

ARIZONA DEPARTMENT OF REVENUE

ARIZONA TRANSACTION PRIVILEGE TAX RULING

TPR 93-12

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:

Sales of seeds and plants.

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-1310.01.A.35 provides an exemption from the transaction privilege tax under the retail classification for the gross proceeds of sales or gross income from sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

A.R.S. § 42-1310.01.A.15 provides an exemption from the transaction privilege tax under the retail classification for the gross proceeds of sales or gross income from sales of food.

A.R.S. § 42-1381.3 defines "food" to mean any food item intended for human consumption which is intended for home consumption as defined by rules and regulations adopted by the department pursuant to A.R.S. § 42-1387.

A.R.S. § 42-1387.B.3 provides that the department shall include, in the definition of food, seeds and plants used to grow food for personal consumption.

A.R.S. § 42-1301 defines "person" or "company" to include an individual, firm, partnership, joint venture, association, corporation, estate or trust, this state, a county, city, town, district other than a school district, or other political subdivision and any other group or combination acting as a unit, and the plural as well as the singular number.

RULING:

Retail sales of seeds or plants to **commercial** producers of plants, flowers or food crops in this state are exempt from transaction privilege tax under A.R.S. § 42-1310.01.A.35.

If seeds or plants, which were purchased for commercial production, are taken from inventory and used by the producer for a noncommercial purpose, the seeds or plants are subject to the use tax. For example: seeds are purchased to grow commercial sod. The producer uses a portion of the seed in landscaping the company's own property. The cost of the seed used by the producer is subject to the use tax.

Sales of seeds and plants to individuals to **grow food for personal consumption** are exempt from tax under A.R.S. § 42-1310.01.A.15. For example, the sale of an orange tree to an individual for growing fruit for his own consumption is exempt under this provision.

Sales of seeds and plants to persons for non-commercial use are subject to transaction privilege tax if the plants or seeds are not used to grow food for personal consumption. For example, the sale of flower seeds and decorative plants to an individual or to a company for home or business landscaping is taxable.

Harold Scott, Acting Director
Signed March 15, 1993

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.