

REFERENCE TITLE: TPT; reporting; penalty

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2818

Introduced by
Representative Simacek

AN ACT

AMENDING SECTION 42-1125, ARIZONA REVISED STATUTES; RELATING TO TAX
ADMINISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 42-1125, Arizona Revised Statutes, is amended to read:

42-1125. Civil penalties; definition

A. If a taxpayer fails to make and file a return for a tax administered pursuant to this article on or before the due date of the return or the due date as extended by the department, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect, four and one-half percent of the tax required to be shown on the return shall be added to the tax for each month or fraction of a month elapsing between the due date of the return and the date on which it is filed. The total penalty shall not exceed twenty-five percent of the tax found to be remaining due. The penalty so added to the tax is due and payable on notice and demand from the department. For the purpose of computing the penalty imposed under this subsection, the amount required to be shown as tax on a return shall be reduced by the amount of any part of the tax that is paid on or before the beginning of the month and by the amount of any credit against the tax that may be claimed on the return. If the amount required to be shown as tax on a return is less than the amount shown as tax on the return, the penalty described in this subsection shall be applied by substituting the lower amount.

B. If a taxpayer fails or refuses to file a return on notice and demand by the department, the taxpayer shall pay a penalty of twenty-five percent of the tax, which is due and payable on notice and demand by the department, in addition to any penalty prescribed by subsection A of this section, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect. This penalty is payable on notice and demand from the department.

C. If a taxpayer fails or refuses to furnish any information requested in writing by the department, the department may add a penalty of twenty-five percent of the amount of any deficiency tax assessed by the department concerning the assessment of which the information was required, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect.

D. If a person fails to pay the amount shown as tax on any return within the time prescribed, a penalty of one-half of one percent, not to exceed a total of ten percent, shall be added to the amount shown as tax for each month or fraction of a month during which the failure continues, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect. If the department determines that the person's failure to pay was due to reasonable cause and not due to wilful neglect and that a payment agreement pursuant to section 42-2057 is appropriate, the department shall not impose the penalty unless the taxpayer fails to comply with the payment agreement. If the taxpayer is also subject to a penalty under subsection A of this section for the same tax period, the

1 total penalties under subsection A of this section and this subsection
2 shall not exceed twenty-five percent. For the purpose of computing the
3 penalty imposed under this subsection:

4 1. The amount shown as tax on a return shall be reduced by the
5 amount of any part of the tax that is paid on or before the beginning of
6 that month and by the amount of any credit against the tax that may be
7 claimed on the return.

8 2. If the amount shown as tax on a return is greater than the
9 amount required to be shown as tax on that return, the penalty shall be
10 applied by substituting the lower amount.

11 E. If a person fails to pay any amount required to be shown on any
12 return that is not so shown within twenty-one calendar days after the date
13 of notice and demand, a penalty of one-half of one percent, not to exceed
14 a total of ten percent, shall be added to the amount of tax for each month
15 or fraction of a month during which the failure continues, unless it is
16 shown that the failure is due to reasonable cause and not due to wilful
17 neglect. If the taxpayer is also subject to penalty under subsection A of
18 this section for the same tax period, the total penalties under subsection
19 A of this section and this subsection shall not exceed twenty-five
20 percent. For the purpose of computing the penalty imposed under this
21 subsection, any amount required to be shown on any return shall be reduced
22 by the amount of any part of the tax that is paid on or before the
23 beginning of that month and by the amount of any credit against the tax
24 that may be claimed on the return.

25 F. In the case of a deficiency, for which a determination is made
26 of an additional amount due, that is due to negligence but without intent
27 to defraud, the person shall pay a penalty of ten percent of the amount of
28 the deficiency.

29 G. If part of a deficiency is due to fraud with intent to evade
30 tax, fifty percent of the total amount of the tax, in addition to the
31 deficiency, interest and other penalties provided in this section, shall
32 be assessed, collected and paid as if it were a deficiency.

33 H. If the amount, whether determined by the department or the
34 taxpayer, required to be withheld by the employer pursuant to title 43,
35 chapter 4 is not paid to the department on or before the date prescribed
36 for its remittance, the department may add a penalty of twenty-five
37 percent of the amount required to be withheld and paid, unless it is shown
38 that the failure is due to reasonable cause and not due to wilful neglect.

39 I. A person who, with or without intent to evade any requirement of
40 this article or any lawful administrative rule of the department of
41 revenue under this article, fails to file a return or to supply
42 information required under this article or who, with or without such
43 intent, makes, prepares, renders, signs or verifies a false or fraudulent
44 return or statement or supplies false or fraudulent information shall pay
45 a penalty of not more than \$1,000. This penalty shall be recovered by the

1 department of law in the name of this state by an action in any court of
2 competent jurisdiction.

3 J. If the taxpayer files what purports to be a return of any tax
4 administered pursuant to this article but that is frivolous or that is
5 made with the intent to delay or impede the administration of the tax
6 laws, that person shall pay a penalty of \$500.

7 K. If any person who is required to file or provide an information
8 return under this title or title 43 or who is required to file or provide
9 a return or report under chapter 3 of this title fails to file the return
10 or report at the prescribed time or in the manner required, or files a
11 return or report that fails to show the information required, that person
12 shall pay a penalty of \$100 for each month or fraction of a month during
13 which the failure continues unless it is shown that the failure is due to
14 reasonable cause and not due to wilful neglect. The total penalties for
15 each return or report under this subsection shall not exceed \$500.

16 L. If it appears to the superior court that proceedings before it
17 have been instituted or maintained by a taxpayer primarily for delay or
18 that the taxpayer's position is frivolous or groundless, the court may
19 award damages in an amount not to exceed \$1,000 to this state. Damages so
20 awarded shall be collected as a part of the tax.

21 M. A person who is required under section 43-413 to furnish a
22 statement to an employee and who wilfully furnishes a false or fraudulent
23 statement, or who wilfully fails to furnish a statement required by
24 section 43-413, is for each such failure subject to a penalty of \$50.

25 N. A person who is required to collect or truthfully account for
26 and pay a tax administered pursuant to this article, including any luxury
27 privilege tax, and who wilfully fails to collect the tax or truthfully
28 account for and pay the tax, or wilfully attempts in any manner to evade
29 or defeat the tax or its payment, is, in addition to other penalties
30 provided by law, liable for a penalty equal to the total amount of the tax
31 evaded, not collected or not accounted for and paid. Except as provided
32 in subsections U, V and W of this section, no other penalty under this
33 section relating to failure to pay tax may be imposed for any offense to
34 which this subsection applies.

35 O. For reporting periods beginning from and after February 28,
36 2011, if a taxpayer who is required under section 42-1129 to pay by
37 electronic funds transfer fails to do so, that taxpayer shall pay a
38 penalty of five percent of the amount of the payment not made by
39 electronic funds transfer unless it is shown that the failure is due to
40 reasonable cause and not due to wilful neglect. For the reporting periods
41 beginning on July 1, 2015, the penalty in this subsection applies to any
42 taxpayer who is required under section 42-3053 to pay by electronic funds
43 transfer and fails to do so unless it is shown that the failure is due to
44 reasonable cause and not due to wilful neglect.

1 P. Unless due to reasonable cause and not to wilful neglect:

2 1. A person who fails to provide that person's taxpayer
3 identification number in any return, statement or other document as
4 required by section 42-1105, subsection A shall pay a penalty of \$5 for
5 each such failure.

6 2. A person, when filing any return, statement or other document
7 for compensation on behalf of a taxpayer, who fails to include that
8 person's own taxpayer identification number and the taxpayer's
9 identification number shall pay a penalty of \$50 for each such failure.

10 3. A person, when filing any return, statement or other document
11 without compensation on behalf of a taxpayer, who fails to include that
12 person's own taxpayer identification number and the taxpayer's
13 identification number is not subject to a penalty.

14 No other penalty under this section may be imposed if the only violation
15 is failure to provide taxpayer identification numbers.

16 Q. If a taxpayer fails to pay the full amount of estimated tax
17 required by title 43, chapter 5, article 6, a penalty is assessed equal to
18 the amount of interest that would otherwise accrue under section 42-1123
19 on the amount not paid for the period of nonpayment, not exceeding ten
20 percent of the amount not paid. The penalty prescribed by this subsection
21 is in lieu of any other penalty otherwise prescribed by this section and
22 in lieu of interest prescribed by section 42-1123.

23 R. Beginning January 1, 2015, if a taxpayer continues in business
24 without timely renewing a municipal privilege tax license as prescribed in
25 section 42-5005, subsection D, a civil penalty of up to \$25 shall be added
26 to the renewal fee for each jurisdiction.

27 S. The department of law, with the consent of the department of
28 revenue, may compromise any penalty for which it may bring an action under
29 this section.

30 T. Penalties shall not be assessed under subsection D of this
31 section on additional amounts of tax paid by a taxpayer at the time the
32 taxpayer voluntarily files an amended return. This subsection does not
33 apply if:

34 1. The taxpayer is under audit by the department.

35 2. The amended return was filed on demand or request by the
36 department.

37 U. In addition to other penalties provided by law, a person who
38 knowingly and intentionally does not comply with any requirement under
39 chapter 3 of this title relating to tobacco products shall pay a penalty
40 of \$1,000. A person who knowingly and intentionally does not pay any
41 luxury tax that relates to tobacco products imposed by chapter 3 of this
42 title shall pay a penalty that is equal to ten percent of the amount of
43 the unpaid tax.

44 V. A manufacturer or importer or a distributor, as defined in
45 section 42-3001, who knowingly and intentionally sells or possesses

cigarettes with false manufacturing labels or cigarettes with counterfeit tax stamps, or who obtains cigarettes through the use of a counterfeit license, shall pay the following penalties:

1. For a first violation involving two thousand or more cigarettes, \$1,000.

2. For a subsequent violation involving two thousand or more cigarettes, \$5,000.

W. The civil penalties in this section are in addition to any civil penalty under chapter 3, article 10, 11 or 12 of this title.

X. Notwithstanding subsection A of this section:

1. And except as provided by paragraph 2 of this subsection, the penalty imposed on a taxpayer that fails to make and file a return for tax administered pursuant to chapter 5 or 6 of this title on or before the due date of the return or the due date as extended by the department, unless it is shown that the failure is due to a reasonable cause and not due to wilful neglect, is four and one-half percent of the tax required to be shown on the return, or \$25, whichever is greater. The penalty shall be added to the tax for each month or fraction of a month elapsing between the due date of the return and the date on which it is filed. The total penalty may not exceed twenty-five percent of the tax required to be shown on the return, or \$100, whichever is greater. **THE DEPARTMENT MAY NOT IMPOSE THE PENALTY UNDER THIS PARAGRAPH ON A TAXPAYER IF THE AMOUNT OF TAX DUE ON THE RETURN IS ZERO.**

2. The penalty imposed on a taxpayer that is required under section 42-5014 to file electronically and that fails to do so is five percent of the tax required to be shown on the return, or \$25, whichever is greater, unless the failure is due to a reasonable cause and not due to wilful neglect.

3. For the purposes of this subsection, "tax required to be shown on the return" means the total tax liability before deducting payments.

Y. Notwithstanding subsection B of this section, the penalty imposed on a taxpayer that fails to file a return pursuant to chapter 5 or 6 of this title on notice and demand by the department is twenty-five percent of the tax, or \$100, whichever is greater. The penalty is due and payable on notice and demand by the department, in addition to any penalty prescribed by subsection A of this section, unless it is shown that the failure is due to a reasonable cause and not due to wilful neglect.

Z. For the purposes of this section, and only as applied to the taxes imposed by chapter 5, articles 1 through 6 and chapter 6, articles 1, 2 and 3 of this title, "reasonable cause" means a reasonable basis for the taxpayer to believe that the tax did not apply to the business activity or the storage, use or consumption of the taxpayer's tangible personal property in this state.