

ARIZONA CORPORATE TAX RULING

CTR 94-17

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 tangible personal property which is temporarily stored in this state during interstate shipment considered to be stored or shipped from this state for purposes of computing the sales factor of the apportionment ratio?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 43-1146 provides the basis for determining the situs of tangible personal property when computing the sales factor of the apportionment ratio.

Arizona Administrative Code (A.A.C.) rule R15-2-1146.A.1.b further defines the computation of the Arizona numerator of the sales factor when property is shipped from a place of storage in Arizona into a state in which the taxpayer is not taxable.

Appeal of Craig Corporation (S.B.E. 3-3-87) addressed the issue of temporary storage of property in the computation of the apportionment ratio.

DISCUSSION:

Pursuant to A.A.C. R15-2-1146.A.1.b, sales of tangible personal property are considered Arizona sales (throwback sales) and included in the numerator of the sales factor if the property is shipped from a place of storage in this state and the taxpayer is not taxable in the state of the purchaser.

The issue being considered here is whether the temporary storage of property in this state due to an interruption of an interstate journey is considered to be storage in this state for purposes of A.A.C. R15-2-1146. Storage in this state would require the sales to be included in the Arizona numerator, rather than the numerator of the state from which the goods were originally shipped, if the destination is a state in which the taxpayer is not taxable.

The department will not consider property to be stored in this state for purposes of the apportionment ratio if the storage was solely a temporary interruption of an interstate journey caused by inability to continue transportation of the property and the company does not subject the stored property to any other use. This principle was recognized by the California Board of Equalization in a case involving the property factor. See Appeal of Craig Corporation (S.B.E. 3-3-87).

For example, property would not be considered to be stored in this state if a shipment is interrupted in order to transfer the goods to another vehicle or means of transportation or if the journey is delayed due to mechanical failure of the vehicle transporting the product or due to a temporary road closure.

The interruption must not be the result of circumstances created for the benefit of the shipper, such as awaiting additional goods to create a full load, performing services on the goods, or satisfying a customer's request to delay delivery.

RULING:

Tangible personal property being transported through Arizona which is temporarily stored in the state due to interruption of an interstate journey shall not be considered to be stored or shipped from this state for sales factor purposes if the interruption is solely caused by inability to continue immediate transshipment and the property is not utilized or stored for any other purpose.

Harold Scott, Director
Signed: April 11, 1995

Explanatory Notice

The purpose of a tax ruling is to provide interpretive guidance to the general public and to department personnel. A tax ruling is intended to encompass issues of law which are not adequately covered in statute, case law or administrative rules. A tax ruling is a position statement which provides interpretation, details or supplementary information concerning the application of the law. **Relevant statute, case law, or administrative rules, as well as a subsequent ruling, may modify or negate any or all of the provisions of any tax ruling.** See GTP 92-1 for more detailed information regarding documents issued by the Department of Revenue.