House Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 260

HOUSE BILL 2510

AN ACT

AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL EXCISE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 42-6004, Arizona Revised Statutes, is amended to read:

42-6004. Exemption from municipal tax

A. A city, town or special taxing district shall not levy a transaction privilege, sales, use or other similar tax on:

1. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

2. Interstate telecommunications services, which include that portion of telecommunications services, such as subscriber line service, allocable by federal law to interstate telecommunications service.

3. Sales of warranty or service contracts.

4. Sales of motor vehicles to nonresidents of this state for use outside this state if the vendor ships or delivers the motor vehicle to a destination outside this state.

5. Interest on finance contracts.

6. Dealer documentation fees on the sales of motor vehicles.

~~7. Through December 31, 2009, the gross proceeds of sales or gross income received from a contract from constructing any lake facility development in a commercial enhancement reuse district established pursuant to section 9-499.08.~~

~~8.~~ 7. Sales of food or other items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786) but may impose such a tax on other sales of food. If a city, town or special taxing district exempts sales of food from its tax or imposes a different transaction privilege rate on the gross proceeds of sales or gross income from sales of food and nonfood items, it shall use the definition of food prescribed by rule adopted by the department pursuant to section 42-5106.

~~9.~~ 8. Sales of internet access services to the person's subscribers and customers. For the purposes of this paragraph:

(a) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.

(b) "Internet access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.

~~10.~~ 9. The gross proceeds of sales or gross income retained by the Arizona exposition and state fair board from ride ticket sales at the annual Arizona state fair.

~~11.~~ 10. Through August 31, 2014, sales of Arizona centennial medallions by the historical advisory commission.

11. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A COMMERCIAL LEASE IN WHICH A RECIPROCAL INSURER OR A CORPORATION LEASES REAL PROPERTY TO AN AFFILIATED CORPORATION. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) "AFFILIATED CORPORATION" MEANS A CORPORATION THAT MEETS ONE OF THE FOLLOWING CONDITIONS:

(i) THE CORPORATION OWNS OR CONTROLS AT LEAST EIGHTY PER CENT OF THE LESSOR.

(ii) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY THE LESSOR.

(iii) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A CORPORATION THAT ALSO OWNS OR CONTROLS AT LEAST EIGHTY PER CENT OF THE LESSOR.

(iv) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A CORPORATION THAT IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A RECIPROCAL INSURER.

(b) FOR THE PURPOSES OF SUBDIVISION (a), OWNERSHIP AND CONTROL ARE DETERMINED BY REFERENCE TO THE VOTING SHARES OF A CORPORATION.

(c) "RECIPROCAL INSURER" HAS THE SAME MEANING AS PRESCRIBED IN SECTION 20-762.

B. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, on natural gas or liquefied petroleum gas used to propel a motor vehicle.

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:

1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.

2. Leasing, renting or licensing a motor vehicle subject to and upon which the fee has been paid under title 28, chapter 16, article 4.

3. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing, renting or licensing such property.

4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United

States, this state or any other state or a political subdivision of this state or of any other state.

5. Transporting for hire persons, freight or property by light motor vehicles subject to a fee under title 28, chapter 15, article 4.

~~6. Through December 31, 2009, and except as provided in section 42-6104, a contract from constructing any lake facility development in a commercial enhancement reuse district established pursuant to section 9-499.08.~~

~~7.~~ 6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

D. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, in excess of one-tenth of one per cent of the value of the entire product mined, smelted, extracted, refined, produced or prepared for sale, profit or commercial use, on persons engaged in the business of mineral processing, except to the extent that the tax is computed on the gross proceeds or gross income from sales at retail.

E. In computing the tax base, any city, town or other taxing jurisdiction shall not include in the gross proceeds of sales or gross income:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

F. A city or town shall not levy a use tax on the storage, use or consumption of tangible personal property in the city or town by a school district or charter school.

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.