

House Engrossed

TPT; sourcing; validation

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2382

AN ACT

AMENDING SECTIONS 42-5005 AND 42-5040, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5040.01; RELATING TO TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5005, Arizona Revised Statutes, is amended to
3 read:

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

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

13 B. A person desiring to engage or continue in business within a
14 city or town that imposes a municipal privilege tax shall apply to the
15 department ~~of revenue~~ for an annual municipal privilege tax license
16 accompanied by a fee of up to \$50, as established by ordinance of the city
17 or town. The person shall submit the fee with each new license
18 application. The person may not engage or continue in business until the
19 person has obtained a municipal privilege tax license. The department
20 must collect, hold, pay and manage the fees in trust for the city or town
21 and may not use the monies for any other purposes. The fee imposed by
22 this subsection does not apply to a marketplace facilitator or remote
23 seller that is only required to obtain a transaction privilege tax license
24 pursuant to section 42-5043.

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

31 D. A municipal privilege tax license is valid only for the calendar
32 year in which it is issued, but it may be renewed for the following
33 calendar year by ~~the payment of~~ PAYING a license renewal fee of up to
34 \$50. The renewal fee is due and payable on January 1 and is considered
35 delinquent if not received on or before the last business day of
36 January. The department must collect, hold, pay and manage the fees in
37 trust for the city or town and may not use the monies for any other
38 purposes. The renewal fee imposed by this subsection does not apply to a
39 marketplace facilitator or remote seller that is only required to obtain a
40 transaction privilege tax license pursuant to section 42-5043.

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

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

6 G. The transaction privilege tax license and the municipal
7 privilege tax license are not transferable on a complete change of
8 ownership or change of location of the business. For the purposes of this
9 subsection:

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

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

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

17 H. When the ownership or location of a business on which a
18 transaction privilege tax or municipal privilege tax is imposed has been
19 changed within the meaning of subsection G of this section, the licensee
20 shall surrender the license to the department. The license shall be
21 reissued to the new owners or for the new location on application by the
22 taxpayer and payment of the \$12 fee for a transaction privilege tax
23 license and a fee of up to \$50 per jurisdiction for a municipal privilege
24 tax license. The department must collect, hold, pay and manage the fees
25 in trust for the city or town and may not use the monies for any other
26 purposes.

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

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

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

1 file a consolidated return under a single license number is required to
2 pay a license renewal fee for each location or license in a local
3 jurisdiction.

4 L. For the purposes of this chapter and chapter 6 of this title:

5 1. Through December 31, 2018, an online lodging marketplace, as
6 defined in section 42-5076, may register with the department for a license
7 for the payment of taxes levied by this state and one or more counties,
8 cities, towns or special taxing districts, at the election of the online
9 lodging marketplace, for taxes due from an online lodging operator on any
10 online lodging transaction facilitated by the online lodging marketplace,
11 subject to sections 42-5076 and 42-6009.

12 2. Beginning from and after December 31, 2018, an online lodging
13 marketplace, as defined in section 42-5076, shall register with the
14 department for a license for the payment of taxes levied by this state and
15 one or more counties, cities, towns or special taxing districts for taxes
16 due from an online lodging operator on any online lodging transaction
17 facilitated by the online lodging marketplace, subject to sections 42-5076
18 and 42-6009.

19 M. For the purposes of this chapter and chapter 6 of this title, a
20 person who is licensed pursuant to title 32, chapter 20 and who files an
21 electronic consolidated tax return for individual real properties under
22 management on behalf of the property owners may be licensed with the
23 department for the payment of taxes levied by this state and by any
24 county, city or town with respect to those properties. There is no fee
25 for a license issued pursuant to this subsection.

26 N. For the purposes of this chapter, a peer-to-peer car sharing
27 program shall register with the department for a license for the payment
28 of taxes levied by this state and one or more counties, cities, towns or
29 special districts for taxes due from a shared vehicle owner on any shared
30 vehicle transaction facilitated by the peer-to-peer car sharing program,
31 subject to the limitations in section 28-9616. A peer-to-peer car sharing
32 program shall remit the surcharges established pursuant to sections 5-839
33 and 48-4234 only if the peer-to-peer car sharing program allows shared
34 vehicle transactions that involve a vehicle for which the shared vehicle
35 owner has not certified to the department pursuant to section 28-9616,
36 subsection C that it is an individual-owned shared vehicle. For the
37 purposes of this subsection, "individual-owned shared vehicle",
38 "peer-to-peer car sharing program", "shared vehicle owner" and "shared
39 vehicle transaction" have the same meanings prescribed in section 28-9601.

40 O. If a person violates this article or any rule adopted under this
41 article, the department upon hearing may revoke any transaction privilege
42 tax or municipal privilege tax license issued to the person. The
43 department shall provide ten days' written notice of the hearing, stating
44 the time and place and requiring the person to appear and show cause why
45 the license or licenses should not be revoked. The department shall

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

8 P. The department may revoke any transaction privilege tax or
9 municipal privilege tax license issued to any person who fails for
10 thirteen consecutive months to make and file a return required by this
11 article on or before the due date or the due date as extended by the
12 department unless the failure is due to a reasonable cause and not due to
13 wilful neglect.

14 Q. THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A TAXPAYER
15 ASSISTANCE TEAM TO ENSURE TAXPAYERS ARE LEVYING THE CORRECT TRANSACTION
16 PRIVILEGE TAX RATE AND SOURCING THE TRANSACTION TO THE CORRECT
17 JURISDICTIONS. THE TEAM SHALL SELECT AT RANDOM A SAMPLE OF TRANSACTION
18 PRIVILEGE TAX LICENSES AND MUNICIPAL PRIVILEGE TAX LICENSES TO VERIFY THAT
19 THE BUSINESS LOCATION IDENTIFIED ON THE LICENSE CORRESPONDS TO THE
20 TRANSACTION PRIVILEGE TAX RATE AND SOURCE OF THE TRANSACTION USED BY THE
21 TAXPAYER. IF THE TEAM IDENTIFIES A TAXPAYER THAT IS NOT LEVYING THE
22 CORRECT TRANSACTION PRIVILEGE TAX RATE OR IS NOT SOURCING THE TRANSACTION
23 TO THE CORRECT JURISDICTION, THE TEAM SHALL NOTIFY THE TAXPAYER AND
24 PROVIDE RESOURCES TO ASSIST THE TAXPAYER IN DETERMINING THE CORRECT RATE
25 AND SOURCING INFORMATION FOR THAT TAXPAYER. INFORMATION COLLECTED BY THE
26 TAXPAYER ASSISTANCE TEAM MAY NOT BE USED FOR ENFORCEMENT PURPOSES.

27 ~~R.~~ R. A person who violates any provision of this section is
28 guilty of a class 3 misdemeanor.

29 Sec. 2. Section 42-5040, Arizona Revised Statutes, is amended to
30 read:

31 42-5040. Sourcing of certain transactions involving tangible
32 personal property; definitions

33 A. Except as provided in section 42-5075, retail sales of tangible
34 personal property shall be sourced as follows:

35 1. To the seller's business location if the seller receives the
36 order at a business location in this state AND THE SELLER REGULARLY
37 CONDUCTS RETAIL SALES AT THAT BUSINESS LOCATION.

38 2. Except as provided in section 42-5008.01, to the purchaser's
39 ~~location~~ DELIVERY ADDRESS in this state if the seller ~~receives~~ DOES NOT
40 RECEIVE the order at a business location ~~outside~~ IN this state WHERE THE
41 SELLER REGULARLY CONDUCTS RETAIL SALES or, if there is no delivery
42 address, to the purchaser's billing address.

43 B. A shared vehicle transaction shall be sourced as follows:

44 1. To the permanent street address of the registered shared vehicle
45 owner if the shared vehicle is registered in this state.

1 2. To the street address in this state where the shared vehicle
2 owner resides while in this state if the shared vehicle is registered in
3 another state or country.

4 3. To the location of the shared vehicle at the car sharing start
5 time if the shared vehicle owner does not reside in this state and the
6 shared vehicle is registered in another state or country.

7 C. For the purposes of subsection A of this section, an order is
8 received when all of the PURCHASER'S information necessary to ~~accept~~
9 PROCESS the order has been received by or on behalf of the seller,
10 regardless of FROM where the order is accepted, ~~or~~ approved OR DELIVERED.
11 ~~The place of business or residence of the purchaser does not determine~~
12 ~~where the order is received.~~

13 D. The gross receipts from leasing or renting tangible personal
14 property shall be sourced as follows:

15 1. To the lessor's business location if the lessor has a business
16 location in this state.

17 2. To the lessee's address if the lessor does not have a business
18 location in this state or, if there is no lessee's address, to the
19 lessee's billing address. The gross receipts are taxable when the
20 property is shipped, delivered or otherwise brought into this state for
21 use in this state.

22 E. For the purposes of this section:

23 1. "Car sharing start time" has the same meaning prescribed in
24 section 28-9601.

25 2. "Lessee's address" means the residential address of an
26 individual lessee and the primary business address of any other lessee.

27 3. "Lessor's business location" means the business address that
28 appears on the lessor's transaction privilege tax license.

29 4. "Shared vehicle" has the same meaning prescribed in section
30 28-9601.

31 5. "Shared vehicle owner" has the same meaning prescribed in
32 section 28-9601.

33 6. "Shared vehicle transaction" has the same meaning prescribed in
34 section 28-9601.

35 Sec. 3. Title 42, chapter 5, article 1, Arizona Revised Statutes,
36 is amended by adding section 42-5040.01, to read:

37 42-5040.01. Sourcing of tangible personal property;
38 third-party service providers; certification

39 A. BEGINNING ON OR BEFORE JANUARY 1, 2026, THE DEPARTMENT SHALL
40 ESTABLISH A PROCESS BY WHICH A THIRD-PARTY PROVIDER THAT OFFERS SOURCING
41 SERVICES TO TAXPAYERS FOR TRANSACTIONS INVOLVING TANGIBLE PERSONAL
42 PROPERTY MAY BECOME CERTIFIED IN THIS STATE. A CERTIFIED THIRD-PARTY
43 SERVICE PROVIDER SHALL MEET ALL OF THE REQUIREMENTS ESTABLISHED BY THE
44 DEPARTMENT.

- 1 B. THE DIRECTOR SHALL:
2 1. SUPERVISE AND REGULATE ALL PERSONS REQUIRED BY THIS SECTION TO
3 OBTAIN CERTIFICATION.
4 2. ESTABLISH MINIMUM STANDARDS FOR CERTIFICATION AND A QUALITY
5 ASSURANCE PROGRAM FOR AUTHORIZED THIRD PARTIES TO ENSURE THAT A CERTIFIED
6 THIRD-PARTY SERVICE PROVIDER IS COMPLYING WITH THE MINIMUM STANDARDS.
7 3. POST A LIST OF CERTIFIED THIRD-PARTY SERVICE PROVIDERS ON THE
8 DEPARTMENT'S WEBSITE.
9 4. ADOPT RULES TO ADMINISTER AND ENFORCE THIS SECTION.

10 C. THE DIRECTOR MAY:
11 1. INVESTIGATE AND AUDIT THIRD-PARTY SERVICE PROVIDERS AS NECESSARY
12 TO ENSURE COMPLIANCE WITH THIS SECTION.

13 2. REQUIRE THAT A CERTIFIED THIRD-PARTY SERVICE PROVIDER OR ANY
14 EMPLOYEES OR AGENTS OF THE CERTIFIED THIRD-PARTY SERVICE PROVIDER BE
15 CERTIFIED BY THE DEPARTMENT TO PERFORM CERTAIN FUNCTIONS.

16 D. A PERSON MAY APPLY TO THE DEPARTMENT TO BE A CERTIFIED
17 THIRD-PARTY SERVICE PROVIDER ON A FORM PRESCRIBED AND FURNISHED BY THE
18 DIRECTOR. THE PERSON SHALL INCLUDE WITH THE APPLICATION ALL DOCUMENTS AND
19 FEES PRESCRIBED BY THE DIRECTOR. THE APPLICATION SHALL CONTAIN, AT A
20 MINIMUM:

21 1. THE NAME, TELEPHONE NUMBER AND ADDRESS OF THE APPLICANT AND
22 PRIMARY CONTACT PERSON.

23 2. VERIFICATION THAT THE APPLICANT MEETS THE REQUIREMENTS
24 PRESCRIBED BY THE DIRECTOR.

25 3. OTHER INFORMATION THE DIRECTOR REQUIRES.

26 E. A TAXPAYER MAY USE A CERTIFIED THIRD-PARTY SERVICE PROVIDER TO
27 ASSIST THE TAXPAYER IN SOURCING TRANSACTIONS INVOLVING TANGIBLE PERSONAL
28 PROPERTY. A TAXPAYER THAT USES A CERTIFIED THIRD-PARTY PROVIDER FOR
29 SOURCING TRANSACTIONS INVOLVING TANGIBLE PERSONAL PROPERTY IS NOT LIABLE
30 FOR FAILING TO PAY THE CORRECT AMOUNT OF TAX DUE TO AN ERROR IN SOURCING
31 THE TRANSACTION. THE TAXPAYER IS LIABLE FOR FAILING TO PAY THE CORRECT
32 AMOUNT OF TAX IF THE FAILURE TO PAY THE CORRECT AMOUNT OF TAX WAS DUE TO
33 AN ERROR OTHER THAN AN ERROR IN SOURCING THE TRANSACTION. A CERTIFIED
34 THIRD-PARTY SERVICE PROVIDER IS LIABLE FOR THE AMOUNT OF TAX THE TAXPAYER
35 FAILED TO PAY IF THE FAILURE TO PAY THE CORRECT AMOUNT OF TAX WAS DUE TO
36 AN ERROR IN SOURCING THE TRANSACTION, UNLESS THE ERROR WAS DUE TO
37 INCORRECT INFORMATION THE CERTIFIED THIRD-PARTY SERVICE PROVIDER RECEIVED
38 FROM THE DEPARTMENT.

39 Sec. 4. Department of revenue; taxpayer education campaign;
40 report

41 A. On or before December 31, 2024, the department of revenue shall
42 conduct a taxpayer education campaign to educate and obtain feedback from
43 remote sellers and marketplace facilitators as defined in section 42-5001,
44 Arizona Revised Statutes, and other transaction privilege tax license
45 holders located in unincorporated areas of a county on issues related to

1 the correct use of transaction privilege tax rates and transaction
2 sourcing methods.

3 B. On or before March 31, 2025, the department of revenue shall
4 submit a report on the taxpayer education campaign and the feedback the
5 department received during the campaign to the governor, president of the
6 senate and the speaker of the house of representatives and shall provide a
7 copy of this report to the secretary of state.