

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SENATE BILL 1350

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.38; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.15; AMENDING SECTIONS 42-1108, 42-2003, 42-5001, 42-5005, 42-5009, 42-5014 AND 42-5070, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6009; AMENDING SECTIONS 42-12003 AND 42-12004, ARIZONA REVISED STATUTES; RELATING TO ONLINE LODGING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
3 amended by adding section 9-500.38, to read:

4 9-500.38. Limitations on regulation of vacation rentals: state
5 preemption; definitions

6 A. A CITY OR TOWN MAY NOT PROHIBIT VACATION RENTALS OR SHORT-TERM
7 RENTALS, RESTRICT THE USE OF VACATION RENTALS OR SHORT-TERM RENTALS OR
8 REGULATE VACATION RENTALS OR SHORT-TERM RENTALS BASED SOLELY ON THEIR
9 CLASSIFICATION, USE OR OCCUPANCY.

10 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A CITY OR TOWN MAY
11 REGULATE VACATION RENTALS IF THE REGULATION IS NARROWLY TAILORED TO PROTECT
12 THE PUBLIC HEALTH AND SAFETY AND IS FOR THE FOLLOWING PURPOSES:

13 1. PROTECTION OF THE PUBLIC'S HEALTH AND SAFETY, AS DEFINED IN TITLE
14 12, CHAPTER 8, ARTICLE 2.1, INCLUDING RULES AND REGULATIONS RELATED TO FIRE
15 AND BUILDING CODES, HEALTH AND SANITATION, TRANSPORTATION OR TRAFFIC CONTROL,
16 SOLID OR HAZARDOUS WASTE AND POLLUTION CONTROL.

17 2. LIMITING OR PROHIBITING THE USE OF A VACATION RENTAL FOR THE
18 PURPOSES OF HOUSING SEX OFFENDERS, SELLING ILLEGAL DRUGS, LIQUOR CONTROL OR
19 PORNOGRAPHY, OBSCENITY, NUDE OR TOPLESS DANCING AND OTHER ADULT-ORIENTED
20 BUSINESSES.

21 C. FOR THE PURPOSES OF THIS SECTION, "VACATION RENTAL" OR "SHORT-TERM
22 RENTAL" MEANS ANY INDIVIDUALLY OR COLLECTIVELY OWNED SINGLE-FAMILY OR
23 ONE-TO-FOUR-FAMILY HOUSE OR DWELLING UNIT OR ANY UNIT OR GROUP OF UNITS IN A
24 CONDOMINIUM, COOPERATIVE OR TIMESHARE, THAT IS ALSO A TRANSIENT PUBLIC
25 LODGING ESTABLISHMENT.

26 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes, is
27 amended by adding section 11-269.15, to read:

28 11-269.15. Limitations on regulation of vacation rentals: state
29 preemption; definitions

30 A. A COUNTY MAY NOT PROHIBIT VACATION RENTALS OR SHORT-TERM RENTALS,
31 RESTRICT THE USE OF VACATION RENTALS OR SHORT-TERM RENTALS OR REGULATE
32 VACATION RENTALS OR SHORT-TERM RENTALS BASED SOLELY ON THEIR CLASSIFICATION,
33 USE OR OCCUPANCY.

34 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A COUNTY MAY REGULATE
35 VACATION RENTALS IF THE REGULATION IS NARROWLY TAILORED TO PROTECT THE PUBLIC
36 HEALTH AND SAFETY AND IS FOR THE FOLLOWING PURPOSES:

37 1. PROTECTION OF THE PUBLIC'S HEALTH AND SAFETY, AS DEFINED IN TITLE
38 12, CHAPTER 8, ARTICLE 2.1 INCLUDING RULES AND REGULATIONS RELATED TO FIRE
39 AND BUILDING CODES, HEALTH AND SANITATION, TRANSPORTATION OR TRAFFIC CONTROL,
40 SOLID OR HAZARDOUS WASTE AND POLLUTION CONTROL.

41 2. LIMITING OR PROHIBITING THE USE OF A VACATION RENTAL FOR THE
42 PURPOSES OF HOUSING SEX OFFENDERS, SELLING ILLEGAL DRUGS, LIQUOR CONTROL OR
43 PORNOGRAPHY, OBSCENITY, NUDE OR TOPLESS DANCING AND OTHER ADULT-ORIENTED
44 BUSINESSES.

1 C. FOR THE PURPOSES OF THIS SECTION, "VACATION RENTAL" OR "SHORT-TERM
2 RENTAL" MEANS ANY INDIVIDUALLY OR COLLECTIVELY OWNED SINGLE-FAMILY OR
3 ONE-TO-FOUR-FAMILY HOUSE OR DWELLING UNIT OR ANY UNIT OR GROUP OF UNITS IN A
4 CONDOMINIUM, COOPERATIVE OR TIMESHARE, THAT IS ALSO A TRANSIENT PUBLIC
5 LODGING ESTABLISHMENT.

6 Sec. 3. Section 42-1108, Arizona Revised Statutes, is amended to read:
7 42-1108. Audit: deficiency assessments

8 A. If a taxpayer fails to file a return required by this title or
9 title 43, or if the department is not satisfied with the return or payment of
10 the amount of tax required to be paid under either title, the department may
11 examine any return, including any books, papers, records or memoranda
12 relating to the return, to determine the correct amount of tax. This
13 examination must occur within the time periods prescribed by section 42-1104
14 and may be accomplished through a detailed review of transactions or records
15 or by a statistically valid sampling method.

16 B. The department shall give the taxpayer written notice of its
17 determination of a deficiency by mail, and the deficiency, plus penalties and
18 interest, is final forty-five days from the date of receipt of the notice to
19 the taxpayer unless an appeal is taken to the department. For individual
20 income tax the period is ninety days from the date of mailing. In the case
21 of a joint income tax return, the notice may be a single joint notice mailed
22 to the last known address, but if either spouse notifies the department that
23 separate residences have been established, the department shall mail
24 duplicate originals of the joint notice to each spouse.

25 C. If a deficiency is determined and the assessment becomes final, the
26 department shall mail notice and demand to the taxpayer for the payment of
27 the deficiency. Notwithstanding section 42-1125, subsection E, the
28 deficiency assessed is due and payable at the expiration of ten days from the
29 date of the notice and demand.

30 D. A certificate by the department of the mailing of the notices
31 specified in this section is prima facie evidence of the assessment of the
32 deficiency and the giving of the notices.

33 E. Any amount of tax in excess of that disclosed by the return due to
34 a mathematical error or failure of the taxpayer to properly compute the
35 liability based on the taxable income reported on the return, notice of which
36 has been mailed to the taxpayer, is not a deficiency assessment within the
37 meaning of this section. The taxpayer may not protest or appeal as in the
38 case of a deficiency assessment, based on such notice, and the assessment or
39 collection of the amount of tax erroneously omitted in the return is not
40 prohibited by this article.

41 F. AN ONLINE LODGING MARKETPLACE, ITS RETURNS, INCLUDING ANY
42 SUPPORTING DOCUMENTS, AND ITS PAYMENTS OF TAXES TO THE DEPARTMENT PURSUANT TO
43 CHAPTERS 5 AND 6 OF THIS TITLE SHALL BE SUBJECT TO AUDIT BY THE
44 DEPARTMENT. AUDITS OF AN ONLINE LODGING MARKETPLACE SHALL BE CONDUCTED
45 SOLELY ON THE BASIS OF THE ONLINE LODGING MARKETPLACE'S TAXPAYER

1 IDENTIFICATION NUMBER AND MAY NOT BE CONDUCTED DIRECTLY OR INDIRECTLY ON ANY
2 INDIVIDUAL ONLINE LODGING OPERATOR OR ANY OCCUPANT TO WHOM LODGINGS ARE
3 FURNISHED THROUGH AN ONLINE LODGING TRANSACTION FACILITATED BY THE ONLINE
4 LODGING MARKETPLACE. AN ONLINE LODGING OPERATOR IS NOT REQUIRED TO DISCLOSE
5 ANY PERSONALLY IDENTIFIABLE INFORMATION RELATING TO ANY ONLINE LODGING
6 OPERATOR OR OCCUPANT TO WHOM LODGINGS ARE FURNISHED IN EXCHANGE FOR A CHARGE
7 FOR OCCUPANCY. THE DEPARTMENT SHALL ISSUE ALL AUDIT ASSESSMENTS ON BEHALF OF
8 ALL TAXING JURISDICTIONS IN A SINGLE NOTICE TO THE ONLINE LODGING
9 MARKETPLACE. APPEALS OF AUDIT ASSESSMENTS SHALL BE DIRECTED TO THE
10 DEPARTMENT AND SHALL BE ADMINISTERED PURSUANT TO ARTICLE 6 OF THIS
11 CHAPTER. FOR THE PURPOSES OF THIS SUBSECTION, "ONLINE LODGING MARKETPLACE",
12 "ONLINE LODGING OPERATOR" AND "ONLINE LODGING TRANSACTION" HAVE THE SAME
13 MEANINGS PRESCRIBED IN SECTION 42-5001.

14 Sec. 4. Section 42-2003, Arizona Revised Statutes, is amended to read:
15 42-2003. Authorized disclosure of confidential information

16 A. Confidential information relating to:

17 1. A taxpayer may be disclosed to the taxpayer, its successor in
18 interest or a designee of the taxpayer who is authorized in writing by the
19 taxpayer. A principal corporate officer of a parent corporation may execute
20 a written authorization for a controlled subsidiary.

21 2. A corporate taxpayer may be disclosed to any principal officer, any
22 person designated by a principal officer or any person designated in a
23 resolution by the corporate board of directors or other similar governing
24 body.

25 3. A partnership may be disclosed to any partner of the partnership.
26 This exception does not include disclosure of confidential information of a
27 particular partner unless otherwise authorized.

28 4. An estate may be disclosed to the personal representative of the
29 estate and to any heir, next of kin or beneficiary under the will of the
30 decedent if the department finds that the heir, next of kin or beneficiary
31 has a material interest ~~which~~ THAT will be affected by the confidential
32 information.

33 5. A trust may be disclosed to the trustee or trustees, jointly or
34 separately, and to the grantor or any beneficiary of the trust if the
35 department finds that the grantor or beneficiary has a material interest that
36 will be affected by the confidential information.

37 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
38 to confidentiality either in writing or on the record in any administrative
39 or judicial proceeding.

40 7. The name and taxpayer identification numbers of persons issued
41 direct payment permits may be publicly disclosed.

42 B. Confidential information may be disclosed to:

43 1. Any employee of the department whose official duties involve tax
44 administration.

1 2. The office of the attorney general solely for its use in
2 preparation for, or in an investigation that may result in, any proceeding
3 involving tax administration before the department or any other agency or
4 board of this state, or before any grand jury or any state or federal court.

5 3. The department of liquor licenses and control for its use in
6 determining whether a spirituous liquor licensee has paid all transaction
7 privilege taxes and affiliated excise taxes incurred as a result of the sale
8 of spirituous liquor, as defined in section 4-101, at the licensed
9 establishment and imposed on the licensed establishments by this state and
10 its political subdivisions.

11 4. Other state tax officials whose official duties require the
12 disclosure for proper tax administration purposes if the information is
13 sought in connection with an investigation or any other proceeding conducted
14 by the official. Any disclosure is limited to information of a taxpayer who
15 is being investigated or who is a party to a proceeding conducted by the
16 official.

17 5. The following agencies, officials and organizations, if they grant
18 substantially similar privileges to the department for the type of
19 information being sought, pursuant to statute and a written agreement between
20 the department and the foreign country, agency, state, Indian tribe or
21 organization:

22 (a) The United States internal revenue service, alcohol and tobacco
23 tax and trade bureau of the United States treasury, United States bureau of
24 alcohol, tobacco, firearms and explosives of the United States department of
25 justice, United States drug enforcement agency and federal bureau of
26 investigation.

27 (b) A state tax official of another state.

28 (c) An organization of states, federation of tax administrators or
29 multistate tax commission that operates an information exchange for tax
30 administration purposes.

31 (d) An agency, official or organization of a foreign country with
32 responsibilities that are comparable to those listed in subdivision (a), (b)
33 or (c) of this paragraph.

34 (e) An agency, official or organization of an Indian tribal government
35 with responsibilities comparable to the responsibilities of the agencies,
36 officials or organizations identified in subdivision (a), (b) or (c) of this
37 paragraph.

38 6. The auditor general, in connection with any audit of the department
39 subject to the restrictions in section 42-2002, subsection D.

40 7. Any person to the extent necessary for effective tax administration
41 in connection with:

42 (a) The processing, storage, transmission, destruction and
43 reproduction of the information.

44 (b) The programming, maintenance, repair, testing and procurement of
45 equipment for purposes of tax administration.

1 (c) The collection of the taxpayer's civil liability.

2 8. The office of administrative hearings relating to taxes
3 administered by the department pursuant to section 42-1101, but the
4 department shall not disclose any confidential information:

5 (a) Regarding income tax or withholding tax.

6 (b) On any tax issue relating to information associated with the
7 reporting of income tax or withholding tax.

8 9. The United States treasury inspector general for tax administration
9 for the purpose of reporting a violation of internal revenue code section
10 7213A (26 United States Code section 7213A), unauthorized inspection of
11 returns or return information.

12 10. The financial management service of the United States treasury
13 department for use in the treasury offset program.

14 11. The United States treasury department or its authorized agent for
15 use in the state income tax levy program and in the electronic federal tax
16 payment system.

17 12. The Arizona commerce authority for its use in:

18 (a) Qualifying renewable energy operations for the tax incentives
19 under sections 42-12006, 43-1083.01 and 43-1164.01.

20 (b) Qualifying businesses with a qualified facility for income tax
21 credits under sections 43-1083.03 and 43-1164.04.

22 (c) Fulfilling its annual reporting responsibility pursuant to section
23 41-1511, subsections U and V and section 41-1512, subsections U and V.

24 (d) Certifying computer data centers for tax relief under section
25 41-1519.

26 13. A prosecutor for purposes of section 32-1164, subsection C.

27 14. The state fire marshal for use in determining compliance with and
28 enforcing title 41, chapter 16, article 3.1.

29 15. The department of transportation for its use in administering
30 taxes, surcharges and penalties prescribed by title 28.

31 16. The Arizona health care cost containment system administration for
32 its use in administering nursing facility provider assessments.

33 C. Confidential information may be disclosed in any state or federal
34 judicial or administrative proceeding pertaining to tax administration
35 pursuant to the following conditions:

36 1. One or more of the following circumstances must apply:

37 (a) The taxpayer is a party to the proceeding.

38 (b) The proceeding arose out of, or in connection with, determining
39 the taxpayer's civil or criminal liability, or the collection of the
40 taxpayer's civil liability, with respect to any tax imposed under this title
41 or title 43.

42 (c) The treatment of an item reflected on the taxpayer's return is
43 directly related to the resolution of an issue in the proceeding.

1 (d) Return information directly relates to a transactional
2 relationship between a person who is a party to the proceeding and the
3 taxpayer and directly affects the resolution of an issue in the proceeding.

4 2. Confidential information may not be disclosed under this subsection
5 if the disclosure is prohibited by section 42-2002, subsection C or D.

6 D. Identity information may be disclosed for purposes of notifying
7 persons entitled to tax refunds if the department is unable to locate the
8 persons after reasonable effort.

9 E. The department, on the request of any person, shall provide the
10 names and addresses of bingo licensees as defined in section 5-401, verify
11 whether or not a person has a privilege license and number, a tobacco product
12 distributor's license and number or a withholding license and number or
13 disclose the information to be posted on the department's website or
14 otherwise publicly accessible pursuant to section 42-1124, subsection F and
15 section 42-3401.

16 F. A department employee, in connection with the official duties
17 relating to any audit, collection activity or civil or criminal
18 investigation, may disclose return information to the extent that disclosure
19 is necessary to obtain information that is not otherwise reasonably
20 available. These official duties include the correct determination of and
21 liability for tax, the amount to be collected or the enforcement of other
22 state tax revenue laws.

23 G. If an organization is exempt from this state's income tax as
24 provided in section 43-1201 for any taxable year, the name and address of the
25 organization and the application filed by the organization on which the
26 department made its determination for exemption together with any papers
27 submitted in support of the application and any letter or document issued by
28 the department concerning the application are open to public inspection.

29 H. Confidential information relating to transaction privilege tax, use
30 tax, severance tax, jet fuel excise and use tax and any other tax collected
31 by the department on behalf of any jurisdiction may be disclosed to any
32 county, city or town tax official if the information relates to a taxpayer
33 who is or may be taxable by a county, city or town or who may be subject to
34 audit by the department pursuant to section 42-6002. Any taxpayer
35 information released by the department to the county, city or town:

36 1. May only be used for internal purposes, including audits.

37 2. May not be disclosed to the public in any manner that does not
38 comply with confidentiality standards established by the department. The
39 county, city or town shall agree in writing with the department that any
40 release of confidential information that violates the confidentiality
41 standards adopted by the department will result in the immediate suspension
42 of any rights of the county, city or town to receive taxpayer information
43 under this subsection.

44 I. The department may disclose statistical information gathered from
45 confidential information if it does not disclose confidential information

1 attributable to any one taxpayer. The department may disclose statistical
2 information gathered from confidential information, even if it discloses
3 confidential information attributable to a taxpayer, to:

4 1. The state treasurer in order to comply with the requirements of
5 section 42-5029, subsection A, paragraph 3.

6 2. The joint legislative income tax credit review committee, the joint
7 legislative budget committee staff and the legislative staff in order to
8 comply with the requirements of section 43-221.

9 J. The department may disclose the aggregate amounts of any tax
10 credit, tax deduction or tax exemption enacted after January 1, 1994.
11 Information subject to disclosure under this subsection shall not be
12 disclosed if a taxpayer demonstrates to the department that such information
13 would give an unfair advantage to competitors.

14 K. Except as provided in section 42-2002, subsection C, confidential
15 information, described in section 42-2001, paragraph 1, subdivision (a), item
16 (ii), may be disclosed to law enforcement agencies for law enforcement
17 purposes.

18 L. The department may provide transaction privilege tax license
19 information to property tax officials in a county for the purpose of
20 identification and verification of the tax status of commercial property.

21 M. The department may provide transaction privilege tax, luxury tax,
22 use tax, property tax and severance tax information to the ombudsman-citizens
23 aide pursuant to title 41, chapter 8, article 5.

24 N. Except as provided in section 42-2002, subsection D, a court may
25 order the department to disclose confidential information pertaining to a
26 party to an action. An order shall be made only ~~upon~~ ON a showing of good
27 cause and that the party seeking the information has made demand ~~upon~~ ON the
28 taxpayer for the information.

29 O. This section does not prohibit the disclosure by the department of
30 any information or documents submitted to the department by a bingo licensee.
31 Before disclosing the information the department shall obtain the name and
32 address of the person requesting the information.

33 P. If the department is required or permitted to disclose confidential
34 information, it may charge the person or agency requesting the information
35 for the reasonable cost of its services.

36 Q. Except as provided in section 42-2002, subsection D, the department
37 of revenue shall release confidential information as requested by the
38 department of economic security pursuant to section 42-1122 or 46-291.
39 Information disclosed under this subsection is limited to the same type of
40 information that the United States internal revenue service is authorized to
41 disclose under section 6103(1)(6) of the internal revenue code.

42 R. Except as provided in section 42-2002, subsection D, the department
43 of revenue shall release confidential information as requested by the courts
44 and clerks of the court pursuant to section 42-1122.

1 S. To comply with the requirements of section 42-5031, the department
2 may disclose to the state treasurer, to the county stadium district board of
3 directors and to any city or town tax official that is part of the county
4 stadium district confidential information attributable to a taxpayer's
5 business activity conducted in the county stadium district.

6 T. The department shall release to the attorney general confidential
7 information as requested by the attorney general for purposes of determining
8 compliance with or enforcing any of the following:

9 1. Any public health control law relating to tobacco sales as provided
10 under title 36, chapter 6, article 14.

11 2. Any law relating to reduced cigarette ignition propensity standards
12 as provided under title 41, chapter 16, article 3.1.

13 3. Sections 44-7101 and 44-7111, the master settlement agreement
14 referred to in those sections and all agreements regarding disputes under the
15 master settlement agreement.

16 U. For proceedings before the department, the office of administrative
17 hearings, the board of tax appeals or any state or federal court involving
18 penalties that were assessed against a return preparer, an electronic return
19 preparer or a payroll service company pursuant to section 42-1103.02,
20 42-1125.01 or 43-419, confidential information may be disclosed only before
21 the judge or administrative law judge adjudicating the proceeding, the
22 parties to the proceeding and the parties' representatives in the proceeding
23 prior to its introduction into evidence in the proceeding. The confidential
24 information may be introduced as evidence in the proceeding only if the
25 taxpayer's name, the names of any dependents listed on the return, all social
26 security numbers, the taxpayer's address, the taxpayer's signature and any
27 attachments containing any of the foregoing information are redacted and if
28 either:

29 1. The treatment of an item reflected on such return is or may be
30 related to the resolution of an issue in the proceeding.

31 2. Such A return or THE return information relates or may relate to a
32 transactional relationship between a person who is a party to the proceeding
33 and the taxpayer ~~which~~ THAT directly affects the resolution of an issue in
34 the proceeding.

35 3. The method of payment of the taxpayer's withholding tax liability
36 or the method of filing the taxpayer's withholding tax return is an issue for
37 the period.

38 V. The department and attorney general may share the information
39 specified in subsection T of this section with any of the following:

40 1. Federal, state or local agencies for the purposes of enforcement of
41 corresponding laws of other states.

42 2. A court, arbitrator, data clearinghouse or similar entity for the
43 purpose of assessing compliance with or making calculations required by the
44 master settlement agreement or agreements regarding disputes under the master

1 settlement agreement, and with counsel for the parties or expert witnesses in
2 any such proceeding, if the information otherwise remains confidential.

3 W. The department may provide the name and address of qualifying
4 hospitals and qualifying health care organizations, as defined in section
5 42-5001, to a business classified and reporting transaction privilege tax
6 under the utilities classification.

7 X. The department may disclose to an official of any city, town or
8 county in a current agreement or considering a prospective agreement with the
9 department as described in section 42-5032.02, subsection F any information
10 relating to amounts subject to distribution required by section 42-5032.02.
11 Information disclosed by the department under this subsection:

12 1. May only be used by the city, town or county for internal purposes.

13 2. May not be disclosed to the public in any manner that does not
14 comply with confidentiality standards established by the department. The
15 city, town or county must agree with the department in writing that any
16 release of confidential information that violates the confidentiality
17 standards will result in the immediate suspension of any rights of the city,
18 town or county to receive information under this subsection.

19 Y. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT
20 MAY NOT DISCLOSE INFORMATION PROVIDED BY AN ONLINE LODGING MARKETPLACE, AS
21 DEFINED IN SECTION 42-5001, WITHOUT THE WRITTEN CONSENT OF THE ONLINE LODGING
22 MARKETPLACE, AND THE INFORMATION MAY BE DISCLOSED ONLY PURSUANT TO SUBSECTION
23 A, PARAGRAPHS 1 THROUGH 6, SUBSECTION B, PARAGRAPHS 1, 2, 7 AND 8 AND
24 SUBSECTIONS C AND D OF THIS SECTION. SUCH INFORMATION:

25 1. IS NOT SUBJECT TO DISCLOSURE PURSUANT TO TITLE 39, RELATING TO
26 PUBLIC RECORDS.

27 2. MAY NOT BE DISCLOSED TO ANY AGENCY OF THIS STATE OR OF ANY COUNTY,
28 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

29 Sec. 5. Section 42-5001, Arizona Revised Statutes, is amended to read:
30 42-5001. Definitions

31 In this article and article 2 of this chapter, unless the context
32 otherwise requires:

33 1. "Business" includes all activities or acts, personal or corporate,
34 engaged in or caused to be engaged in with the object of gain, benefit or
35 advantage, either directly or indirectly, but does not include either:

36 (a) Casual activities or sales.

37 (b) The transfer of electricity from a solar photovoltaic generation
38 system to an electric utility distribution system.

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

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

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

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

9 6. "Gross income" and "gross proceeds of sales" do not include goods,
10 wares or merchandise, or value thereof, returned by customers if the sale
11 price is refunded either in cash or by credit, nor the value of merchandise
12 traded in on the purchase of new merchandise when the trade-in allowance is
13 deducted from the sales price of the new merchandise before completion of the
14 sale.

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

25 8. "LODGING ACCOMMODATIONS" MEANS ANY SPACE OFFERED TO THE PUBLIC FOR
26 LODGING, INCLUDING ANY HOTEL, MOTEL, INN, TOURIST HOME OR HOUSE, DUDE RANCH,
27 RESORT, CAMPGROUND, STUDIO OR BACHELOR HOTEL, LODGING HOUSE, ROOMING HOUSE,
28 RESIDENTIAL HOME, APARTMENT HOUSE, DORMITORY, PUBLIC OR PRIVATE CLUB, MOBILE
29 HOME OR HOUSE TRAILER AT A FIXED LOCATION OR OTHER SIMILAR STRUCTURE OR
30 SPACE.

31 9. "ONLINE LODGING MARKETPLACE" MEANS A PERSON THAT PROVIDES A DIGITAL
32 PLATFORM FOR COMPENSATION THROUGH WHICH AN UNAFFILIATED THIRD PARTY OFFERS TO
33 RENT LODGING ACCOMMODATIONS TO AN OCCUPANT, INCLUDING A TRANSIENT AS DEFINED
34 IN SECTION 42-5070.

35 10. "ONLINE LODGING OPERATOR" MEANS A PERSON THAT IS ENGAGED IN THE
36 BUSINESS OF RENTING TO AN OCCUPANT, INCLUDING A TRANSIENT AS DEFINED IN
37 SECTION 42-5070, ANY LODGING ACCOMMODATION OFFERED THROUGH AN ONLINE LODGING
38 MARKETPLACE.

39 11. "ONLINE LODGING TRANSACTION" MEANS A CHARGE TO AN OCCUPANT,
40 INCLUDING A TRANSIENT AS DEFINED IN SECTION 42-5070, BY AN ONLINE LODGING
41 OPERATOR FOR THE OCCUPANCY OF ANY LODGING ACCOMMODATION.

42 ~~8-~~ 12. "Person" or "company" includes an individual, firm,
43 partnership, joint venture, association, corporation, estate or trust, this
44 state, any county, city, town, district, other than a school district, or

1 other political subdivision and any other group or combination acting as a
2 unit, and the plural as well as the singular number.

3 ~~9-~~ 13. "Qualifying community health center":

4 (a) Means an entity that is recognized as nonprofit under section
5 501(c)(3) of the United States internal revenue code, that is a
6 community-based, primary care clinic that has a community-based board of
7 directors and that is either:

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

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

11 (b) Includes clinics that are being constructed as qualifying
12 community health centers.

13 ~~10-~~ 14. "Qualifying health care organization" means an entity that is
14 recognized as nonprofit under section 501(c) of the United States internal
15 revenue code and that uses, saves or invests at least eighty per cent of all
16 monies that it receives from all sources each year only for health and
17 medical related educational and charitable services, as documented by annual
18 financial audits prepared by an independent certified public accountant,
19 performed according to generally accepted auditing standards and filed
20 annually with the department. Monies that are used, saved or invested to
21 lease, purchase or construct a facility for health and medical related
22 education and charitable services are included in the eighty per cent
23 requirement.

24 ~~11-~~ 15. "Qualifying health sciences educational institution" means an
25 entity that is recognized as nonprofit under section 501(c) of the United
26 States internal revenue code and that solely provides graduate and
27 postgraduate education in the health sciences. For the purposes of this
28 paragraph, "health sciences" includes medicine, nursing, physician's
29 assistant studies, pharmacy, physical therapy, occupational therapy,
30 biomedical sciences, podiatry, clinical psychology, cardiovascular science,
31 nurse anesthesia, dentistry, optometry and veterinary medicine.

32 ~~12-~~ 16. "Qualifying hospital" means any of the following:

33 (a) A licensed hospital ~~which~~ THAT is organized and operated
34 exclusively for charitable purposes, no part of the net earnings of which
35 inures to the benefit of any private shareholder or individual.

36 (b) A licensed nursing care institution or a licensed residential care
37 institution or a residential care facility operated in conjunction with a
38 licensed nursing care institution or a licensed kidney dialysis center, which
39 provides medical services, nursing services or health related services and is
40 not used or held for profit.

41 (c) A hospital, nursing care institution or residential care
42 institution ~~which~~ THAT is operated by the federal government, this state or a
43 political subdivision of this state.

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

1 ~~13-~~ 17. "Retailer" includes every person engaged in the business
2 classified under the retail classification pursuant to section 42-5061 and,
3 when in the opinion of the department it is necessary for the efficient
4 administration of this article, includes dealers, distributors, supervisors,
5 employers and salesmen, representatives, peddlers or canvassers as the agents
6 of the dealers, distributors, supervisors or employers under whom they
7 operate or from whom they obtain the tangible personal property sold by them,
8 whether in making sales on their own behalf or on behalf of the dealers,
9 distributors, supervisors or employers.

10 ~~14-~~ 18. "Sale" means any transfer of title or possession, or both,
11 exchange, barter, lease or rental, conditional or otherwise, in any manner or
12 by any means whatever, including consignment transactions and auctions, of
13 tangible personal property or other activities taxable under this chapter,
14 for a consideration, and includes:

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

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

19 (c) Furnishing, preparing or serving for a consideration any tangible
20 personal property consumed on the premises of the person furnishing,
21 preparing or serving the tangible personal property.

22 ~~15-~~ 19. "Solar daylighting" means a device that is specifically
23 designed to capture and redirect the visible portion of the solar beam, while
24 controlling the infrared portion, for use in illuminating interior building
25 spaces in lieu of artificial lighting.

26 ~~16-~~ 20. "Solar energy device" means a system or series of mechanisms
27 designed primarily to provide heating, to provide cooling, to produce
28 electrical power, to produce mechanical power, to provide solar daylighting
29 or to provide any combination of the foregoing by means of collecting and
30 transferring solar generated energy into such uses either by active or
31 passive means, including wind generator systems that produce electricity.
32 Solar energy systems may also have the capability of storing solar energy for
33 future use. Passive systems shall clearly be designed as a solar energy
34 device, such as a trombe wall, and not merely as a part of a normal
35 structure, such as a window.

36 ~~17-~~ 21. "Tangible personal property" means personal property ~~which~~
37 THAT may be seen, weighed, measured, felt or touched or THAT is in any other
38 manner perceptible to the senses.

39 ~~18-~~ 22. "Tax year" or "taxable year" means either the calendar year
40 or the taxpayer's fiscal year, if permission is obtained from the department
41 to use a fiscal year as the tax period instead of the calendar year.

42 ~~19-~~ 23. "Taxpayer" means any person who is liable for any tax ~~which~~
43 THAT is imposed by this article.

44 24. "UNAFFILIATED THIRD PARTY" MEANS A PERSON THAT IS NOT OWNED OR
45 CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE SAME INTERESTS.

1 ~~20.~~ 25. "Wholesaler" or "jobber" means any person who sells tangible
2 personal property for resale and not for consumption by the purchaser.

3 Sec. 6. Section 42-5005, Arizona Revised Statutes, is amended to read:

4 42-5005. Transaction privilege tax and municipal privilege tax
5 licenses; fees; renewal; revocation; violation;
6 classification

7 A. Every person who receives gross proceeds of sales or gross income
8 on which a transaction privilege tax is imposed by this article and who
9 desires to engage or continue in business shall apply to the department for
10 an annual transaction privilege tax license accompanied by a fee of twelve
11 dollars. A person shall not engage or continue in business until the person
12 has obtained a transaction privilege tax license.

13 B. A person desiring to engage or continue in business within a city
14 or town that imposes a municipal privilege tax shall apply to the department
15 of revenue for an annual municipal privilege tax license accompanied by a fee
16 of up to fifty dollars, as established by ordinance of the city or town. The
17 person shall submit the fee with each new license application. The person
18 may not engage or continue in business until the person has obtained a
19 municipal privilege tax license. The department must collect, hold, pay and
20 manage the fees in trust for the city or town and may not use the monies for
21 any other purposes.

22 C. A transaction privilege tax license is valid only for the calendar
23 year in which it is issued, but it may be renewed for the following calendar
24 year. There is no fee for the renewal of the transaction privilege tax
25 license. The transaction privilege tax license must be renewed at the same
26 time and in the manner as the municipal privilege tax license renewal.

27 D. A municipal privilege tax license is valid only for the calendar
28 year in which it is issued, but it may be renewed for the following calendar
29 year by the payment of a license renewal fee of up to fifty dollars. The
30 renewal fee is due and payable on January 1 and is considered delinquent if
31 not received on or before the last business day of January. The department
32 must collect, hold, pay and manage the fees in trust for the city or town and
33 may not use the monies for any other purposes.

34 E. A licensee that remains in business after the municipal privilege
35 tax license has expired is subject to the payment of the license renewal fee
36 and the civil penalty prescribed in section 42-1125, subsection R.

37 F. If the applicant is not in arrears in payment of any tax imposed by
38 this article, the department shall issue a license authorizing the applicant
39 to engage and continue in business on the condition that the applicant
40 complies with this article. The license number shall be continuous.

41 G. The transaction privilege tax license and the municipal privilege
42 tax license are not transferable on a complete change of ownership or change
43 of location of the business. For the purposes of this subsection:

1 1. "Location" means the business address appearing in the application
2 for the license and on the transaction privilege tax or municipal privilege
3 tax license.

4 2. "Ownership" means any right, title or interest in the business.

5 3. "Transferable" means the ability to convey or change the right or
6 privilege to engage or continue in business by virtue of the issuance of the
7 transaction privilege tax or municipal privilege tax license.

8 H. When the ownership or location of a business on which a transaction
9 privilege tax or municipal privilege tax is imposed has been changed within
10 the meaning of subsection G of this section, the licensee shall surrender the
11 license to the department. The license shall be reissued to the new owners
12 or for the new location on application by the taxpayer and payment of the
13 twelve-dollar fee for a transaction privilege tax license and a fee of up to
14 fifty dollars per jurisdiction for a municipal privilege tax license. The
15 department must collect, hold, pay and manage the fees in trust for the city
16 or town and may not use the monies for any other purposes.

17 I. A person who is engaged in or conducting a business in two or more
18 locations or under two or more business names shall procure a transaction
19 privilege tax license for each location or business name regardless of
20 whether all locations or business names are reported on a consolidated return
21 under a single transaction privilege tax license number. This requirement
22 shall not be construed as conflicting with section 42-5020.

23 J. A person who is engaged in or conducting a business in two or more
24 locations or under two or more business names shall procure a municipal
25 privilege tax license for each location or business name regardless of
26 whether all locations or business names are reported on a consolidated
27 return.

28 K. A person who is engaged in or conducting business at two or more
29 locations or under two or more business names and who files a consolidated
30 return under a single transaction privilege tax license number as provided by
31 section 42-5020 is required to pay only a single municipal privilege tax
32 license renewal fee for each local jurisdiction pursuant to subsection D of
33 this section. A person who is engaged in or conducting business at two or
34 more locations or under two or more business names and who does not file a
35 consolidated return under a single license number is required to pay a
36 license renewal fee for each location or license in a local jurisdiction.

37 L. FOR THE PURPOSES OF THIS CHAPTER AND CHAPTER 6 OF THIS TITLE, AN
38 ONLINE LODGING MARKETPLACE MAY REGISTER WITH THE DEPARTMENT FOR THE PAYMENT
39 OF TAXES LEVIED BY THIS STATE AND BY ANY COUNTY, CITY, TOWN AND SPECIAL
40 TAXING DISTRICT WITH RESPECT TO ANY ONLINE LODGING TRANSACTION FACILITATED BY
41 THE ONLINE LODGING MARKETPLACE.

42 ~~L.~~ M. If a person violates this article or any rule adopted under
43 this article, the department upon hearing may revoke any transaction
44 privilege tax or municipal privilege tax license issued to the person. The
45 department shall provide ten days' written notice of the hearing, stating the

1 time and place and requiring the person to appear and show cause why the
2 license or licenses should not be revoked. The department shall provide
3 written notice to the person of the revocation of the license. The notices
4 may be served personally or by mail pursuant to section 42-5037. After
5 revocation, the department shall not issue a new license to the person unless
6 the person presents evidence satisfactory to the department that the person
7 will comply with this article and with the rules adopted under this article.
8 The department may prescribe the terms under which a revoked license may be
9 reissued.

10 ~~M.~~ N. A person who violates any provision of this section is guilty
11 of a class 3 misdemeanor.

12 Sec. 7. Section 42-5009, Arizona Revised Statutes, is amended to read:

13 42-5009. Certificates establishing deductions; liability for
14 making false certificate

15 A. A person who conducts any business classified under article 2 of
16 this chapter may establish entitlement to the allowable deductions from the
17 tax base of that business by both:

18 1. Marking the invoice for the transaction to indicate that the gross
19 proceeds of sales or gross income derived from the transaction was deducted
20 from the tax base.

21 2. Obtaining a certificate executed by the purchaser indicating the
22 name and address of the purchaser, the precise nature of the business of the
23 purchaser, the purpose for which the purchase was made, the necessary facts
24 to establish the appropriate deduction and the tax license number of the
25 purchaser to the extent the deduction depends on the purchaser conducting
26 business classified under article 2 of this chapter and a certification that
27 the person executing the certificate is authorized to do so on behalf of the
28 purchaser. The certificate may be disregarded if the seller has reason to
29 believe that the information contained in the certificate is not accurate or
30 complete.

31 B. A person who does not comply with subsection A of this section may
32 establish entitlement to the deduction by presenting facts necessary to
33 support the entitlement, but the burden of proof is on that person.

34 C. The department may prescribe a form for the certificate described
35 in subsection A of this section. Under such rules as it may prescribe, the
36 department may also describe transactions with respect to which a person is
37 not entitled to rely solely on the information contained in the certificate
38 provided for in subsection A of this section but must instead obtain such
39 additional information as required by the rules in order to be entitled to
40 the deduction.

41 D. If a seller is entitled to a deduction by complying with subsection
42 A of this section, the department may require the purchaser that caused the
43 execution of the certificate to establish the accuracy and completeness of
44 the information required to be contained in the certificate that would
45 entitle the seller to the deduction. If the purchaser cannot establish the

1 accuracy and completeness of the information, the purchaser is liable in an
2 amount equal to any tax, penalty and interest that the seller would have been
3 required to pay under this article if the seller had not complied with
4 subsection A of this section. Payment of the amount under this subsection
5 exempts the purchaser from liability for any tax imposed under article 4 of
6 this chapter. The amount shall be treated as tax revenues collected from the
7 seller in order to designate the distribution base for purposes of section
8 42-5029.

9 E. If a seller is entitled to a deduction by complying with subsection
10 B of this section, the department may require the purchaser to establish the
11 accuracy and completeness of the information provided to the seller that
12 entitled the seller to the deduction. If the purchaser cannot establish the
13 accuracy and completeness of the information, the purchaser is liable in an
14 amount equal to any tax, penalty and interest that the seller would have been
15 required to pay under this article if the seller had not complied with
16 subsection B of this section. Payment of the amount under this subsection
17 exempts the purchaser from liability for any tax imposed under article 4 of
18 this chapter. The amount shall be treated as tax revenues collected from the
19 seller in order to designate the distribution base for purposes of section
20 42-5029.

21 F. The department may prescribe a form for a certificate used to
22 establish entitlement to the deductions described in section 42-5061,
23 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3.
24 Under rules the department may prescribe, the department may also require
25 additional information for the seller to be entitled to the deduction. If a
26 seller is entitled to the deductions described in section 42-5061, subsection
27 A, paragraph 46 and section 42-5063, subsection B, paragraph 3, the
28 department may require the purchaser who executed the certificate to
29 establish the accuracy and completeness of the information contained in the
30 certificate that would entitle the seller to the deduction. If the purchaser
31 cannot establish the accuracy and completeness of the information, the
32 purchaser is liable in an amount equal to any tax, penalty and interest that
33 the seller would have been required to pay under this article. Payment of
34 the amount under this subsection exempts the purchaser from liability for any
35 tax imposed under article 4 of this chapter. The amount shall be treated as
36 tax revenues collected from the seller in order to designate the distribution
37 base for purposes of section 42-5029.

38 G. If a seller claims a deduction under section 42-5061, subsection A,
39 paragraph 25 and establishes entitlement to the deduction with an exemption
40 letter that the purchaser received from the department and the exemption
41 letter was based on a contingent event, the department may require the
42 purchaser that received the exemption letter to establish the satisfaction of
43 the contingent event within a reasonable time. If the purchaser cannot
44 establish the satisfaction of the event, the purchaser is liable in an amount
45 equal to any tax, penalty and interest that the seller would have been

1 required to pay under this article if the seller had not been furnished the
2 exemption letter. Payment of the amount under this subsection exempts the
3 purchaser from liability for any tax imposed under article 4 of this chapter.
4 The amount shall be treated as tax revenues collected from the seller in
5 order to designate the distribution base for purposes of section 42-5029.
6 For the purposes of this subsection, "reasonable time" means a time
7 limitation that the department determines and that does not exceed the time
8 limitations pursuant to section 42-1104.

9 H. The department shall prescribe forms for certificates used to
10 establish the satisfaction of the criteria necessary to qualify the sale of a
11 motor vehicle for the deductions described in section 42-5061, subsection A,
12 paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and subsection
13 U. Except as provided in subsection J of this section, to establish
14 entitlement to these deductions, a motor vehicle dealer shall retain:

15 1. A valid certificate as prescribed by this subsection completed by
16 the purchaser and obtained prior to the issuance of the nonresident
17 registration permit authorized by section 28-2154.

18 2. A copy of the nonresident registration permit authorized by section
19 28-2154.

20 3. A legible copy of a current valid driver license issued to the
21 purchaser by another state or foreign country that indicates an address
22 outside of this state. For the sale of a motor vehicle to a nonresident
23 entity, the entity's representative must have a current valid driver license
24 issued by the same jurisdiction as that in which the entity is located.

25 4. For the purposes of the deduction provided by section 42-5061,
26 subsection A, paragraph 14, a certificate documenting the delivery of the
27 motor vehicle to an out-of-state location.

28 I. Notwithstanding subsection A, paragraph 2 of this section, if a
29 motor vehicle dealer has established entitlement to a deduction by complying
30 with subsection H of this section, the department may require the purchaser
31 who executed the certificate to establish the accuracy and completeness of
32 the information contained in the certificate that entitled the motor vehicle
33 dealer to the deduction. If the purchaser cannot establish the accuracy and
34 completeness of the information, the purchaser is liable in an amount equal
35 to any tax, penalty and interest that the motor vehicle dealer would have
36 been required to pay under this article and under articles IV and V of the
37 model city tax code as defined in section 42-6051. Payment of the amount
38 under this subsection exempts the purchaser from liability for any tax
39 imposed under article 4 of this chapter and any tax imposed under article VI
40 of the model city tax code as defined in section 42-6051. The amount shall
41 be treated as tax revenues collected from the motor vehicle dealer in order
42 to designate the distribution base for purposes of section 42-5029.

43 J. To establish entitlement to the deduction described in section
44 42-5061, subsection A, paragraph 44, a public consignment auction dealer as
45 defined in section 28-4301 shall submit the valid certificate prescribed by

1 subsection H of this section to the department and retain a copy for its
2 records.

3 K. Notwithstanding any other law, compliance with subsection H of this
4 section by a motor vehicle dealer entitles the motor vehicle dealer to the
5 exemption provided in section 42-6004, subsection A, paragraph 4.

6 L. The department shall prescribe a form for a certificate to be used
7 by a person that is not subject to tax under section 42-5075 when the person
8 is engaged by a contractor that is subject to tax under section 42-5075 for a
9 project that is taxable under section 42-5075. The certificate permits the
10 person purchasing tangible personal property to be incorporated or fabricated
11 by the person into any real property, structure, project, development or
12 improvement to provide documentation to a retailer that the sale of tangible
13 personal property qualifies for the deduction under section 42-5061,
14 subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain
15 the certificate from the department and shall provide a copy to any such
16 person working on the project. The prime contractor shall obtain a new
17 certificate for each project to which this subsection applies. For the
18 purposes of this subsection, the following apply:

19 1. The person that is not subject to tax under section 42-5075 may use
20 the certificate issued pursuant to this subsection only with respect to
21 tangible personal property that will be incorporated into a project for which
22 the gross receipts are subject to tax under section 42-5075.

23 2. The department shall issue the certificate to the prime contractor
24 on receiving sufficient documentation to establish that the prime contractor
25 meets the requirements of this subsection.

26 3. If any person uses the certificate provided under this subsection
27 to purchase tangible personal property to be used in a project that is not
28 subject to tax under section 42-5075, the person is liable in an amount equal
29 to any tax, penalty and interest that the seller would have been required to
30 pay under this article if the seller had not complied with subsection A of
31 this section. Payment of the amount under this section exempts the person
32 from liability for any tax imposed under article 4 of this chapter. The
33 amount shall be sourced under section 42-5040, subsection A, paragraph 2.

34 M. Notwithstanding any other law, compliance with subsection L of this
35 section by a person that is not subject to tax under section 42-5075 entitles
36 the person to the exemption allowed by section 465, subsection (k) of the
37 model city tax code when purchasing tangible personal property to be
38 incorporated or fabricated by the person into any real property, structure,
39 project, development or improvement.

40 N. NOTWITHSTANDING ANY OTHER LAW, AN ONLINE LODGING OPERATOR SHALL BE
41 ENTITLED TO AN EXCLUSION FROM ANY APPLICABLE TAXES FOR ANY ONLINE LODGING
42 TRANSACTION FACILITATED BY AN ONLINE LODGING MARKETPLACE FOR WHICH THE
43 ONLINE LODGING OPERATOR HAS OBTAINED FROM THE ONLINE LODGING MARKETPLACE
44 WRITTEN NOTICE THAT THE ONLINE LODGING MARKETPLACE IS REGISTERED WITH THE
45 DEPARTMENT TO COLLECT APPLICABLE TAXES FOR ALL ONLINE LODGING TRANSACTIONS

1 FACILITATED BY THE ONLINE LODGING MARKETPLACE, AND TRANSACTION HISTORY
2 DOCUMENTING TAX COLLECTED BY THE ONLINE LODGING MARKETPLACE.

3 Sec. 8. Section 42-5014, Arizona Revised Statutes, is amended to read:
4 42-5014. Return and payment of tax; estimated tax; extensions;
5 abatements

6 A. Except as provided in subsection B, C, ~~or~~ D OR E of this section,
7 the taxes levied under this article:

8 1. Are due and payable monthly in the form required by section 42-5018
9 for the amount of the tax, to the department, on or before the twentieth day
10 of the month next succeeding the month in which the tax accrues.

11 2. Are delinquent as follows:

12 (a) For taxpayers that are required or elect to file and pay
13 electronically in any month, if not received by the department on or before
14 the last business day of the month.

15 (b) For all other taxpayers, if not received by the department on or
16 before the business day preceding the last business day of the month.

17 B. The department, for any taxpayer whose estimated annual liability
18 for taxes imposed or administered by this article or chapter 6 of this title
19 is between two thousand dollars and eight thousand dollars, shall authorize
20 such taxpayer to pay such taxes on a quarterly basis. The department, for
21 any taxpayer whose estimated annual liability for taxes imposed by this
22 article is less than two thousand dollars, shall authorize such taxpayer to
23 pay such taxes on an annual basis. For the purposes of this subsection, the
24 taxes due under this article:

25 1. For taxpayers that are authorized to pay on a quarterly basis, are
26 due and payable monthly in the form required by section 42-5018 for the
27 amount of the tax, to the department, on or before the twentieth day of the
28 month next succeeding the quarter in which the tax accrues.

29 2. For taxpayers that are authorized to pay on an annual basis, are
30 due and payable monthly in the form required by section 42-5018 for the
31 amount of the tax, to the department, on or before the twentieth day of
32 January next succeeding the year in which the tax accrues.

33 3. Are delinquent as follows:

34 (a) For taxpayers that are required or elect to file and pay
35 electronically in any quarter, if not received by the department on or before
36 the last business day of the month.

37 (b) For all other taxpayers that are required to file and pay
38 quarterly, if not received by the department on or before the business day
39 preceding the last business day of the month.

40 (c) For taxpayers that are required or elect to file and pay
41 electronically on an annual basis, if not received by the department on or
42 before the last business day of January.

43 (d) For all other taxpayers that are required to file and pay
44 annually, if not received by the department on or before the business day
45 preceding the last business day of January.

1 C. The department may require a taxpayer whose business is of a
2 transient character to file the return and remit the taxes imposed by this
3 article on a daily, a weekly or a transaction by transaction basis, and those
4 returns and payments are due and payable on the date fixed by the department
5 without a grace period otherwise allowed by this section. For the purposes
6 of this subsection, "business of a transient character" means sales activity
7 by a taxpayer not regularly engaged in selling within the state conducted
8 from vehicles, portable stands, rented spaces, structures or booths, or
9 concessions at fairs, carnivals, circuses, festivals or similar activities
10 for not more than thirty consecutive days.

11 D. If the business entity under which a taxpayer reports and pays
12 income tax under title 43 has an annual total tax liability under this
13 article, article 6 of this chapter and chapter 6, article 3 of this title of
14 one million dollars or more, based on the actual tax liability in the
15 preceding calendar year, regardless of the number of offices at which the
16 taxes imposed by this article, article 6 of this chapter or chapter 6,
17 article 3 of this title are collected, or if the taxpayer can reasonably
18 anticipate such liability in the current year, the taxpayer shall report on a
19 form prescribed by the department and pay an estimated tax payment each June.
20 Any other taxpayer may voluntarily elect to pay the estimated tax payment
21 pursuant to this subsection. The payment shall be made on or before June 20
22 and is delinquent if not received by the department on or before the business
23 day preceding the last business day of June for those taxpayers electing to
24 file by mail, or delinquent if not received by the department on the business
25 day preceding the last business day of June for those taxpayers electing to
26 file in person. The estimated tax paid shall be credited against the
27 taxpayer's tax liability under this article, article 6 of this chapter and
28 chapter 6, article 3 of this title for the month of June for the current
29 calendar year. The estimated tax payment shall equal either:

30 1. One-half of the actual tax liability under this article plus
31 one-half of any tax liability under article 6 of this chapter and chapter 6,
32 article 3 of this title for May of the current calendar year.

33 2. The actual tax liability under this article plus any tax liability
34 under article 6 of this chapter and chapter 6, article 3 of this title for
35 the first fifteen days of June of the current calendar year.

36 E. AN ONLINE LODGING MARKETPLACE THAT IS REGISTERED WITH THE
37 DEPARTMENT PURSUANT TO SECTION 42-5005, SUBSECTION L:

38 1. SHALL REMIT TO THE DEPARTMENT THE APPLICABLE TAXES PAYABLE PURSUANT
39 TO THIS CHAPTER AND CHAPTER 6 OF THIS TITLE WITH RESPECT TO EACH ONLINE
40 LODGING TRANSACTION FACILITATED BY THE ONLINE LODGING MARKETPLACE.

41 2. SHALL REPORT THE TAXES MONTHLY AND REMIT THE AGGREGATE TOTAL
42 AMOUNTS FOR ALL OF THE RESPECTIVE TAXING JURISDICTIONS.

43 3. SHALL NOT BE REQUIRED TO LIST OR OTHERWISE IDENTIFY ANY INDIVIDUAL
44 ONLINE LODGING OPERATOR ON ANY RETURN OR ANY ATTACHMENT TO A RETURN.

1 4. SHALL REMIT THE TAX IMPOSED PURSUANT TO THE COMMERCIAL LEASE
2 CLASSIFICATION UNDER SECTION 42-5069 FOR EACH ONLINE LODGING TRANSACTION THAT
3 INVOLVES A LEASE OR RENTAL FOR CONSIDERATION OF THE RIGHT TO USE OR OCCUPY
4 REAL PROPERTY FOR THIRTY OR MORE CONSECUTIVE DAYS, NOTWITHSTANDING THE
5 EXCLUSION UNDER SECTION 42-5069, SUBSECTION C, PARAGRAPH 18.

6 5. SHALL REMIT THE TAX IMPOSED PURSUANT TO THE TRANSIENT LODGING
7 CLASSIFICATION UNDER SECTION 42-5070 FOR EACH ONLINE LODGING TRANSACTION THAT
8 INVOLVES A LEASE OR RENTAL OF TRANSIENT LODGING, NOTWITHSTANDING THE
9 EXCLUSION UNDER SECTION 42-5070, SUBSECTION B, PARAGRAPH 4.

10 ~~E.~~ F. The taxpayer shall prepare a return showing the amount of the
11 tax for which the taxpayer is liable for the preceding month, and shall mail
12 or deliver the return to the department in the same manner and time as
13 prescribed for the payment of taxes in subsection A of this section. If the
14 taxpayer fails to file the return in the manner and time as prescribed for
15 the payment of taxes in subsection A of this section, the amount of the tax
16 required to be shown on the return is subject to the penalty imposed pursuant
17 to section 42-1125, subsection A, without any reduction for taxes paid on or
18 before the due date of the return. The return shall be verified by the oath
19 of the taxpayer or an authorized agent or as prescribed by the department
20 pursuant to section 42-1105, subsection B.

21 ~~F.~~ G. Any person who is taxable under this article and who makes cash
22 and credit sales shall report such cash and credit sales separately and on
23 making application may obtain from the department an extension of time for
24 payment of taxes due on the credit sales. The extension shall be granted by
25 the department under such rules as the department prescribes. When the
26 extension is granted, the taxpayer shall thereafter include in each monthly
27 report all collections made on such credit sales during the month next
28 preceding and shall pay the taxes due at the time of filing such report.

29 ~~G.~~ H. The returns required under this article shall be made on forms
30 prescribed by the department and shall capture data with sufficient
31 specificity to meet the needs of all taxing jurisdictions.

32 ~~H.~~ I. Any person who is engaged in or conducting business in two or
33 more locations or under two or more business names shall file the return
34 required under this article by electronic means.

35 ~~I.~~ J. The department, for good cause, may extend the time for making
36 any return required by this article and may grant such reasonable additional
37 time within which to make the return as it deems proper, but the time for
38 filing the return shall not be extended beyond the first day of the third
39 month next succeeding the regular due date of the return.

40 ~~J.~~ K. The department, with the approval of the attorney general, may
41 abate small tax balances if the administration costs exceed the amount of tax
42 due.

43 ~~K.~~ L. For the purposes of subsection D of this section, "taxpayer"
44 means the business entity under which the business reports and pays state
45 income taxes regardless of the number of offices at which the taxes imposed

1 by this article, article 6 of this chapter or chapter 6, article 3 of this
2 title are collected.

3 Sec. 9. Section 42-5070, Arizona Revised Statutes, is amended to read:
4 42-5070. Transient lodging classification; definition

5 A. The transient lodging classification is comprised of the business
6 of operating, for occupancy by transients, a hotel or motel, including an
7 inn, tourist home or house, dude ranch, resort, campground, studio or
8 bachelor hotel, lodging house, rooming house, apartment house, dormitory,
9 public or private club, mobile home or house trailer at a fixed location or
10 other similar structure, and also including a space, lot or slab that is
11 occupied or intended or designed for occupancy by transients in a mobile home
12 or house trailer furnished by them for such occupancy.

13 B. The transient lodging classification does not include:

14 1. Operating a convalescent home or facility, home for the aged,
15 hospital, jail, military installation or fraternity or sorority house or
16 operating any structure exclusively by an association, institution,
17 governmental agency or corporation for religious, charitable or educational
18 purposes, if no part of the net earnings of the association, corporation or
19 other entity inures to the benefit of any private shareholder or individual.

20 2. A lease or rental of a mobile home or house trailer at a fixed
21 location or any other similar structure, and also including a space, lot or
22 slab that is occupied or intended or designed for occupancy by transients in
23 a mobile home or house trailer furnished by them for such occupancy for
24 thirty or more consecutive days.

25 3. Leasing or renting four or fewer rooms of an owner-occupied
26 residential home, together with furnishing no more than a breakfast meal, to
27 transient lodgers at no more than a fifty ~~per-cent~~ PERCENT average annual
28 occupancy rate.

29 4. THE ACTIVITIES OF ANY ONLINE LODGING MARKETPLACE.

30 C. The tax base for the transient lodging classification is the gross
31 proceeds of sales or gross income derived from the business, except that the
32 tax base does not include:

33 1. THE gross proceeds of sales or gross income derived from business
34 activity that is properly included in another business classification under
35 this article and that is taxable to the person engaged in that business
36 classification, but the gross proceeds of sales or gross income to be
37 deducted shall not exceed the consideration paid to the person conducting the
38 activity.

39 2. THE GROSS PROCEEDS OR GROSS INCOME RECEIVED BY AN ONLINE LODGING
40 OPERATOR FROM ANY ONLINE LODGING TRANSACTIONS FOR WHICH THE ONLINE LODGING
41 OPERATOR HAS RECEIVED DOCUMENTATION FROM A REGISTERED ONLINE LODGING
42 MARKETPLACE PURSUANT TO SECTION 42-5009, SUBSECTION N, THAT THE ONLINE
43 LODGING MARKETPLACE HAS OR WILL REMIT THE APPLICABLE TAX TO THE DEPARTMENT
44 PURSUANT TO SECTION 42-5014, SUBSECTION E.

1 D. For the purposes of this section, the tax base for the transient
2 lodging classification does not include gross proceeds of sales or gross
3 income derived from:

4 1. Transactions or activities that are not limited to transients and
5 that would not be taxable if engaged in by a person not subject to tax under
6 this article.

7 2. Transactions or activities that are not limited to transients and
8 that would not be taxable if engaged in by a person subject to taxation under
9 section 42-5062 or 42-5073 due to an exclusion, exemption or deduction.

10 3. Commissions paid to a person that is engaged in transient lodging
11 business subject to taxation under this section by a person providing
12 services or property to the customers of the person engaging in the transient
13 lodging business.

14 E. The department shall separately account for revenues collected
15 under the transient lodging classification for the purposes of section
16 42-5029, subsection D, paragraph 4, subdivision (b).

17 F. For the purposes of this section, "transient" means any person who
18 either at the person's own expense or at the expense of another obtains
19 lodging space or the use of lodging space on a daily or weekly basis, or on
20 any other basis for less than thirty consecutive days.

21 Sec. 10. Title 42, chapter 6, article 1, Arizona Revised Statutes, is
22 amended by adding section 42-6009, to read:

23 42-6009. Online lodging; definitions

24 A. EXCEPT AS PROVIDED BY THIS SECTION, A CITY, TOWN OR OTHER TAXING
25 JURISDICTION MAY NOT LEVY A TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE OR
26 OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED, ON THE BUSINESS OF OPERATING
27 AN ONLINE LODGING MARKETPLACE OR AN ONLINE LODGING OPERATOR OR ON ANY ONLINE
28 LODGING TRANSACTION.

29 B. A CITY, TOWN OR OTHER TAXING JURISDICTION MAY LEVY A TRANSACTION
30 PRIVILEGE, SALES, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE AS PROVIDED BY
31 THE MODEL CITY TAX CODE ON ONLINE LODGING OPERATORS SUBJECT TO THE FOLLOWING
32 CONDITIONS:

33 1. THE ADOPTED TAX MUST BE UNIFORM WITH THE TREATMENT OF ONLINE
34 LODGING OPERATORS AND ONLINE LODGING TRANSACTIONS PROVIDED BY CHAPTER 5 OF
35 THIS TITLE.

36 2. THE ADOPTED TAX SHALL BE ADMINISTERED, COLLECTED AND ENFORCED BY
37 THE DEPARTMENT AND REMITTED TO THE CITY, TOWN OR OTHER TAXING JURISDICTION IN
38 A UNIFORM MANNER.

39 3. THE ADOPTED TAX MUST BE UNIFORM ON ONLINE LODGING OPERATORS AND
40 OTHER TAXPAYERS OF THE SAME CLASS WITHIN THE JURISDICTIONAL BOUNDARIES OF THE
41 CITY, TOWN OR OTHER TAXING JURISDICTION.

42 4. ANY ADOPTED TAX IS SUBJECT TO:

43 (a) SECTION 42-1108, SUBSECTION F, RELATING TO AUDITS.

44 (b) SECTION 42-2003, SUBSECTION Y, RELATING TO CONFIDENTIAL
45 INFORMATION.

1 (c) SECTION 42-5003, SUBSECTION B, RELATING TO JUDICIAL ENFORCEMENT.

2 (d) SECTION 42-5005, SUBSECTION L, RELATING TO REGISTRATION OF ONLINE
3 LODGING MARKETPLACES.

4 (e) SECTION 42-5014, SUBSECTION E, RELATING TO TAX RETURNS.

5 5. THE TAX MAY NOT BE COLLECTED FROM AN ONLINE LODGING OPERATOR WITH
6 RESPECT TO ANY ONLINE LODGING TRANSACTION OR TRANSACTIONS FOR WHICH THE
7 ONLINE LODGING OPERATOR HAS RECEIVED WRITTEN NOTICE OR DOCUMENTATION FROM A
8 REGISTERED ONLINE LODGING MARKETPLACE THAT IT HAS OR WILL REMIT THE
9 APPLICABLE TAX WITH RESPECT TO THOSE TRANSACTIONS TO THE DEPARTMENT PURSUANT
10 TO SECTION 42-5014, SUBSECTION E.

11 C. FOR THE PURPOSES OF THIS SECTION, "ONLINE LODGING MARKETPLACE",
12 "ONLINE LODGING OPERATOR" AND "ONLINE LODGING TRANSACTION" HAVE THE SAME
13 MEANINGS PRESCRIBED IN SECTION 42-5001.

14 Sec. 11. Section 42-12003, Arizona Revised Statutes, is amended to
15 read:

16 42-12003. Class three property; definition

17 A. For purposes of taxation, class three is established consisting of:

18 1. Real and personal property and improvements to the property that
19 are used as the owner's primary residence, that are not otherwise included in
20 class one, two, four, six, seven or eight and that are valued at full cash
21 value.

22 2. Real and personal property that is occupied by a relative of the
23 owner, as provided by section 42-12053, and used as the relative's primary
24 residence, that is not otherwise included in class one, two, four, six, seven
25 or eight and that is valued at full cash value.

26 3. REAL AND PERSONAL PROPERTY THAT IS OWNED AND OCCUPIED AS THE
27 PRIMARY RESIDENCE OF THE OWNER WHO ALSO USES THE PROPERTY FOR LEASE OR RENT
28 TO LODGERS.

29 B. For the purposes of this section, a homesite that is included in
30 class three may include:

31 1. Up to ten acres on a single parcel of real property on which the
32 residential improvement is located.

33 2. More than ten, but not more than forty, acres on a single parcel of
34 real property on which the residential improvement is located if it is zoned
35 exclusively for residential purposes or contains legal restrictions or
36 physical conditions that prevent the division of the parcel.

37 C. For the purposes of this section, "physical conditions" means
38 topography, mountains, washes, rivers, roads or any other configuration that
39 limits the residential usable land area.

40 Sec. 12. Section 42-12004, Arizona Revised Statutes, is amended to
41 read:

42 42-12004. Class four property

43 A. For purposes of taxation, class four is established consisting of:

44 1. Real and personal property and improvements to the property that
45 are used for residential purposes, including residential property that is

1 owned in foreclosure by a financial institution, that is not otherwise
2 included in another classification and that is valued at full cash value.
3 The homesite that is included in class four may include:

4 (a) Up to ten acres on a single parcel of real property on which the
5 residential improvement is located.

6 (b) More than ten, but not more than forty, acres on a single parcel
7 of real property on which the residential improvement is located if it is
8 zoned exclusively for residential purposes or contains legal restrictions or
9 physical conditions that prevent the division of the parcel. For the
10 purposes of this subdivision, "physical conditions" means topography,
11 mountains, washes, rivers, roads or any other configuration that limits the
12 residential usable land area.

13 2. Real and personal property and improvements to the property that
14 are used solely as leased or rented property for residential purposes, that
15 are not included in class one, two, three, six, seven or eight and that are
16 valued at full cash value.

17 3. Child care facilities that are licensed under title 36, chapter 7.1
18 and that are valued at full cash value.

19 4. Real and personal property and improvements to property that are
20 used to operate nonprofit residential housing facilities that are structured
21 to house or care for persons with disabilities or who are sixty-two years of
22 age or older and that are valued at full cash value.

23 5. Real and personal property and improvements that are used to
24 operate licensed residential care institutions or licensed nursing care
25 institutions that provide medical services, nursing services or health
26 related services and that are structured to house or care for persons with
27 disabilities or who are sixty-two years of age or older and that are valued
28 at full cash value.

29 6. Real and personal property consisting of no more than eight rooms
30 of residential property that are leased or rented to transient lodgers,
31 together with furnishing no more than a breakfast meal, by the owner who
32 resides on the property and that is valued at full cash value.

33 7. Real and personal property consisting of residential dwellings that
34 are maintained for occupancy by agricultural employees as a condition of
35 employment or as a convenience to the employer, that is not included in class
36 three and that is valued at full cash value. The land associated with these
37 dwellings shall be valued as agricultural land pursuant to chapter 13,
38 article 3 of this title.

39 8. Real property and improvements to property constituting common
40 areas that are valued pursuant to chapter 13, article 9 of this title.

41 9. Real and personal property that is defined as timeshare property by
42 section 32-2197 and valued pursuant to chapter 13, article 10 of this title,
43 except for any property used for commercial, industrial or transient
44 occupancy purposes and included in class one to the extent of that use.

1 10. REAL AND PERSONAL PROPERTY AND IMPROVEMENTS THAT ARE USED FOR
2 RESIDENTIAL PURPOSES, THAT ARE LEASED OR RENTED TO LODGERS, EXCEPT FOR:
3 (a) PROPERTY OCCUPIED BY THE OWNER OF THE PROPERTY AS THE OWNER'S
4 PRIMARY RESIDENCE AND INCLUDED IN CLASS THREE.
5 (b) PROPERTY USED FOR COMMERCIAL PURPOSES AND INCLUDED IN CLASS ONE.
6 B. Subsection A, paragraphs 4 and 5 of this section shall not be
7 construed to limit eligibility for exemption from taxation under chapter 11,
8 article 3 of this title.
9 Sec. 13. Effective date
10 This act is effective from and after December 31, 2016.