

Fiscal Note

BILL # HB 2382

TITLE: TPT; sourcing; validation

SPONSOR: Carter

STATUS: House Engrossed

PREPARED BY: Micaela Andrews

Description

This bill would require Department of Revenue (DOR) to initiate new programs and an educational campaign to improve the sourcing of the Transaction Privilege Taxes (TPT) by sellers. Sourcing is the correct assignment of an Arizona location (especially the county or municipality) to a transaction subject to state or local government TPT. The bill would also amend statute to provide additional guidance as to the sourcing of tangible personal property transactions.

Estimated Impact

We estimate the bill's requirements regarding certifying third-party vendors, sampling tax reporting for sourcing errors, and implementing an educational campaign would generate additional workload for DOR. The amount of added workload would depend on the specific implementation decisions made by the agency.

DOR estimates the costs for this bill's activities at \$3.6 million. This includes \$3.5 million for staffing costs for an unspecified number of positions, along with \$24,100 for additional ongoing operating expenses and one-time costs of \$62,200. We have reached out to DOR to provide additional details as to the number of staff and the cost associated with each individual requirement in the bill.

While the bill is likely to generate more than minimal costs, we do not believe the bill would necessarily result in a \$3.5 million impact to the agency under a reasonable set of implementation assumptions. In prior state budgets, DOR has received ongoing operating funding to implement significant TPT policy changes: 1) \$936,400 to assist out-of-state remote sellers with complying with Arizona TPT requirements (due to the *Wayfair* US Supreme Court decision); 2) \$1.0 million to fund audit/collection functions as part of DOR assuming TPT collection responsibility for all municipalities (known as "TPT Simplification"). Because the bill does not implement substantive changes to tax collection processes, we believe that the bill could potentially be implemented at a dollar level comparable to these prior initiatives.

While the bill provides for additional statutory guidance on the sourcing of TPT transactions, along with requiring DOR outreach on this sourcing, it is not expected to impact to overall state TPT collections. However, the bill may impact the amount of local government TPT collected by an individual jurisdiction (such as a city or county) if the bill ultimately changes how transactions are sourced by taxpayers within the state. The magnitude of any sourcing changes within the state cannot be determined in advance.

DOR did not provide an estimate for the revenue impact of this bill.

Analysis

A seller of a taxable product or service subject to TPT is responsible for remitting the state TPT and local government TPT to DOR. As part of this process, the seller applies for a TPT license and identifies their location or locations of business. The seller receives a unique location code for each business location. When filing returns, the seller is responsible for including the correct location code(s) for their business transactions (known as "sourcing" the transactions). Because DOR centrally collects all TPT revenue (including local government TPT), this location data facilitates DOR remitting local government TPT it has collected to the appropriate jurisdiction.

(Continued)



DOR Administrative Items

The bill would require DOR to establish a "taxpayer assistance team" comprised of agency staff which would select a random sample of TPT licenses and review the sampled licenses to verify that taxpayers were: 1) Sourcing transactions to the correct local jurisdiction; and 2) Levying the correct local TPT rates associated with that jurisdiction. The taxpayer assistance team would educate taxpayers they identified with sourcing issues. Any information collected by the taxpayer assistance team would be prohibited from being used for enforcement purposes.

In addition, the bill would authorize DOR to establish a certification process for third-party sourcing services. Currently, certain taxpayers use third-party services and software to assist in the sourcing of TPT transactions. Under the bill, after a third-party service becomes certified by DOR, a taxpayer using such service would be not held liable for any TPT sourcing errors.

The bill would also require DOR to implement an educational campaign on or before December 31, 2024 that would educate and obtain feedback from TPT license holders located in unincorporated areas of a county on issues related to using correct TPT tax rates and TPT sourcing methods.

TPT Sourcing Statutory Changes

Finally, the bill would provide additional statutory guidance on the sourcing of retail sales of tangible personal property. Under current law, a transaction is sourced to a seller's business location if the seller receives the order at their Arizona location. Otherwise, the transaction is sourced to the purchaser's location. However, exact compliance with this current requirement is unclear – in the context of e-commerce orders for example, it appears that TPT transactions from some Arizona-based corporations are being sourced to the purchaser's location rather than to the company's Arizona business location.

The bill would modify this statutory guidance to clarify that a transaction is sourced to a seller's business location if the seller receives the order at that location and regularly conducts retail sales at that Arizona business location. Otherwise, the sourcing is to the purchaser's delivery address. This would appear to address the ambiguity with regards to e-commerce transactions and clarify that those transactions are generally sourced to the purchaser's address.

To the extent these statutory changes lead to changes in sourcing for transactions, this would impact the amount of TPT collected by specific jurisdictions.

Local Government Impact

See above.