise before completion of the
33 sale.

34 7. "Gross receipts" means the total amount of the sale, lease or
35 rental price, as the case may be, of the retail sales of retailers, including
36 any services that are a part of the sales, valued in money, whether received
37 in money or otherwise, including all receipts, cash, credits and property of
38 every kind or nature, and any amount for which credit is allowed by the
39 seller to the purchaser without any deduction from the amount on account of
40 the cost of the property sold, materials used, labor or service performed,
41 interest paid, losses or any other expense. Gross receipts do not include
42 cash discounts allowed and taken nor the sale price of property returned by
43 customers if the full sale price is refunded either in cash or by credit.

1 8. "Person" or "company" includes an individual, firm, partnership,
2 joint venture, association, corporation, estate or trust, this state, any
3 county, city, town, district, other than a school district, or other
4 political subdivision and any other group or combination acting as a unit,
5 and the plural as well as the singular number.

6 9. "Qualifying community health center":

7 (a) Means an entity that is recognized as nonprofit under section
8 501(c)(3) of the United States internal revenue code, that is a
9 community-based, primary care clinic that has a community-based board of
10 directors and that is either:

11 (i) The sole provider of primary care in the community.

12 (ii) A nonhospital affiliated clinic that is located in a federally
13 designated medically underserved area in this state.

14 (b) Includes clinics that are being constructed as qualifying
15 community health centers.

16 10. "Qualifying health care organization" means an entity that is
17 recognized as nonprofit under section 501(c) of the United States internal
18 revenue code and that uses, saves or invests at least eighty per cent of all
19 monies that it receives from all sources each year only for health and
20 medical related educational and charitable services, as documented by annual
21 financial audits prepared by an independent certified public accountant,
22 performed according to generally accepted accounting standards and filed
23 annually with the department. Monies that are used, saved or invested to
24 lease, purchase or construct a facility for health and medical related
25 education and charitable services are included in the eighty per cent
26 requirement.

27 11. "Qualifying hospital" means any of the following:

28 (a) A licensed hospital which is organized and operated exclusively
29 for charitable purposes, no part of the net earnings of which inures to the
30 benefit of any private shareholder or individual.

31 (b) A licensed nursing care institution or a licensed residential care
32 institution or a residential care facility operated in conjunction with a
33 licensed nursing care institution or a licensed kidney dialysis center, which
34 provides medical services, nursing services or health related services and is
35 not used or held for profit.

36 (c) A hospital, nursing care institution or residential care
37 institution which is operated by the federal government, this state or a
38 political subdivision of this state.

39 (d) A facility that is under construction and that on completion will
40 be a facility under subdivision (a), (b) or (c) of this paragraph.

41 12. "Retailer" includes every person engaged in the business classified
42 under the retail classification pursuant to section 42-5061 and, when in the
43 opinion of the department it is necessary for the efficient administration of
44 this article, includes dealers, distributors, supervisors, employers and
45 salesmen, representatives, peddlers or canvassers as the agents of the

1 dealers, distributors, supervisors or employers under whom they operate or
2 from whom they obtain the tangible personal property sold by them, whether in
3 making sales on their own behalf or on behalf of the dealers, distributors,
4 supervisors or employers.

5 13. "Sale" means any transfer of title or possession, or both,
6 exchange, barter, lease or rental, conditional or otherwise, in any manner or
7 by any means whatever, including consignment transactions and auctions, of
8 tangible personal property or other activities taxable under this chapter,
9 for a consideration, and includes:

10 (a) Any transaction by which the possession of property is transferred
11 but the seller retains the title as security for the payment of the price.

12 (b) Fabricating tangible personal property for consumers who furnish
13 either directly or indirectly the materials used in the fabrication work.

14 (c) Furnishing, preparing or serving for a consideration any tangible
15 personal property consumed on the premises of the person furnishing,
16 preparing or serving the tangible personal property.

17 14. "Solar daylighting" means a device that is specifically designed to
18 capture and redirect the visible portion of the solar beam, while controlling
19 the infrared portion, for use in illuminating interior building spaces in
20 lieu of artificial lighting.

21 15. "Solar energy device" means a system or series of mechanisms
22 designed primarily to provide heating, to provide cooling, to produce
23 electrical power, to produce mechanical power, to provide solar daylighting
24 or to provide any combination of the foregoing by means of collecting and
25 transferring solar generated energy into such uses either by active or
26 passive means, including wind generator systems that produce
27 electricity. Solar energy systems may also have the capability of storing
28 solar energy for future use. Passive systems shall clearly be designed as a
29 solar energy device, such as a trombe wall, and not merely as a part of a
30 normal structure, such as a window.

31 16. "Tangible personal property" means personal property which may be
32 seen, weighed, measured, felt or touched or is in any other manner
33 perceptible to the senses.

34 17. "Tax year" or "taxable year" means either the calendar year or the
35 taxpayer's fiscal year, if permission is obtained from the department to use
36 a fiscal year as the tax period instead of the calendar year.

37 18. "Taxpayer" means any person who is liable for any tax which is
38 imposed by this article.

39 19. "Wholesaler" or "jobber" means any person who sells tangible
40 personal property for resale and not for consumption by the purchaser.