

House Engrossed Senate Bill
use tax; service vehicles; inventory

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

CHAPTER 229
SENATE BILL 1636

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.

1 ~~12.~~ 13. "Person" means an individual, firm, partnership, joint
2 venture, association, corporation, estate, trust, receiver or syndicate,
3 this state or a county, city, municipality, district or other political
4 subdivision or agency thereof.

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

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

17 (a) Discounts allowed and taken.

18 (b) Charges for labor or services in installing, remodeling or
19 repairing.

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

24 (d) Amounts attributable to federal excise taxes imposed by 26
25 United States Code section 4001, 4051 or 4081 on sales of heavy trucks and
26 trailers and automobiles or on sales of use fuel, as defined in section
27 28-5601.

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

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

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

38 ~~17.~~ 18. "Retailer" includes:

39 (a) Every person engaged in the business of making sales of
40 tangible personal property for storage, use or other consumption or in the
41 business of making sales at auction of tangible personal property owned by
42 that person or others for storage, use or other consumption. If in the
43 opinion of the department it is necessary for the efficient administration
44 of this article to regard any salesmen, representatives, peddlers or

1 canvassers as the agents of the dealers, distributors, supervisors or
2 employers under whom they operate or from whom they obtain the tangible
3 personal property sold by them, regardless of whether they are making
4 sales on their own behalf or on behalf of such dealers, distributors,
5 supervisors or employers, the department may so regard them and may regard
6 the dealers, distributors, supervisors or employers as retailers for
7 purposes of this article.

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

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

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

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

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

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

1 Sec. 3. Purpose

2 The purpose of this act is to clarify the scope of section 42-5157,
3 Arizona Revised Statutes, as added by Laws 1993, chapter 12, section 1 and
4 the treatment of service vehicles thereunder from and after December 31,
5 1992.

6 Sec. 4. Applicability

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

APPROVED BY THE GOVERNOR MAY 16, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 16, 2022.