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

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

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

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

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

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

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

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

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

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

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

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

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

2. LIMITING OR PROHIBITING THE USE OF A VACATION RENTAL FOR THE PURPOSES OF HOUSING SEX OFFENDERS, SELLING ILLEGAL DRUGS, LIQUOR CONTROL OR PORNOGRAPHY, OBSCENITY, NUDE OR TOPLESS DANCING AND OTHER ADULT-ORIENTED BUSINESSES.
C. For the purposes of this section, "vacation rental" or "short-term rental" means any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, that is also a transient public lodging establishment.

Sec. 3. Section 42-1108, Arizona Revised Statutes, is amended to read:

42-1108. Audit; deficiency assessments

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

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

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

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

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

F. An online lodging marketplace, its returns, including any supporting documents, and its payments of taxes to the department pursuant to chapters 5 and 6 of this title shall be subject to audit by the department. Audits of an online lodging marketplace shall be conducted solely on the basis of the online lodging marketplace's taxpayer.
IDENTIFICATION NUMBER AND MAY NOT BE CONDUCTED DIRECTLY OR INDIRECTLY ON ANY
INDIVIDUAL ONLINE LODGING OPERATOR OR ANY OCCUPANT TO WHOM LODGINGS ARE
FURNISHED THROUGH AN ONLINE LODGING TRANSACTION FACILITATED BY THE ONLINE
LODGING MARKETPLACE. AN ONLINE LODGING OPERATOR IS NOT REQUIRED TO DISCLOSE
ANY PERSONALLY IDENTIFIABLE INFORMATION RELATING TO ANY ONLINE LODGING
OPERATOR OR OCCUPANT TO WHOM LODGINGS ARE FURNISHED IN EXCHANGE FOR A CHARGE
FOR OCCUPANCY. THE DEPARTMENT SHALL ISSUE ALL AUDIT ASSESSMENTS ON BEHALF OF
ALL TAXING JURISDICTIONS IN A SINGLE NOTICE TO THE ONLINE LODGING
MARKETPLACE. APPEALS OF AUDIT ASSESSMENTS SHALL BE DIRECTED TO THE
DEPARTMENT AND SHALL BE ADMINISTERED PURSUANT TO ARTICLE 6 OF THIS
CHAPTER. FOR THE PURPOSES OF THIS SUBSECTION, "ONLINE LODGING MARKETPLACE",
"ONLINE LODGING OPERATOR" AND "ONLINE LODGING TRANSACTION" HAVE THE SAME
MEANINGS PRESCRIBED IN SECTION 42-5001.

Sec. 4. Section 42-2003, Arizona Revised Statutes, is amended to read:

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

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

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

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

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

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

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

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

B. Confidential information may be disclosed to:

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

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

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

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

   (a) The United States internal revenue service, alcohol and tobacco tax and trade bureau of the United States treasury, United States bureau of alcohol, tobacco, firearms and explosives of the United States department of justice, United States drug enforcement agency and federal bureau of investigation.
   (b) A state tax official of another state.
   (c) An organization of states, federation of tax administrators or multistate tax commission that operates an information exchange for tax administration purposes.
   (d) An agency, official or organization of a foreign country with responsibilities that are comparable to those listed in subdivision (a), (b) or (c) of this paragraph.
   (e) An agency, official or organization of an Indian tribal government with responsibilities comparable to the responsibilities of the agencies, officials or organizations identified in subdivision (a), (b) or (c) of this paragraph.

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

7. Any person to the extent necessary for effective tax administration in connection with:
   (a) The processing, storage, transmission, destruction and reproduction of the information.
   (b) The programming, maintenance, repair, testing and procurement of equipment for purposes of tax administration.
(c) The collection of the taxpayer's civil liability.

8. The office of administrative hearings relating to taxes administered by the department pursuant to section 42-1101, but the department shall not disclose any confidential information:
   (a) Regarding income tax or withholding tax.
   (b) On any tax issue relating to information associated with the reporting of income tax or withholding tax.

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

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

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

12. The Arizona commerce authority for its use in:
   (a) Qualifying renewable energy operations for the tax incentives under sections 42-12006, 43-1083.01 and 43-1164.01.
   (b) Qualifying businesses with a qualified facility for income tax credits under sections 43-1083.03 and 43-1164.04.
   (c) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V and section 41-1512, subsections U and V.
   (d) Certifying computer data centers for tax relief under section 41-1519.

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

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

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

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

C. Confidential information may be disclosed in any state or federal judicial or administrative proceeding pertaining to tax administration pursuant to the following conditions:
   1. One or more of the following circumstances must apply:
      (a) The taxpayer is a party to the proceeding.
      (b) The proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability, with respect to any tax imposed under this title or title 43.
      (c) The treatment of an item reflected on the taxpayer's return is directly related to the resolution of an issue in the proceeding.
(d) Return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer and directly affects the resolution of an issue in the proceeding.

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

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

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

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

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

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

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

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

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information.
attributable to any one taxpayer. The department may disclose statistical
information gathered from confidential information, even if it discloses
confidential information attributable to a taxpayer, to:

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

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

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

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

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

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

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

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

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

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

R. Except as provided in section 42-2002, subsection D, the department
of revenue shall release confidential information as requested by the courts
and clerks of the court pursuant to section 42-1122.
S. To comply with the requirements of section 42-5031, the department may disclose to the state treasurer, to the county stadium district board of directors and to any city or town tax official that is part of the county stadium district confidential information attributable to a taxpayer's business activity conducted in the county stadium district.

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

1. Any public health control law relating to tobacco sales as provided under title 36, chapter 6, article 14.
2. Any law relating to reduced cigarette ignition propensity standards as provided under title 41, chapter 16, article 3.1.
3. Sections 44-7101 and 44-7111, the master settlement agreement referred to in those sections and all agreements regarding disputes under the master settlement agreement.

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

1. The treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding.
2. Such A return or THE return information relates or may relate to a transactional relationship between a person who is a party to the proceeding and the taxpayer which THAT directly affects the resolution of an issue in the proceeding.
3. The method of payment of the taxpayer's withholding tax liability or the method of filing the taxpayer's withholding tax return is an issue for the period.

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

1. Federal, state or local agencies for the purposes of enforcement of corresponding laws of other states.
2. A court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master
settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential.

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

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

1. May only be used by the city, town or county for internal purposes.
2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The city, town or county must agree with the department in writing that any release of confidential information that violates the confidentiality standards will result in the immediate suspension of any rights of the city, town or county to receive information under this subsection.

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

1. IS NOT SUBJECT TO DISCLOSURE PURSUANT TO TITLE 39, RELATING TO PUBLIC RECORDS.
2. MAY NOT BE DISCLOSED TO ANY AGENCY OF THIS STATE OR OF ANY COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

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

42-5001. Definitions

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

1. "Business" includes all activities or acts, personal or corporate, engaged in or caused to be engaged in with the object of gain, benefit or advantage, either directly or indirectly, but does not include either:
   (a) Casual activities or sales.
   (b) The transfer of electricity from a solar photovoltaic generation system to an electric utility distribution system.
2. "Distribution base" means the portion of the revenues derived from the tax levied by this article and articles 5 and 8 of this chapter designated for distribution to counties, municipalities and other purposes according to section 42-5029, subsection D.
3. "Engaging", when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.
4. "Gross income" means the gross receipts of a taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property or service, or both, and without any deduction on account of losses.

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

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

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

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

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

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

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

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

9. Qualifying community health center:
   (a) Means an entity that is recognized as nonprofit under section
501(c)(3) of the United States internal revenue code, that is a
community-based, primary care clinic that has a community-based board of
directors and that is either:
   (i) The sole provider of primary care in the community.
   (ii) A nonhospital affiliated clinic that is located in a federally
designated medically underserved area in this state.
   (b) Includes clinics that are being constructed as qualifying
community health centers.

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

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

12. Qualifying hospital" means any of the following:
   (a) A licensed hospital which that is organized and operated
exclusively for charitable purposes, no part of the net earnings of which
inures to the benefit of any private shareholder or individual.
   (b) A licensed nursing care institution or a licensed residential care
institution or a residential care facility operated in conjunction with a
licensed nursing care institution or a licensed kidney dialysis center, which
provides medical services, nursing services or health related services and is
not used or held for profit.
   (c) A hospital, nursing care institution or residential care
institution which that is operated by the federal government, this state or a
political subdivision of this state.
   (d) A facility that is under construction and that on completion will
be a facility under subdivision (a), (b) or (c) of this paragraph.
1 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 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 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 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 21. “Tangible personal property” means personal property which
37 may be seen, weighed, measured, felt or touched or that is in any other
38 manner perceptible to the senses.
39 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 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.
S.B. 1350

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

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

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

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

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

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

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

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

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

G. The transaction privilege tax license and the municipal privilege tax license are not transferable on a complete change of ownership or change of location of the business. For the purposes of this subsection:
1. "Location" means the business address appearing in the application for the license and on the transaction privilege tax or municipal privilege tax license.

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

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

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

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

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

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

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

M. If a person violates this article or any rule adopted under this article, the department upon hearing may revoke any transaction privilege tax or municipal privilege tax license issued to the person. The department shall provide ten days' written notice of the hearing, stating the
time and place and requiring the person to appear and show cause why the license or licenses should not be revoked. The department shall provide written notice to the person of the revocation of the license. The notices may be served personally or by mail pursuant to section 42-5037. After revocation, the department shall not issue a new license to the person unless the person presents evidence satisfactory to the department that the person will comply with this article and with the rules adopted under this article. The department may prescribe the terms under which a revoked license may be reissued.

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

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

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

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

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

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

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

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

D. If a seller is entitled to a deduction by complying with subsection A of this section, the department may require the purchaser that caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the
accuracy and completeness of the information, the purchaser is liable in an
amount equal to any tax, penalty and interest that the seller would have been
required to pay under this article if the seller had not complied with
subsection A of this section. Payment of the amount under this subsection
exempts the purchaser from liability for any tax imposed under article 4 of
this chapter. The amount shall be treated as tax revenues collected from the
seller in order to designate the distribution base for purposes of section
42-5029.

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

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

G. If a seller claims a deduction under section 42-5061, subsection A,
paragraph 25 and establishes entitlement to the deduction with an exemption
letter that the purchaser received from the department and the exemption
letter was based on a contingent event, the department may require the
purchaser that received the exemption letter to establish the satisfaction of
the contingent event within a reasonable time. If the purchaser cannot
establish the satisfaction of the event, the purchaser is liable in an amount
equal to any tax, penalty and interest that the seller would have been
required to pay under this article if the seller had not been furnished the exemption letter. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029. For the purposes of this subsection, “reasonable time” means a time limitation that the department determines and that does not exceed the time limitations pursuant to section 42-1104.

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

1. A valid certificate as prescribed by this subsection completed by the purchaser and obtained prior to the issuance of the nonresident registration permit authorized by section 28-2154.
2. A copy of the nonresident registration permit authorized by section 28-2154.
3. A legible copy of a current valid driver license issued to the purchaser by another state or foreign country that indicates an address outside of this state. For the sale of a motor vehicle to a nonresident entity, the entity’s representative must have a current valid driver license issued by the same jurisdiction as that in which the entity is located.
4. For the purposes of the deduction provided by section 42-5061, subsection A, paragraph 14, a certificate documenting the delivery of the motor vehicle to an out-of-state location.

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

J. To establish entitlement to the deduction described in section 42-5061, subsection A, paragraph 44, a public consignment auction dealer as defined in section 28-4301 shall submit the valid certificate prescribed by
subsection H of this section to the department and retain a copy for its records.

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

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

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

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

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

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

N. NOTWITHSTANDING ANY OTHER LAW, AN ONLINE LODGING OPERATOR SHALL BE ENTITLED TO AN EXCLUSION FROM ANY APPLICABLE TAXES FOR ANY ONLINE LODGING TRANSACTION FACILITATED BY AN ONLINE LODGING MARKETPLACE FOR WHICH THE ONLINE LODGING OPERATOR HAS OBTAINED FROM THE ONLINE LODGING MARKETPLACE WRITTEN NOTICE THAT THE ONLINE LODGING MARKETPLACE IS REGISTERED WITH THE DEPARTMENT TO COLLECT APPLICABLE TAXES FOR ALL ONLINE LODGING TRANSACTIONS.
FACILITATED BY THE ONLINE LODGING MARKETPLACE, AND TRANSACTION HISTORY
DOCUMENTING TAX COLLECTED BY THE ONLINE LODGING MARKETPLACE.

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

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

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

2. Are delinquent as follows:
   (a) For taxpayers that are required or elect to file and pay electronically in any month, if not received by the department on or before the last business day of the month.
   (b) For all other taxpayers, if not received by the department on or before the business day preceding the last business day of the month.

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

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

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

3. Are delinquent as follows:
   (a) For taxpayers that are required or elect to file and pay electronically in any quarter, if not received by the department on or before the last business day of the month.
   (b) For all other taxpayers that are required to file and pay quarterly, if not received by the department on or before the business day preceding the last business day of the month.
   (c) For taxpayers that are required or elect to file and pay electronically on an annual basis, if not received by the department on or before the last business day of January.
   (d) For all other taxpayers that are required to file and pay annually, if not received by the department on or before the business day preceding the last business day of January.
C. The department may require a taxpayer whose business is of a transient character to file the return and remit the taxes imposed by this article on a daily, a weekly or a transaction by transaction basis, and those returns and payments are due and payable on the date fixed by the department without a grace period otherwise allowed by this section. For the purposes of this subsection, “business of a transient character” means sales activity by a taxpayer not regularly engaged in selling within the state conducted from vehicles, portable stands, rented spaces, structures or booths, or concessions at fairs, carnivals, circuses, festivals or similar activities for not more than thirty consecutive days.

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

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

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

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

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

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

3. SHALL NOT BE REQUIRED TO LIST OR OTHERWISE IDENTIFY ANY INDIVIDUAL ONLINE LODGING OPERATOR ON ANY RETURN OR ANY ATTACHMENT TO A RETURN.
4. SHALL REMIT THE TAX IMPOSED PURSUANT TO THE COMMERCIAL LEASE CLASSIFICATION UNDER SECTION 42-5069 FOR EACH ONLINE LODGING TRANSACTION THAT INVOLVES A LEASE OR RENTAL FOR CONSIDERATION OF THE RIGHT TO USE OR OCCUPY REAL PROPERTY FOR THIRTY OR MORE CONSECUTIVE DAYS, NOTWITHSTANDING THE EXCLUSION UNDER SECTION 42-5069, SUBSECTION C, PARAGRAPH 18.

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

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

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

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

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

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

K. The department, with the approval of the attorney general, may abate small tax balances if the administration costs exceed the amount of tax due. For the purposes of subsection D of this section, “taxpayer” means the business entity under which the business reports and pays state income taxes regardless of the number of offices at which the taxes imposed
Sec. 9. Section 42-5070, Arizona Revised Statutes, is amended to read:

42-5070. Transient lodging classification; definition

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

B. The transient lodging classification does not include:

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

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

3. Leasing or renting four or fewer rooms of an owner-occupied residential home, together with furnishing no more than a breakfast meal, to transient lodgers at no more than a fifty percent average annual occupancy rate.

4. THE ACTIVITIES OF ANY ONLINE LODGING MARKETPLACE.

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

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

2. THE GROSS PROCEEDS OR GROSS INCOME RECEIVED BY AN ONLINE LODGING OPERATOR FROM ANY ONLINE LODGING TRANSACTIONS FOR WHICH THE ONLINE LODGING OPERATOR HAS RECEIVED DOCUMENTATION FROM A REGISTERED ONLINE LODGING MARKETPLACE PURSUANT TO SECTION 42-5009, SUBSECTION N, THAT THE ONLINE LODGING MARKETPLACE HAS OR WILL REMIT THE APPLICABLE TAX TO THE DEPARTMENT PURSUANT TO SECTION 42-5014, SUBSECTION E.
D. For the purposes of this section, the tax base for the transient lodging classification does not include gross proceeds of sales or gross income derived from:

1. Transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person not subject to tax under this article.
2. Transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under section 42-5062 or 42-5073 due to an exclusion, exemption or deduction.
3. Commissions paid to a person that is engaged in transient lodging business subject to taxation under this section by a person providing services or property to the customers of the person engaging in the transient lodging business.

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

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

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

42-6009. Online lodging; definitions

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

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

1. THE ADOPTED TAX MUST BE UNIFORM WITH THE TREATMENT OF ONLINE LODGING OPERATORS AND ONLINE LODGING TRANSACTIONS PROVIDED BY CHAPTER 5 OF THIS TITLE.
2. THE ADOPTED TAX SHALL BE ADMINISTERED, COLLECTED AND ENFORCED BY THE DEPARTMENT AND REMITTED TO THE CITY, TOWN OR OTHER TAXING JURISDICTION IN A UNIFORM MANNER.
3. THE ADOPTED TAX MUST BE UNIFORM ON ONLINE LODGING OPERATORS AND OTHER TAXPAYERS OF THE SAME CLASS WITHIN THE JURISDICTIONAL BOUNDARIES OF THE CITY, TOWN OR OTHER TAXING JURISDICTION.
4. ANY ADOPTED TAX IS SUBJECT TO:
   (a) SECTION 42-1108, SUBSECTION F, RELATING TO AUDITS.
   (b) SECTION 42-2003, SUBSECTION Y, RELATING TO CONFIDENTIAL INFORMATION.
(c) SECTION 42-5003, SUBSECTION B, RELATING TO JUDICIAL ENFORCEMENT.
(d) SECTION 42-5005, SUBSECTION L, RELATING TO REGISTRATION OF ONLINE
LODGING MARKETPLACES.
(e) SECTION 42-5014, SUBSECTION E, RELATING TO TAX RETURNS.

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

C. FOR THE PURPOSES OF THIS SECTION, “ONLINE LODGING MARKETPLACE”,
“ONLINE LODGING OPERATOR” AND “ONLINE LODGING TRANSACTION” HAVE THE SAME
MEANINGS PRESCRIBED IN SECTION 42-5001.

Sec. 11. Section 42-12003, Arizona Revised Statutes, is amended to
read:
42-12003. Class three property; definition
A. For purposes of taxation, class three is established consisting of:
1. Real and personal property and improvements to the property that
are used as the owner's primary residence, that are not otherwise included in
class one, two, four, six, seven or eight and that are valued at full cash
value.
2. Real and personal property that is occupied by a relative of the
owner, as provided by section 42-12053, and used as the relative's primary
residence, that is not otherwise included in class one, two, four, six, seven
or eight and that is valued at full cash value.
3. REAL AND PERSONAL PROPERTY THAT IS OWNED AND OCCUPIED AS THE
PRIMARY RESIDENCE OF THE OWNER WHO ALSO USES THE PROPERTY FOR LEASE OR RENT
TO LODGERS.

B. For the purposes of this section, a homesite that is included in
class three may include:
1. Up to ten acres on a single parcel of real property on which the
residential improvement is located.
2. More than ten, but not more than forty, acres on a single parcel of
real property on which the residential improvement is located if it is zoned
exclusively for residential purposes or contains legal restrictions or
physical conditions that prevent the division of the parcel.
C. For the purposes of this section, “physical conditions” means
topography, mountains, washes, rivers, roads or any other configuration that
limits the residential usable land area.

Sec. 12. Section 42-12004, Arizona Revised Statutes, is amended to
read:
42-12004. Class four property
A. For purposes of taxation, class four is established consisting of:
1. Real and personal property and improvements to the property that
are used for residential purposes, including residential property that is
owned in foreclosure by a financial institution, that is not otherwise included in another classification and that is valued at full cash value. The homesite that is included in class four may include:

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

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

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

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

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

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

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

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

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

9. Real and personal property that is defined as timeshare property by section 32-2197 and valued pursuant to chapter 13, article 10 of this title, except for any property used for commercial, industrial or transient occupancy purposes and included in class one to the extent of that use.
10. REAL AND PERSONAL PROPERTY AND IMPROVEMENTS THAT ARE USED FOR RESIDENTIAL PURPOSES, THAT ARE LEASED OR RENTED TO LODGERS, EXCEPT FOR:

(a) PROPERTY OCCUPIED BY THE OWNER OF THE PROPERTY AS THE OWNER'S PRIMARY RESIDENCE AND INCLUDED IN CLASS THREE.

(b) PROPERTY USED FOR COMMERCIAL PURPOSES AND INCLUDED IN CLASS ONE.

B. Subsection A, paragraphs 4 and 5 of this section shall not be construed to limit eligibility for exemption from taxation under chapter 11, article 3 of this title.

Sec. 13. Effective date

This act is effective from and after December 31, 2016.