



# **Transaction Privilege Tax (TPT) and Income Tax Update**

**Presented by:**

**Christie Comanita  
and  
Ernest Powell**

# Recent TPT Guidance and Upcoming Changes



# Transaction Privilege Tax Procedure

## TPP 15-1 (6/22/15)

### Procedure for the Annual Recognition of Exempt Status of Certain Nonprofit Hospitals and Healthcare Organizations (Supersedes TPP 99-5)



STATE OF ARIZONA  
Department of Revenue



Douglas A. Ducey  
Governor

David Raber  
Director

#### ARIZONA TRANSACTION PRIVILEGE TAX PROCEDURE TPP 15-1

Procedure for the Annual Recognition and the Documentation of Exempt Status  
of Certain Nonprofit Healthcare Organizations

(This procedure supersedes Arizona Transaction Privilege Tax Procedure TPP 99-5)

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This procedure gives information about the transaction privilege and use tax exemptions available to organizations recognized by the Department as one of the above entities, as well as the application process for obtaining an annual Exemption Letter from the Department and the documentation required for exemptions applicable to vendors, lessors, and utilities.

#### I. QUALIFYING HOSPITALS

##### A. Applicable Law:

1. Arizona Revised Statutes (A.R.S.) § 42-5001(11) defines a qualifying hospital as:

- a) A licensed hospital which is organized and operated exclusively

# Transaction Privilege Tax Procedure

## TPP 16-1 (9/20/16)

### Procedure for Use of Exemption Certificates (Supersedes TPP 00-3)



STATE OF ARIZONA

Department of Revenue



Douglas A. Ducey  
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David Briant  
Director

#### ARIZONA TRANSACTION PRIVILEGE TAX PROCEDURE TPP 16-1

(This procedure supersedes and updates TPP 00-3)

#### Procedure for Use of Exemption Certificates

This procedure provides general guidance to taxpayers and consumers in the use of Departmental certificates to establish entitlement to an Arizona transaction privilege tax exclusion, deduction, or exemption.

#### Introduction:

Arizona's transaction privilege tax ("TPT") is a tax on the privilege of conducting business in the State of Arizona. The tax is levied on the vendor, rather than the purchaser. The vendor may pass the burden of the tax on to its purchasers, but the vendor is ultimately liable to Arizona for the tax.

TPT is imposed under various business classifications under Arizona Revised Statutes (A.R.S.) Title 42, Chapter 5, Article 2. Each business classification has its own exclusions, deductions, or exemptions ("exemptions") authorized by statute.

A.R.S. § 42-5009(A) states that any vendor who falls within a business classification may *establish entitlement* to an allowable statutory exemption by both:

1. Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted (or excluded or exempt) from the tax base<sup>1</sup>; and
2. *Obtaining a certificate executed by the purchaser.*

# Transaction Privilege Tax Ruling

## TPR 16-1

- The factors used to determine if an out-of-state business has a substantial nexus with Arizona for purposes of imposing Arizona transaction privilege or use taxes and municipal taxes. Also addresses sourcing rules under A.R.S. § 42-5040. This ruling rescinds and supersedes TPR 08-1.



STATE OF ARIZONA  
Department of Revenue



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Governor

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Director

ARIZONA TRANSACTION PRIVILEGE TAX RULING  
TPR 16-1  
(This ruling rescinds and supersedes TPR 08-1)

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe this substantive policy statement imposes additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

**ISSUES:**

1. What factors determine if an out-of-state business has a "substantial nexus" with Arizona for purposes of imposing Arizona's transaction privilege or use taxes and municipal privilege taxes?
2. Once nexus is established, how should an out-of-state business determine the appropriate tax rate for calculating transaction privilege tax? ("sourcing" rules)

# Transaction Privilege Tax Ruling

## TPR 16-2 (9/20/16)

- The application of the jet fuel excise and use tax on the sale and purchase of jet fuel for periods beginning from and after January 1, 2015. This ruling supersedes TPR 94-9.



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Department of Revenue



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Director

### ARIZONA TRANSACTION PRIVILEGE TAX RULING TPR 16-2

(This Ruling supersedes Arizona Transaction Privilege Tax Ruling TPR 94-9)

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe this substantive policy statement imposes additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

#### ISSUE:

The application of the jet fuel excise and use tax on the sale and purchase of jet fuel for periods beginning from and after January 1, 2015.

#### RULING:

The retail sale of jet fuel within Arizona is subject to the jet fuel excise tax. The storage, use or consumption of jet fuel within Arizona is subject to the jet fuel use tax. The Arizona jet fuel excise and use tax is based solely on the actual per gallon fuel. The tax applies only to the first ten million gallons of jet fuel purchased in the calendar year at a rate of 3.05 cents per gallon. Any amount over ten million gallons during the calendar year is not subject to tax.

# Transaction Privilege Tax Ruling

## TPR 16-3 (9/20/16)

- The application of transaction privilege tax to a business that operates an online marketplace through which third-party merchants sell tangible personal property at retail.

STATE OF ARIZONA  
Department of Revenue



Douglas A. Ducey  
Governor

### ARIZONA TRANSACTION PRIVILEGE TAX RULING TPR 16-3

David Briant  
Director

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

#### ISSUE:

Is a business with Arizona nexus for transaction privilege tax ("TPT") purposes that operates an online marketplace through which third-party merchants sell tangible personal property at retail (hereinafter "online marketplace"), a "retailer" making "sales" on behalf of third-party merchants and therefore, responsible for the retail TPT on sales to Arizona customers?

#### RULING:

A business that operates an online marketplace and makes online sales on behalf of third-party merchants as evidenced by the marketplace providing a primary contact point for customer service, processing payments on behalf of the merchant and providing or controlling the fulfillment process, is a retailer conducting taxable sales. The gross receipts of that marketplace business derived from the sales of tangible personal property to Arizona purchasers are subject to retail TPT, provided that the business already has nexus for Arizona TPT purposes.



# 2016 TPT and Municipal Privilege Tax Private Taxpayer Rulings and Taxpayer Information Rulings

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- **LR 16-003 and LR 16-004** - Necessity of maintaining dual entity structure for the purpose of limiting TPT under prime contracting classification to construction activities; taxability of construction work done by or supervised by others for homebuilders who do not themselves do construction work
- **LR 16- 007** - Taxable party under model city tax code where property manages property for non-profit owner



# TPT Forms 2015-2016

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- Revised Form 5000
- Revised Form 5000A
- New Form 5000HC
- New Form 5000M
- Revised Form 5005



# Form 5000



## Arizona Form 5000 Transaction Privilege Tax Exemption Certificate

- Do not use Form 5000 to claim sale for resale. Use Form 5000A.
- Do not use Form 5000 if you are a non-TPT licensed contractor. Use Form 5000M.

This Certificate is prescribed by the Department of Revenue pursuant to A.R.S. § 42-5009. The purpose of the Certificate is to document and establish a basis for state and city tax deductions or exemptions. It is to be filled out completely by the purchaser and furnished to the vendor at the time of the sale. The vendor shall retain this Certificate for single transactions or for the specified period as indicated below. Incomplete Certificates are not considered to be accepted in good faith. Only one category of exemption may be claimed on a Certificate.

<b>A. Purchaser's Name and Address:</b>		<b>B. Check Applicable Box:</b>	
Name _____		<input type="checkbox"/> Single Transaction Certificate	
Address _____		<input type="checkbox"/> Period From _____ Through _____	
City _____ State _____ ZIP Code _____		(You must choose specific dates for which certificate will be valid not to exceed a 12 month period.)	
Vendor's Name _____			

<b>C. Choose one transaction type per Certificate:</b>	
<input type="checkbox"/> Transactions with a Business	<input type="checkbox"/> Transactions with Native Americans & Native American Businesses (See reason #12.)
Arizona Transaction Privilege Tax (TPT) License Number _____	Tribal Business License Number OR Tribal Number _____
SSN / EIN _____	Name of Tribe _____
Other Tax License Number _____	<input type="checkbox"/> Transactions with a U.S. Government entity (See reasons #9 and #10.)
If no license, provide reason: _____	<input type="checkbox"/> Transaction with a Foreign Diplomat. (See reason #13.)
Precise Nature of Purchaser's Business: _____	

**D. Reason for Exemption:**

Check the box indicating one of the more common exemptions provided below, or use Box 14 or 16 to cite the appropriate authority for another exemption (deduction). Refer to [www.azdor.gov/Forms/TransactionPrivilegeTax.aspx](http://www.azdor.gov/Forms/TransactionPrivilegeTax.aspx) for a complete list of state and city exemptions (deductions) and the business classes (codes) under which the deductions apply.

- 1. Tangible personal property to be leased or rented in the ordinary course of the purchaser's licensed business.
- 2. Tangible personal property to be incorporated into a taxable contracting project, or a maintenance, repair, replacement or alteration project.
- 3. Food, drink, or condiments purchased by a restaurant business.
- 4. Pipes or valves four inches in diameter or greater to be used for transportation of oil, natural gas, artificial gas, water or coal slurry.
- 5. Aircraft, navigational and communication instruments and related accessories sold or leased to:
  - Airlines holding a federal certificate of public convenience and necessity; or  Airlines holding a foreign air carrier permit for air transportation; or
  - Any foreign government or nonresidents of Arizona who will not use such property in Arizona other than in removing such property from this state.
- 6. Machinery or equipment used directly in the following business activities:
  - Manufacturing, processing or fabricating.  Job printing.  Refining or metallurgical operations.
  - Extraction of ores or minerals from the earth for commercial purposes.  Extraction of, or drilling for, oil or gas from the earth for commercial purposes.
- 7. Other income producing capital assets. (Cities only.)
- 8. Food, drink or condiments for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff. Food, drink, condiments or accessories purchased by a school district for consumption at a public school within the district during school hours.
- 9. Tangible personal property sold or leased directly to the United States Government or its departments or agencies by a manufacturer, modifier, assembler or repairer. (Retail, personal property rental and mining classifications only.)
- 10. Fifty percent of the gross proceeds or gross income from the sale of tangible personal property directly to the United States Government or its departments or agencies. (Retail classification only.)

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Your Name (as shown on page 1) _____	Arizona Transaction Privilege Tax License Number _____
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- 11. Electricity or natural gas sold to a business that is at least 51% manufacturing or smelting if at least 51% of the electricity or natural is used in the manufacturing or smelting operation. (Utilities classification only.)
- 12. Sale or lease of tangible personal property to affiliated Native Americans if the solicitation for sale, signing of the contract, delivery of the goods and payment for the goods all occur on the reservation. The vendor shall retain adequate documentation to substantiate the transaction.
- 13. Foreign diplomat. NOTE: Limited to authorization on the U.S. Department of State Diplomatic Tax Exemption Card. The vendor shall retain a copy of the U.S. Department of State Diplomatic Tax Exemption Card and any other documentation issued by the U.S. Department of State. Motor vehicle purchases or leases must be pre-authorized by the Office of Foreign Missions ("OFM"). See "Vehicle Tax Exemption" at [www.state.gov/ofm/tax/](http://www.state.gov/ofm/tax/)
- 14.\* Other Deduction: Cite the Arizona Revised Statutes authority for the deduction. A.R.S. § \_\_\_\_\_  
Description: \_\_\_\_\_
- 15.\* Other Cities Deduction: Cite the Model City Tax Code authority for the deduction. M.C.T.C. § \_\_\_\_\_  
Description: \_\_\_\_\_

\*Refer to [www.azdor.gov/Forms/TransactionPrivilegeTax.aspx](http://www.azdor.gov/Forms/TransactionPrivilegeTax.aspx) for a complete list of state and city exemptions (deductions) and the business classes (codes) under which the deductions apply.

**E. Describe the tangible personal property or service purchased or leased and its use below. (Use additional pages if needed.)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**F. Certification**

A vendor that has reason to believe that this Certificate is not accurate or complete will not be relieved of the burden of proving entitlement to the exemption. A vendor that accepts a Certificate in good faith will be relieved of the burden of proof and the purchaser may be required to establish the accuracy of the claimed exemption. If the purchaser cannot establish the accuracy and completeness of the information provided in the Certificate, the purchaser is liable for an amount equal to the transaction privilege tax, penalty and interest which the vendor would have been required to pay if the vendor had not accepted the Certificate. Misuse of this Certificate will subject the purchaser to payment of the A.R.S. § 42-5008 amount equal to any tax, penalty or interest. Willful misuse of this Certificate will subject the purchaser to criminal penalties of a felony pursuant to A.R.S. § 42-1127(B).

I, (print full name) \_\_\_\_\_, hereby certify that these transactions are exempt from Arizona transaction privilege tax and that the information on this Certificate is true, accurate and complete. Further, if purchasing or leasing as an agent or officer, I certify that I am authorized to execute this Certificate on behalf of the purchaser named above.

SIGNATURE OF PURCHASER _____	DATE _____	TITLE _____
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# Form 5000A



Arizona Form  
5000A

## Arizona Resale Certificate

- Use this form to purchase tangible personal property for resale in the ordinary course of business.
- Wholesalers must have a Transaction Privilege Tax ("TPT") or other state's Sales Tax License to purchase tangible personal property for resale.

This Certificate is prescribed by the Department of Revenue pursuant to A.R.S. § 42-5022. The purpose of the Certificate is to document the purchase of tangible personal property for resale in the purchaser's regular course of business. It is to be filled out completely by the purchaser and furnished to the vendor. The vendor shall retain this Certificate for single transactions or for specified periods as indicated below. This Certificate shall be obtained from the purchaser at the time of the sale. Incomplete Certificates are not considered to be accepted in good faith.

A. Business Name and Address:		B. Check Applicable Box:	
Name	TPT/Sales Tax License No.	<input type="checkbox"/>	Single Transaction Certificate
Address		<input type="checkbox"/>	Period From _____ Through _____
City	State ZIP Code	You must choose specific dates for which certificate will be valid not to exceed a 12 month period.	
Vendor's Name			

**C. Precise Nature of Purchaser's Business:**

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**D. Description of Property Being Purchased:**

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**E.**  
The following sales of tangible personal property do not require the purchaser to provide a TPT or other Sales Tax License (check appropriate box):

- Sales to the U.S. government or its departments or agencies for resale (purchased directly by the Federal Government).
- Sales to an unlicensed Arizona School District for resale (purchased directly by the school district).
- Sales to a nonprofit charitable I.R.C. § 501(c)(3) organization for resale. (Attach I.R.S. determination letter to this form.)
- Sales to a nonprofit charitable I.R.C. § 501(c)(3), (c)(4), or (c)(6) organization associated with a major league baseball team or a national professional golfing association for resale. (Attach I.R.S. determination letter to this form.)
- Sales to a nonprofit charitable I.R.C. § 501(c)(3), (c)(4), (c)(6), (c)(7), or (c)(8) organization that sponsors a rodeo featuring farm and ranch animals for resale. (Attach I.R.S. determination letter to this form.)
- Sales to a nonprofit charitable I.R.C. § 501(c)(6) organization that produces, organizes, or promotes a cultural or civic related festival or event - for resale. (Attach I.R.S. determination letter to this form.)

**F. Certification**  
A seller that has reason to believe that this Certificate is not accurate, complete, or applicable to the transaction may not accept the Certificate in good faith and the seller will not be relieved of the burden of proving entitlement to the exemption from tax. A seller that accepts a Certificate in good faith will be relieved of the burden of proof and the purchaser may be required to establish the accuracy of the claimed exemption from tax as provided in A.R.S. § 42-5005. Subsequent use or consumption of the tangible personal property by the purchaser other than sale in the ordinary course of business will subject the purchaser to the Arizona use tax. Willful misuse of this Certificate will subject the purchaser to criminal penalties of a felony pursuant to A.R.S. § 42-1127(B).

I, (print full name) \_\_\_\_\_, hereby certify that these purchases are for resale in the ordinary course of business and that the information on this Certificate is true, accurate and complete. Further, if purchasing as an agent or officer, I certify that I am authorized to execute this Certificate on behalf of the purchaser named above.

\_\_\_\_\_  
SIGNATURE OF PURCHASER TITLE DATE

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# Form 5000HC



Arizona Form  
5000HC

## Transaction Privilege Tax Healthcare Exemption Certificate

- I. Qualifying Hospitals  
or  
II. Qualifying Health Care Organizations  
or  
III. Qualifying Rehabilitation Programs for Mentally or Physically Disabled Persons  
or  
IV. Qualifying Community Health Centers

This Exemption Certificate is prescribed by the Department of Revenue pursuant to A.R.S. § 42-5009. The purpose of the Certificate is to document tax-exempt transactions with qualified purchasers. It is to be filled out completely by the purchaser and furnished to the vendor. The vendor shall retain this Certificate along with a copy of the organization's annual "Exemption Letter" for single transactions or for specified periods as indicated below. Incomplete Certificates are not considered to be accepted in good faith. Only one category of exemption may be claimed on a Certificate.

<b>A. Purchaser's Name and Address:</b>		<b>B. Check Applicable Box:</b>	
Name _____		<input type="checkbox"/> Single Transaction Certificate	
Address _____		<input type="checkbox"/> Period From _____ Through _____	
City _____	State _____ ZIP Code _____	<i>(You must choose specific dates for which certificate will be valid, not to exceed the annual period stated in the Department's Exemption Letter.)</i>	
Vendor's Name _____			

<b>C. Facility:</b>	
Name of Facility* _____	Facility Location* _____

\*If the purchaser is claiming an exemption for more than one facility location, reference and attach a list of the locations to the Form 5000HC.

<b>D. Reason for Exemption:</b>
<b>I. Qualifying Hospital (check appropriate box):</b>
<input type="checkbox"/> Hospital - The above location or satellite facility provides through an organized medical staff, inpatient beds, medical services, and continuous nursing services for the diagnosis and treatment of patients.
<input type="checkbox"/> Licensed Nursing Care Institution - The above location is a health care institution providing inpatient beds or resident beds and nursing services to persons who need nursing services on a continuing basis but who do not require hospital care or direct daily care from a physician.
<input type="checkbox"/> Licensed Residential Care Institution - The above location is a health care institution other than a hospital or a nursing care institution that provides resident beds or residential units, supervisory care services, personal care service, directed care services or health-related services for persons.
<input type="checkbox"/> Residential Care Facility Operated In Conjunction with a Licensed Nursing Care Institution - The above location provides medical, nursing, or health-related services for residents of the residential units and is operated in conjunction with a licensed Nursing Care Institution.
<input type="checkbox"/> Licensed Kidney Dialysis Center - The above location provides medical, nursing or health-related services and is not used or held for profit.

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<b>II. Qualifying Health Care Organization ("GHCO") (check appropriate box):</b>
<input type="checkbox"/> Tangible personal property purchased or leased by a GHCO when the property is to be solely used to provide health and medical related educational and charitable services. The above location must provide educational or charitable services that are health and medical related.
<input type="checkbox"/> Any tangible personal property purchased or leased by a GHCO dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from time of birth to age twenty-one.
<b>III. Programs for Mentally or Physically Disabled Persons:</b>
<input type="checkbox"/> Tangible personal property purchased or leased by a nonprofit charitable organization that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.
<b>IV. Qualifying Community Health Centers</b>
<input type="checkbox"/> The tangible personal property purchased or leased is used by the community health center that is either: 1) the sole provider of primary care in the community, 2) a nonhospital affiliated clinic that is located in a federally designated medically underserved area in this state, or 3) a clinic that is being constructed as a qualifying community health center.

<b>E. Describe the tangible personal property* purchased or leased and its use below. (Use additional pages if needed)</b>

\*which may include utilities, job printing or restaurant purchases for certain purchasers. See Department Exemption Letter.

<b>F. Certification</b>
A vendor that has reason to believe that the Certificate is not accurate or complete will not be relieved of the burden of proving entitlement to the exemption. A vendor that accepts a Certificate in good faith will be relieved of the burden of proof and the purchaser may be required to establish the accuracy of the claimed exemption. If the purchaser cannot establish the accuracy and completeness of the information provided in the Certificate, the purchaser is liable for an amount equal to the transaction privilege tax, penalty and interest which the vendor would have been required to pay if the vendor had not accepted the Certificate. Misuse of this Certificate will subject the purchaser to payment of the A.R.S. § 42-5009 amount equal to any tax, penalty or interest. Willful misuse of this Certificate will subject the purchaser to criminal penalties of a felony pursuant to A.R.S. § 42-1127(B).
I, (print full name) _____, hereby certify that these transaction(s) are exempt from Arizona transaction privilege tax and that the information on this Certificate is true, accurate and complete. Further, if purchasing or leasing as an agent or officer, I certify that I am authorized to execute this Certificate on behalf of the purchaser named above.
SIGNATURE OF PURCHASER REPRESENTATIVE _____ DATE _____ TITLE _____

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# Form 5005



Arizona Department of Revenue

Arizona Form  
5005

Contractor's Certificate  
Prime Contracting and MRRA

The purpose of this form is to provide a subcontractor with the validation required for prime contracting transaction privilege tax (TPT) exemption, and for exemption from liability for an amount equal to retail TPT on materials incorporated or fabricated into maintenance, repair, replacement or alteration (MRRA) projects. The form can be provided for a particular project, for a period of time, or until revoked. This certificate establishes liability for the prime contracting TPT and/or the amount equal to the retail TPT; therefore, it must be completed by the contractor assuming the liability. The asterisked (\*) items must be completed; otherwise, the certificate is not valid. The Department may disregard this certificate pursuant to ARS § 42-5008.D1 or ARS § 42-5075.E if the certificate is incomplete or erroneous. If disregarded, the subcontractor accepting the certificate will have the burden of proving (pursuant to ARS § 42-5008.D1 or ARS § 42-5075.D), that it is not liable for the prime contracting TPT and/or the amount equal to the retail TPT.

A. Contractor			
* Name	* TPT License #		
* Address	City, Town or Post Office	State	ZIP Code
AZ Contractor License Number	Phone Number		

B. Subcontractor			
* Name	* TPT License # (if none, write "N/A - MRRA only")		
* Address	City, Town or Post Office	State	ZIP Code
AZ Contractor License Number	Phone Number		

C*. Type of Certificate (check one and provide requested information)	
<input type="checkbox"/> Single Project Certificate  *PROJECT DESCRIPTION  <div style="border: 1px solid black; height: 80px; width: 100%;"></div>	OR <input type="checkbox"/> Blanket Certificate (check applicable box and fill in requested information). <input type="checkbox"/> Period From: _____ Through: _____ <input type="checkbox"/> Until revoked <input type="checkbox"/> Specific Exceptions: <div style="border: 1px solid black; height: 60px; width: 100%;"></div>
** (For example: Building Permit #, Address, Subdivision, Book/Map/Parcel #s, and/or Legal Description)	

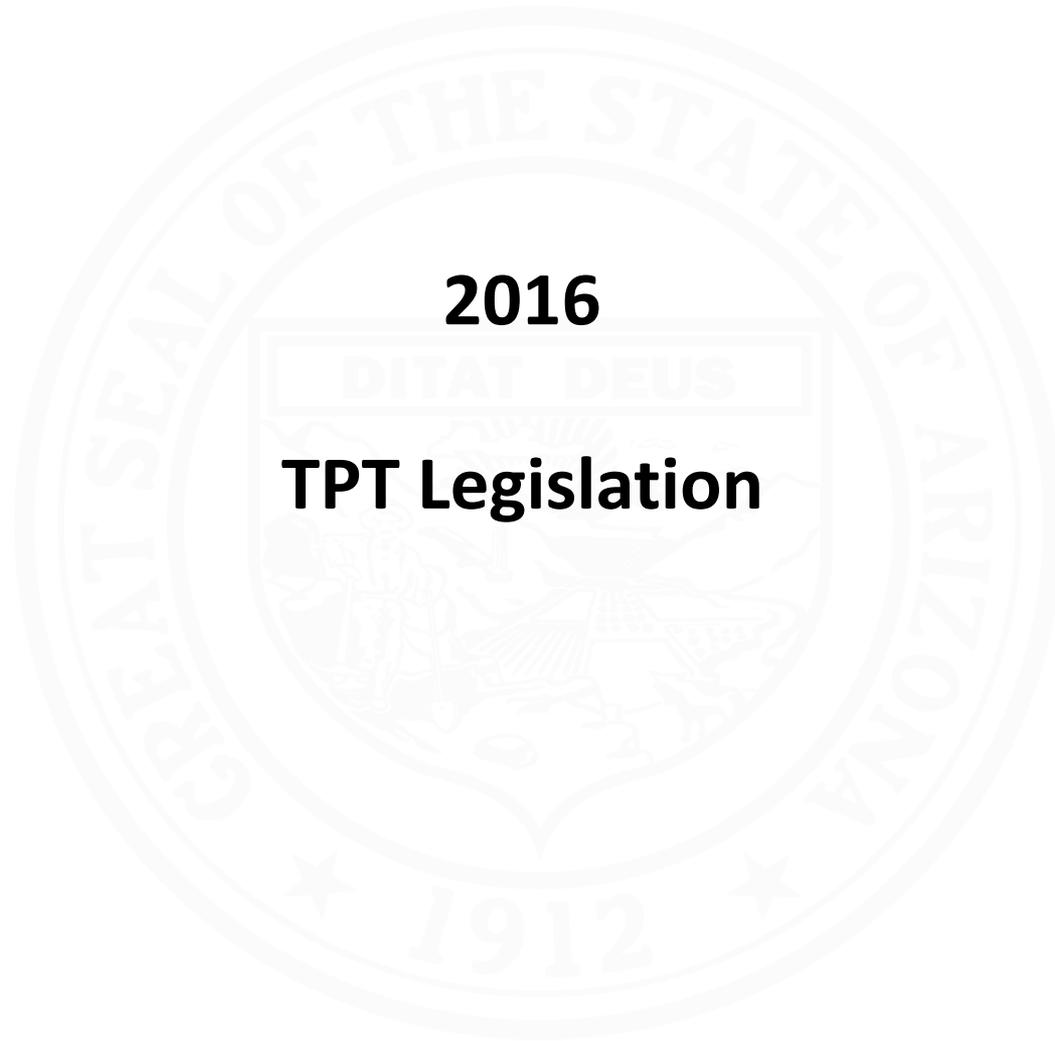
I hereby certify that I have authority to sign this Certificate on behalf of Contractor. I understand that by executing this Certificate, Contractor is licensed for TPT purposes and is assuming the prime contracting TPT liability and/or the amount equal to retail TPT liability applicable to the above referenced project(s).

SIGNATURE _____	PRINT NAME _____
TITLE _____	DATE SIGNED _____



**2016**

**TPT Legislation**



# HB 2326

## A.R.S. § 42-5061(A)(42)

### Deduction Code 520

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- **Agricultural Animal Feed**

- This bill basically clears up any confusion about whether a farm or feed producer is required to obtain exemption certificates or resale certificates. (It is not.)
- This bill also amends A.R.S. § 42-5061 to provide a NEW exemption for sales of livestock and poultry to persons in the business of farming, ranching, or producing livestock or poultry. HB 2326 also expands the exemption for sales of livestock and poultry or sales of livestock or poultry feed, salts vitamins or other additives, to include sales to persons for consumption by their own livestock or poultry.
- General effective date – 8/6/16



# HB 2536

## A.R.S. § 42-5061(A)(60)

### Deduction Code 773 (New)

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- Fine art sold by art galleries and art auctions amends the retail classification by adding a deduction for sales of works of fine art at an art auction or gallery in this state to nonresidents of this state for use outside this state if the vendor ships or delivers the work of fine art to a destination outside this state.
  - *"Work of fine art" as defined by reference to A.R.S. § 44-1771 means:*
    - [a]n original or multiple original art work which is:
      - (a) A visual rendition, including a painting, drawing, sculpture, mosaic or photograph.
      - (b) A work of calligraphy.
      - (c) A work of graphic art, including an etching, lithograph, offset print or silk screen.
      - (d) A craft work in materials, including clay, textile, fiber, wood, metal, plastic or glass.
      - (e) A work in mixed media, including a collage or a work consisting of any combination of subdivisions (a) through (d).

Effective the first day of the month following the general effective date (September 1, 2016).



# HB 2674

## A.R.S. § 42-5073

### Deduction Code 735 (New)

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- **Amateur races**
  - Excludes entry fees to certain running, walking, swimming or bicycle riding events as income under the amusement classification until March 1, 2017.
  - After March 1, 2017, entry fees paid to participate in such events are excluded only if the events are operated or conducted by a 501(c)(3) nonprofit organization.



# HB 2676

## A.R.S. § 42-5063(C)(6)

### Deduction Code 710

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- **Sales of electricity and natural gas to manufacturers and smelters**
  - Amends 42-5063 to require utility businesses claiming the deduction to provide a list of manufacturers and smelters for which the deduction was taken to the department on a monthly basis
  - No longer requires that 51% of the electricity, natural gas or propane be used in manufacturing
  - Deletes the term “principally engaged”
  - Amends the definition of “manufacturing” to include fabrication and processing
  - Defines “qualified manufacturing business”
  - **Applies prospectively from and after 12/31/16**



# SB 1350

## A.R.S. §§ 42-5076 and 42-6009

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- Establishes a mechanism, beginning in 2017, for an online lodging marketplace to voluntarily agree to be a licensed taxpayer in order to file and pay State and municipal TPT on behalf of its client owners that offer residential short-term vacation rentals.
- Effective from and after December 31, 2016



# Changes to Expect When Filing 2016 Income Tax Returns



# Qualifying Charitable Organizations (QCO) and Qualifying Foster Care Charitable Organizations (QFCCO) Credits

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- Beginning with the 2016 tax year, donations to QCOs and QFCCOs are claimed as separate credits with separate limitations for each, rather than combined limitations.
- Donations to QCOs (not including QFCCOs) will still be claimed on Arizona Form 321. Donations to QFCCOs will now be claimed on Arizona Form 352. Any unused Carryover from prior to 2016 must be claimed on Arizona Form 321.
- The maximum credit for contributions to a QCO is \$400 ( \$800 for MFJ).
- The maximum credit for contributions to a QFCCO is \$500 (\$1,000 for MFJ).
- Also new for 2016, donations may be made through April 15 following the close of the tax year.

For more information see Arizona Publication 710.



# Bonus Depreciation for Individuals

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- For property placed in service in taxable years beginning from and after 12/31/2015 (2016), individuals will be allowed depreciation based on bonus depreciation that is 55% of the federal bonus depreciation (was 10%).
- For property placed in service in taxable years beginning from and after 12/31/2016, individuals are allowed 100% of the federal depreciation.
- Note: partnership returns apply the additions and subtractions allowed to individuals. Therefore, the bonus depreciation adjustments that apply to individuals also apply to partnerships.
- See Arizona Individual Income Tax Procedure **ITP 16-2** for examples of the computations for each year.



# Qualified Facility Income Tax Credit Background

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- A “qualified Facility” means a facility in Arizona that devotes at least 80% of the property and payroll at the facility to qualified manufacturing, headquarters, or research. At least 65% of the revenue must be from out-of-state.
- The credit must go through an approval process with the Arizona Commerce Authority. This credit and the Renewable Energy Industry Credit share a combined yearly cap of \$70M.
- The credit is a refundable credit paid out over 5 years.
- The credit is based on the lesser 10% of either:
  - qualified investment in the facility, or
  - \$200,000 per each net new full-time position at the qualified facility.



# Qualified Facility Income Tax Credit Changes

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- Under prior law 51% of the net new full-time employment positions at the qualified facility pay a wage that equals or exceeds 125% of the median annual wage in this state (\$43,343).
- The new law (effective 8/6/2016) requires 125% of the median annual wage for **production** occupations in Arizona (\$39,260). In the case of a qualified facility in a rural location, the requirement is reduced to 100% of the median annual wage for production occupations in Arizona (\$31,408).



# Qualified Facility Income Tax Credit Changes

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- The portion of employee health insurance cost (at the facility) that is required to be covered by the applicant is reduced from 80% to 65%.
- Arizona Commerce Authority may not preapprove applicants after 12/31/2022 (was 2019).
- The definition of qualified investment was amended to allow costs spent by a third party developer with respect to the qualified facility if the qualified facility is a build-to-suit facility leased by the taxpayer.



# Qualified Facility Income Tax Credit Changes

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- Each year after the post-approval of the credit when the taxpayer files their return the taxpayer shall reduce the amount of the credit claimed for the taxable year by \$4,000 for each employment position (for which a credit was claimed) that was vacant for more than 150 days from the date the position was first filled to the end of that tax year.



# Miscellaneous Individual Income Changes

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- Credit for contribution to Private School Tuition Organizations (Form 323) was adjusted for inflation. For 2016 the limit is **\$545** (**\$1090** for MFJ).
- Credit for contribution to Private School Tuition Organizations (Form 348) was adjusted for inflation. For 2016 the limit is **\$542** (**\$1083** for MFJ).
- The credit for contributions to public schools (Form 322) was amended to change the definition of extracurricular activities to say that they **may** require an enrolled student to pay a fee. The word **may** was added. In addition, training through the school for cardiopulmonary resuscitation training now qualifies for credit monies.
- Tax brackets adjusted for inflation.
- The standard deduction was indexed for inflation in 2016:
  - Single or married filing separate is **\$5,099** (was \$5,091)
  - Head of household or married filing joint is **\$10,189** (was \$10,173)



# Miscellaneous Corporate Income Changes

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- **Tax Rate Changes** - The corporate income tax rate is reduced as follows:
  - 5.5% (was 6%) for taxable years beginning from and after December 31, 2015 through December 31, 2016
  - 4.9% for taxable years beginning from and after December 31, 2016
- **Apportionment Changes** –
  - For years beginning in 2016, the enhanced apportionment ratio is adjusted to 95% sales factor, 2.5% property factor and 2.5% payroll factor (was 90%, 5% and 5% respectively).
  - For years beginning in 2016, a qualified multistate service provider may elect to calculate the sales factor for the service income using 95% market sales and 5% income producing activity sales.



# **Income Tax Changes That May Allow Refunds From Prior Years.**



# Wrongful Incarceration Exclusion

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- Arizona conformed to a federal change that allows an exclusion from income for civil damages, restitution, or other monetary awards received by a wrongfully incarcerated individual if they relate to his or her covered offense for which he or she was convicted.
- The person must have been convicted of a criminal offense under federal or state law.



# Wrongful Incarceration Exclusion

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- **The taxpayer served all or part of a sentence of imprisonment relating to the criminal offense and meets one of the following requirements:**
  - The individual was pardoned, granted clemency, or granted amnesty for that covered offense, because the individual was innocent of that covered offense; or
  - The judgement of conviction for the individual for that covered offense was reversed or vacated and the indictment, information, or other accusatory instrument for that covered offense was dismissed; or
  - The judgement of conviction for the individual for that covered offense was reversed or vacated and the individual was found not guilty at a new trial after the judgment of conviction for that covered offense was reversed or vacated.



# Wrongful Incarceration Exclusion Refund Claims

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- The change applies to all past, present, and future years. However, like the federal requirement, any **amended returns for years prior to 2012 must be filed by December 19, 2016.**
- There are specific requirements regarding the filing of these amended returns.
- For more information regarding this new exclusion and for the proper way to file refund requests see Arizona Publication 711 available on the Department's website.



# Native American Settlement Fund Refunds

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- The Native American Settlement Fund was established on July 1, 2016 to refund Arizona income tax erroneously withheld from Native Americans who served in the military while claiming tribal land as their domicile.
- The fund is \$2,000,000. 5% is allocated to the Department of Revenue and 5% to the Department of Veterans' Services for Administration.
- Refunds may only be granted for 1993 through 2005.
- Refunds are on a first come, first served basis until the fund is exhausted.



# Native American Settlement Fund Refunds

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- **Who may Claim?** Native American veterans who had Arizona income tax withheld from their active military pay while domiciled on the reservation. If veteran is deceased the surviving spouse or personal representative may make a claim. If anyone other than the surviving spouse or personal representative (e.g., child of the veteran) makes a claim they must show the value of decedent's estate was less than \$30,000.
- **What are the application forms?** Arizona Form NASF for general claims, Arizona Form NASF-D is an additional form for claimants if the veteran is deceased and Arizona Form NASF-RS is a form used to substantiate the veteran's residency.



# Native American Settlement Fund Refunds

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- **Application Process:** Claimant sends completed paper work to Department of Veterans' Services. Veterans' Services has 210 days to accept or reject the claim. Approved claims are then sent to the Department of Revenue. The Department of Revenue has 210 days to approve or reject claims. The Department of Revenue will issue refunds to claimants with valid claims.
- **Years fund is open:** The fund is established July 1, 2016. The Department of Veterans' Service may not accept claims after December 31, 2017. The Department of Revenue will not grant refunds after June 30, 2019. Any money left in the Fund on July 1, 2019 will be swept into the general fund.



# Native American Settlement Fund Refunds

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- **What does claimant have to demonstrate?**
  - Produce evidence of military service (DD-214). The Department of Veterans' Services will request from DOD if needed.
  - Sign a statement they were an enrolled member of the tribe while serving in the military
  - Produce evidence of domicile while serving in the military
  - Show state income tax was withheld (DOR will attempt to aid Veterans in obtaining old W-2's)
  - Sign a statement the state income tax was not refunded

The Department is currently working with the Department of Veterans' Services to finalize the process. A notice will be posted on AZDOR.gov when Taxpayer's can begin filing requests with the Department of Veterans' Services.



# Partnership Issues



# Partnership Due Date

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- Arizona has conformed to federal changes to the partnership filing deadline. For 2016 returns filed in 2017, the new deadline is the **15<sup>th</sup> day of the 3<sup>rd</sup> month**. This allows time for the partners to file after receiving the partnership information. Partnership extensions will now be for 6 months rather than 5.



# Federal Partnership Audits

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- For taxable years beginning in 2018, all partnerships, other than those with less than 100 partners that opt out, will fall under new requirements that allow the IRS to assess an imputed tax at the partnership level. Audit adjustments will be assessed at the partnership level but the partnership may elect to push the tax out to the partners to report the amount as an additional tax on the current return. Partnerships may elect the new treatment for 2016 and 2017.
  - For Arizona purposes if the partnership tax is paid at the partnership level for federal purposes, the tax will be paid at the partnership level for Arizona.
  - If the partnership elected to have the tax passed through to the partners at the federal level (and paid with the current return), for Arizona purposes the partnership will be required to report to each partner and the Department the partners share of the adjustments that made up the imputed tax (other than credits) within 90 days of the federal adjustment becoming final. If the partnership does not report to the partners within the required 90 days the partnership will be required to pay the tax at the partnership level. If the partnership does report to the partners timely, the partners will have 150 days from when the federal assessment became final (i.e. an additional 60 days).
  - The Department is working on a new partnership form and instructions to be used by those partnerships that make the election for the new federal law to apply to 2016 and that are assessed for 2016. At this point we believe the new form will be Arizona Form 165PA (the PA stands for Partnership Adjustment).



# Questions?

