



Douglas A. Ducey
Governor

Robert Woods
Director

ARIZONA LUXURY TAX NOTICE **JOINT TPN 22-1/LTN 22-1**

Sales of Luxury Products by Remote Sellers

On May 31, 2019, Arizona Governor Doug Ducey signed House Bill 2757 into law. This introduced an economic (dollar-based) nexus standard for retailers categorized by the legislation as “remote sellers.” A remote seller is a person who sells products for delivery into Arizona and who, while failing to have a physical presence or meet other legal standards obligating a seller to obtain an Arizona transaction privilege tax (“TPT”) license, has sales to Arizona purchasers that exceed certain statutory thresholds.¹

A remote seller will be deemed to have economic nexus with Arizona—and, as a result, will be required to pay TPT—if in the current or previous calendar year its annual gross proceeds or gross income derived from direct sales into Arizona is more than \$100,000.² Thresholds are calculated by including any income generated by an affiliated party.³ An affiliated party is a person or company with more than 5% ownership in the other party or is related because a third person or company (or group of persons or companies) holds an ownership interest of more than 5%.

Separate and apart from economic nexus, please note that if **physical presence** nexus is established with Arizona, a person would be considered an Arizona retailer and **not** a remote seller. Consequently, as with any in-state retailer, the person would be subject to TPT on the gross income of all direct sales into Arizona.

By law, remote sellers are prohibited from selling tobacco products, other than pipe tobacco and cigars, to Arizona retail customers.⁴ Arizona state law requires any person who is making the first sale or distribution of tobacco products into Arizona to register as a licensed Arizona distributor and pay the applicable luxury taxes on all tobacco products.⁵

¹ See Arizona Revised Statutes (“A.R.S.”) § 42-5001(16).

² See A.R.S. § 42-5044(A)(1).

³ See A.R.S. § 42-5044(B); Arizona Administrative Code R15-5-155.

⁴ See A.R.S. § 36-798.06. Arizona retail customers include all persons other than licensed tobacco distributors or retailers.

⁵ See A.R.S. § 42-3401(A).

This notice serves as a reminder to all remote sellers of luxury products that:

- Remote sales of tobacco products, other than cigars and pipe tobacco, can only be made to licensed tobacco distributors or retailers.
- Economic nexus thresholds apply to the retail sale of tobacco products into Arizona for TPT purposes. While vape and CBD products do not generally contain tobacco and are generally not subject to luxury tax, economic nexus thresholds still apply to the retail sale of vape and CBD products into Arizona for TPT purposes.
- If a remote seller of tobacco, CBD, or vaping products exceeds the economic threshold requirements, it will be required to file and remit TPT on those sales.
- A remote seller remains restricted to tobacco delivery sales of pipe tobacco and cigars when made directly to Arizona retail customers.
- Without exception, five types of Arizona liquor licenses are permitted to take orders via the internet and ship liquor to a private residence or non-liquor licensed business in Arizona. All of these license types require the seller to obtain a standard TPT license and remit applicable TPT to Arizona without regard to economic nexus. Consequently, all sellers of liquor into Arizona will be deemed to have nexus with Arizona and will not be considered remote sellers.

Explanatory Notice: The purpose of a tax notice is to provide general guidance to assist taxpayers in becoming familiar with Arizona tax laws. Relevant statutes, case law or administrative rules, as well as a subsequent notice, may modify or negate any or all of the provisions of any tax notice. In the case of inconsistency or omission in this notice, the language of the Arizona Revised Statutes and the Arizona Administrative Code will prevail. Please see General Tax Ruling (“GTR”) 08-1 for more detailed information regarding documents issued by the Department of Revenue. GTR 08-1 is available online on the Department’s website at <https://azdor.gov/legal/rulings>.