Assigned to FIN FOR COMMITTEE

# *ARIZONA STATE SENATE*

***Fifty-Second Legislature, First Regular Session***

## FACT SHEET FOR S.B. 1133

TPT; municipalities; customer refunds claims

Purpose

Outlines the process for a customer to file a claim for a transaction privilege tax (TPT) refund.

Background

The Arizona TPT is commonly referred to as a sales tax; however, the tax is on the privilege of doing business in Arizona and is not a true sales tax. Under Arizona's TPT, the seller is responsible for remitting to the state the entire amount of tax due based on the gross proceeds or gross income of the business. The seller can include the tax in the purchase price or absorb the tax.

TPT is currently levied on 16 business classifications including retail, utilities, restaurants and bars, prime contracting, transient lodging, rental of personal property, telecommunications and amusements. Currently, statute provides for specific activities and transactions that a taxpayer can deduct from the gross proceeds of sales or gross income in determining the tax base prior to calculating the tax. Each business classification has its own deductions and exemptions.

Current statute allows for the Department of Revenue (DOR) to refund taxes, interest or penalties in excess of amounts actually due to a taxpayer (A.R.S § 42-1118). Where overpayments cannot be credited towards other penalties or interest owed by the taxpayer, DOR can completely refund the entire overpayment in installments or in a lump sum, can issue a voucher to apply towards future tax liabilities or can issue a refund in part and a credit voucher towards the remaining overpayment balance.

There may be a negative impact to the state General Fund associated with this legislation.

Provisions

***General Provisions for TPT Claims***

1. Permits a customer who paid an amount equal to a state or municipal TPT that was passed on by the vendor or who paid use tax to a vendor to file a claim for an amount equal to any tax and interest that the vendor could otherwise claim.

2. Stipulates that any claim by a customer is in lieu of a vendor claiming a refund and places liability on the customer for any amount erroneously paid or credited to the customer

3. Specifies that only a vendor can claim a TPT refund except in cases where a customer has legally already made that claim.

4. Prescribes the manner by which a customer is permitted to file either a state or municipal TPT claim through an affirmative assignment of rights by the vendor to the customer and the requirements for the claim form.

5. Prescribes the manner by which a customer can request a state or municipal TPT or use tax refund if the vendor fails or refuses to properly assign its right to a claim or if a vendor is no longer in business.

6. Requires DOR to take certain actions in the cases of a claim where a vendor fails or refuses to assign its right to a claim to a customer.

7. Permits DOR to continue to process a claim if the vendor objects or fails to respond within 30 days after the date of the notice, provided that DOR notifies the vendor and amends the vendor's returns or account to reflect the amount paid or credited to the customer.

8. Allows DOR or the municipal tax collector to communicate with the vendor regarding a customer's claim.

9. Stipulates that a customer's TPT refund claim is subject to any offset or other claim that DOR would otherwise have against either the customer or the vendor.

10. Prohibits DOR from requiring the vendor or customer to submit amended returns for a valid claim.

11. Allows DOR to reject a claim filed by a customer if DOR already granted a refund of TPT or use tax arising from the same transaction.

***Provisions Specific to State TPT Claims***

12. Requires, in the case of state TPT claims, the form for a customer to receive assignment of rights additionally include a list of any local jurisdictions to which the vendor reported and remitted local privilege taxes arising from the transactions covered by the assignment of rights.

13. Allows DOR to disclose vendor information to a customer with rights to make a TPT refund claim in order for the customer to pursue a claim.

14. Allows interest to be paid with respect to any amount refunded from the date the claim is accepted through the date of the credit or payment of the claim.

15. Specifies that a payment made where no actual tax liability existed is not considered an overpayment and thereby prohibits interest on that payment.

***Provisions Specific to Municipal TPT Claims***

16. Requires municipal TPT claims to be made to the tax collector of the city or town to which the tax was originally paid.

17. Prohibits the tax collector from refusing to process valid clams, and allows the customer, in cases where a valid claim is refused by a tax collector, to consider the refusal as a denial of the claim and to file a petition for a hearing.

18. Outlines the process for a denial of claim.

19. Stipulates that tax paid on an activity that is not subject to tax or that qualifies for an exemption is not considered as excess collected tax.

20. Requires that interest on a claim be paid to the customer making a claim and awards reasonable fees and other costs related to administrative processing to a successful customer appeal if the tax collector's position was not justified or was meant for harassment or the frustrating of the claim process.

***Miscellaneous***

21. Defines terms.

22. Makes technical and conforming changes.

23. Becomes effective on the general effective date.

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