

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

# SENATE BILL 1166

AN ACT

AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL TRANSACTION PRIVILEGE TAX EXEMPTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 42-6004. Exemption from municipal tax

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

7 1. Exhibition events in this state sponsored, conducted or operated by  
8 a nonprofit organization that is exempt from taxation under section  
9 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
10 organization is associated with a major league baseball team or a national  
11 touring professional golfing association and no part of the organization's  
12 net earnings inures to the benefit of any private shareholder or individual.

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

16 3. Sales of warranty or service contracts.

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

20 5. Interest on finance contracts.

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

22 7. Sales of food or other items purchased with United States  
23 department of agriculture food stamp coupons issued under the food stamp act  
24 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section  
25 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,  
26 section 4302; 42 United States Code section 1786) but may impose such a tax  
27 on other sales of food. If a city, town or special taxing district exempts  
28 sales of food from its tax or imposes a different transaction privilege rate  
29 on the gross proceeds of sales or gross income from sales of food and nonfood  
30 items, it shall use the definition of food prescribed by rule adopted by the  
31 department pursuant to section 42-5106.

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

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

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

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

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

3           11. The gross proceeds of sales or gross income derived from a  
4 commercial lease in which a reciprocal insurer or a corporation leases real  
5 property to an affiliated corporation. For the purposes of this paragraph:

6           (a) "Affiliated corporation" means a corporation that meets one of the  
7 following conditions:

8           (i) The corporation owns or controls at least eighty per cent of the  
9 lessor.

10           (ii) The corporation is at least eighty per cent owned or controlled  
11 by the lessor.

12           (iii) The corporation is at least eighty per cent owned or controlled  
13 by a corporation that also owns or controls at least eighty per cent of the  
14 lessor.

15           (iv) The corporation is at least eighty per cent owned or controlled  
16 by a corporation that is at least eighty per cent owned or controlled by a  
17 reciprocal insurer.

18           (b) For the purposes of subdivision (a) OF THIS PARAGRAPH, ownership  
19 and control are determined by reference to the voting shares of a  
20 corporation.

21           (c) "Reciprocal insurer" has the same meaning as prescribed in section  
22 20-762.

23           12. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A  
24 COMMERCIAL LEASE IN WHICH A CORPORATION LEASES REAL PROPERTY TO A CORPORATION  
25 OF WHICH AT LEAST EIGHTY PER CENT OF THE VOTING SHARES OF EACH CORPORATION  
26 ARE OWNED BY THE SAME SHAREHOLDERS.

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

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

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

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

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

1           4. Incarcerating or detaining in a privately operated prison, jail or  
2 detention facility prisoners who are under the jurisdiction of the United  
3 States, this state or any other state or a political subdivision of this  
4 state or of any other state.

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

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

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

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

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

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

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

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

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

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