

REFERENCE TITLE: use tax; service vehicles; inventory

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# **SB 1636**

Introduced by  
Senator Pace

AN ACT

AMENDING SECTIONS 42-5151 AND 42-5157, ARIZONA REVISED STATUTES; RELATING  
TO TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5151, Arizona Revised Statutes, is amended to  
3 read:

4 42-5151. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Ancillary services" means those services so designated in  
7 federal energy regulatory commission order 888 adopted in 1996 that  
8 include the services necessary to support the transmission of electricity  
9 from resources to loads while maintaining reliable operation of the  
10 transmission system according to good utility practice.

11 2. "Electric distribution service" means distributing electricity  
12 to retail electric customers through the use of electric distribution  
13 facilities.

14 3. "Electric generation service" means providing electricity for  
15 sale to retail electric customers but excluding electric distribution or  
16 transmission services.

17 4. "Electric transmission service" means transmitting electricity  
18 to retail electric customers or to electric distribution facilities so  
19 classified by the federal energy regulatory commission or, to the extent  
20 permitted by law, so classified by the ~~Arizona~~ corporation commission.

21 5. "Electric utility services" means the business of providing  
22 electric ancillary services, electric distribution services, electric  
23 generation services, electric transmission services and other services  
24 related to providing electricity.

25 6. "Electricity" means electric energy, electric capacity or  
26 electric capacity and energy.

27 7. "Electricity supplier" means a person, whether acting in a  
28 principal, agent or other capacity, that offers to sell electricity to a  
29 retail electric customer in this state.

30 8. "Natural gas" means natural or artificial gas, ~~and~~ and includes  
31 methane and propane gas, the natural gas commodity, natural gas pipeline  
32 capacity or natural gas commodity and pipeline capacity.

33 9. "Natural gas utility services" means the business of selling  
34 natural gas or providing natural gas transportation services or other  
35 services related to providing natural gas.

36 10. "Notice" means written notice served personally or by certified  
37 mail and addressed to the last known address of the person to whom such  
38 notice is given.

39 11. "MOTOR VEHICLES THAT ARE REMOVED FROM INVENTORY" MEANS A MOTOR  
40 VEHICLE THAT HAS BEEN REMOVED FROM A MOTOR VEHICLE DEALER'S, AS DEFINED IN  
41 SECTION 28-4301, INVENTORY AND THAT IS NOT FOR SALE.

42 ~~11.~~ 12. "Other services" includes metering, meter reading  
43 services, billing and collecting services.

44 ~~12.~~ 13. "Person" means an individual, firm, partnership, joint  
45 venture, association, corporation, estate, trust, receiver or syndicate,

1 this state or a county, city, municipality, district or other political  
2 subdivision or agency thereof.

3 ~~13.~~ 14. "Purchase" means any transfer, exchange or barter,  
4 conditional or otherwise, in any manner or by any means, of tangible  
5 personal property for a consideration, including transactions by which the  
6 possession of property is transferred but the seller retains the title as  
7 security for payment.

8 ~~14.~~ 15. "Purchase price" or "sales price" means the total amount  
9 for which tangible personal property is sold, including any services that  
10 are a part of the sale, valued in money, whether paid in money or  
11 otherwise, and any amount for which credit is given to the purchaser by  
12 the seller without any deduction on account of the cost of the property  
13 sold, materials used, labor or services performed, interest charged,  
14 losses or other expenses, but does not include:

15 (a) Discounts allowed and taken.

16 (b) Charges for labor or services in installing, remodeling or  
17 repairing.

18 (c) Freight costs billed to and collected from a purchaser by a  
19 retailer for tangible personal property which, on the order of the  
20 retailer, is shipped directly from a manufacturer or wholesaler to the  
21 purchaser.

22 (d) Amounts attributable to federal excise taxes imposed by 26  
23 United States Code section 4001, 4051 or 4081 on sales of heavy trucks and  
24 trailers and automobiles or on sales of use fuel, as defined in section  
25 28-5601.

26 (e) The value of merchandise that is traded in on the purchase of  
27 new or pre-owned merchandise when the trade-in allowance is deducted from  
28 the sales price of the new or pre-owned merchandise before the completion  
29 of the sale.

30 ~~15.~~ 16. "Retail electric customer" means a person who purchases  
31 electricity for that person's own use, including use in that person's  
32 trade or business, and not for resale, redistribution or retransmission.

33 ~~16.~~ 17. "Retail natural gas customer" means a person who purchases  
34 natural gas for that person's own use, including use in that person's  
35 trade or business, and not for resale, redistribution or retransmission.

36 ~~17.~~ 18. "Retailer" includes:

37 (a) Every person engaged in the business of making sales of  
38 tangible personal property for storage, use or other consumption or in the  
39 business of making sales at auction of tangible personal property owned by  
40 that person or others for storage, use or other consumption. If in the  
41 opinion of the department it is necessary for the efficient administration  
42 of this article to regard any salesmen, representatives, peddlers or  
43 canvassers as the agents of the dealers, distributors, supervisors or  
44 employers under whom they operate or from whom they obtain the tangible  
45 personal property sold by them, regardless of whether they are making

1 sales on their own behalf or on behalf of such dealers, distributors,  
2 supervisors or employers, the department may so regard them and may regard  
3 the dealers, distributors, supervisors or employers as retailers for  
4 purposes of this article.

5 (b) A person who solicits orders for tangible personal property by  
6 mail if the solicitations are substantial and recurring or if the retailer  
7 benefits from any banking, financing, debt collection, telecommunication,  
8 television shopping system, cable, optic, microwave or other communication  
9 system or marketing activities occurring in this state or benefits from  
10 the location in this state of authorized installation, servicing or repair  
11 facilities.

12 ~~18.~~ 19. "Solar daylighting" means a device that is specifically  
13 designed to capture and redirect the visible portion of the solar beam,  
14 while controlling the infrared portion, for use in illuminating interior  
15 building spaces in lieu of artificial lighting.

16 ~~19.~~ 20. "Solar energy device" means a system or series of  
17 mechanisms designed primarily to provide heating, to provide cooling, to  
18 produce electrical power, to produce mechanical power, to provide solar  
19 daylighting or to provide any combination of the foregoing by means of  
20 collecting and transferring solar generated energy into such uses by  
21 either active or passive means, including wind generator systems that  
22 produce electricity. Solar energy systems may also have the capability of  
23 storing solar energy for future use. Passive systems shall clearly be  
24 designed as a solar energy device, such as a trombe wall, and not merely  
25 as a part of a normal structure, such as a window.

26 ~~20.~~ 21. "Storage" means keeping or retaining tangible personal  
27 property purchased from a retailer for any purpose except sale in the  
28 regular course of business or subsequent use solely outside this state.  
29 For the purposes of this paragraph, sale in the regular course of business  
30 does not include the transfer of title or possession of coal back and  
31 forth between an owner or operator of a power plant and a person who is  
32 responsible for refining coal if both of the following apply:

33 (a) The transfer of title or possession of the coal is for the  
34 purpose of refining the coal.

35 (b) The title or possession of the coal is transferred back to the  
36 owner or operator of the power plant after completion of the coal refining  
37 process. For the purposes of this subdivision, "coal refining process"  
38 means the application of a coal additive system that aids the reduction of  
39 power plant emissions during the combustion of coal and the treatment of  
40 flue gas.

41 ~~21.~~ 22. "Taxpayer" means any retailer or person storing, using or  
42 consuming tangible personal property, the storage, use or consumption of  
43 which is subject to the tax imposed by this article when such tax was not  
44 paid to a retailer.

1           ~~22.~~ 23. "Use or consumption" means the exercise of any right or  
2 power over tangible personal property incidental to owning the property  
3 except holding for sale or selling the property in the regular course of  
4 business. For the purposes of this paragraph, selling the property in the  
5 regular course of business does not include the transfer of title or  
6 possession of coal back and forth between an owner or operator of a power  
7 plant and a person who is responsible for refining coal if both of the  
8 following apply:

9           (a) The transfer of title or possession of the coal is for the  
10 purpose of refining the coal.

11           (b) The title or possession of the coal is transferred back to the  
12 owner or operator of the power plant after completion of the coal refining  
13 process. For the purposes of this subdivision, "coal refining process"  
14 means the application of a coal additive system that aids the reduction of  
15 power plant emissions during the combustion of coal and the treatment of  
16 flue gas.

17           ~~23.~~ 24. "Utility business" means a person that is engaged in the  
18 business of providing electric utility services to retail electric  
19 customers or natural gas utility services to retail natural gas customers.

20           Sec. 2. Section 42-5157, Arizona Revised Statutes, is amended to  
21 read:

22           42-5157. Motor vehicles removed from inventory; service  
23 vehicles

24           A. The tax imposed by this article on motor vehicles that are  
25 removed from inventory by a motor vehicle dealer as defined in section  
26 28-4301, that are used directly in the conduct of the motor vehicle  
27 dealer's primary business and that are returned to the dealer's active  
28 sales inventory within one year after the date of the initial removal from  
29 inventory shall be levied and imposed on a monthly basis and shall be  
30 applied to ~~one thirty-ninth~~ 1/39 of the value of each new motor vehicle as  
31 determined by the manufacturer's suggested retail price and to ~~one~~  
32 ~~thirty-ninth~~ 1/39 of the value of each used motor vehicle as determined by  
33 any industry-wide publication in common use and devoted to listing used  
34 car values.

35           B. A SERVICE VEHICLE IS CONSIDERED TO BE REMOVED FROM INVENTORY IF  
36 THE SERVICE VEHICLE IS CONTINUOUSLY AVAILABLE FOR SALE.

37           Sec. 3. Applicability

38           This act applies to taxable periods beginning on or after the first  
39 day of the month following the general effective date.