

REFERENCE TITLE: TPT; exemption; utilities; residential customers

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2213

Introduced by
Representative Griffin

AN ACT

AMENDING SECTION 42-5063, ARIZONA REVISED STATUTES; RELATING TO
TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5063, Arizona Revised Statutes, is amended to
3 read:

4 42-5063. Utilities classification; definitions

5 A. The utilities classification is comprised of the business of:

6 1. Producing and furnishing or furnishing to consumers natural or
7 artificial gas and water.

8 2. Providing to retail electric customers ancillary services,
9 electric distribution services, electric generation services, electric
10 transmission services and other services related to providing electricity.

11 B. The utilities classification does not include:

12 1. Sales of ancillary services, electric distribution services,
13 electric generation services, electric transmission services and other
14 services related to providing electricity, gas or water to a person who
15 resells the services.

16 2. Sales of natural gas or liquefied petroleum gas used to propel a
17 motor vehicle.

18 3. Sales of alternative fuel, as defined in section 1-215, to a
19 used oil fuel burner who has received a permit to burn used oil or used
20 oil fuel under section 49-426 or 49-480.

21 4. Sales of ancillary services, electric distribution services,
22 electric generation services, electric transmission services and other
23 services that are related to providing electricity to a retail electric
24 customer who is located outside this state for use outside this state if
25 the electricity is delivered to a point of sale outside this state.

26 5. Sales or other transfers of renewable energy credits or any
27 other unit created to track energy derived from renewable energy
28 resources. For the purposes of this paragraph, "renewable energy credit"
29 means a unit created administratively by the corporation commission or
30 governing body of a public power utility to track kilowatt hours of
31 electricity derived from a renewable energy resource or the kilowatt hour
32 equivalent of conventional energy resources displaced by distributed
33 renewable energy resources.

34 6. The leasing or renting of space to make attachments to utility
35 poles as follows:

36 (a) By a person that is engaged in business under this section.

37 (b) To a person that is engaged in business under this section or
38 section 42-5064 or that is a cable operator.

39 C. The tax base for the utilities classification is the gross
40 proceeds of sales or gross income derived from the business, but the
41 following shall be deducted from the tax base:

42 1. Revenues received by a municipally owned utility in the form of
43 fees charged to persons constructing residential, commercial or industrial
44 developments or connecting residential, commercial or industrial
45 developments to a municipal utility system or systems if the fees are

1 segregated and used only for capital expansion, system enlargement or debt
2 service of the utility system or systems.

3 2. Revenues received by any person or persons owning a utility
4 system in the form of reimbursement or contribution compensation for
5 property and equipment installed to provide utility access to, on or
6 across the land of an actual utility consumer if the property and
7 equipment become the property of the utility. This deduction shall not
8 exceed the value of such property and equipment.

9 3. Gross proceeds of sales or gross income derived from sales to:

10 (a) Qualifying hospitals as defined in section 42-5001.

11 (b) A qualifying health care organization as defined in section
12 42-5001 if the tangible personal property is used by the organization
13 solely to provide health and medical related educational and charitable
14 services.

15 (c) RESIDENTIAL NATURAL OR ARTIFICIAL GAS AND ELECTRICITY RETAIL
16 CUSTOMERS.

17 4. The portion of gross proceeds of sales or gross income that is
18 derived from sales to a qualified environmental technology manufacturer,
19 producer or processor as defined in section 41-1514.02 of a utility
20 product and that is used directly in environmental technology
21 manufacturing, producing or processing. This paragraph shall apply for
22 twenty full consecutive calendar or fiscal years from the date the first
23 paper manufacturing machine is placed in service. In the case of a
24 qualified environmental technology manufacturer, producer or processor who
25 does not manufacture paper, the time period shall begin with the date the
26 first manufacturing, processing or production equipment is placed in
27 service.

28 5. The portion of gross proceeds of sales or gross income
29 attributable to transfers of electricity by any retail electric customer
30 owning a solar photovoltaic energy generating system to an electric
31 distribution system, if the electricity transferred is generated by the
32 customer's system.

33 6. Gross proceeds of sales or gross income derived from sales of
34 electricity, natural gas or liquefied petroleum gas to a qualified
35 manufacturing or smelting business. A utility that claims this deduction
36 shall report each month, on a form prescribed by the department, the name
37 and address of each qualified manufacturing or smelting business for which
38 this deduction is taken. This paragraph applies to gas transportation
39 services. For the purposes of this paragraph:

40 (a) "Gas transportation services" means the services of
41 transporting natural gas to a natural gas customer or to a natural gas
42 distribution facility if the natural gas was purchased from a supplier
43 other than the utility.

44 (b) "Manufacturing" means the performance as a business of an
45 integrated series of operations that places tangible personal property in

1 a form, composition or character different from that in which it was
2 acquired and transforms it into a different product with a distinctive
3 name, character or use. Manufacturing does not include job printing,
4 publishing, packaging, mining, generating electricity or operating a
5 restaurant.

6 (c) "Qualified manufacturing or smelting business" means one of the
7 following:

8 (i) A business that manufactures or smelts tangible products in
9 this state, of which at least fifty-one percent of the manufactured or
10 smelted products will be exported out of state for incorporation into
11 another product or sold out of state for a final sale.

12 (ii) A business that derives at least fifty-one percent of its
13 gross income from the sale of manufactured or smelted products
14 manufactured or smelted by the business.

15 (iii) A business that uses at least fifty-one percent of its square
16 footage in this state for manufacturing or smelting and business
17 activities directly related to manufacturing or smelting.

18 (iv) A business that employs at least fifty-one percent of its
19 workforce in this state in manufacturing or smelting and business
20 activities directly related to manufacturing or smelting.

21 (v) A business that uses at least fifty-one percent of the value of
22 its capitalized assets in this state, as reflected on the business's books
23 and records, for manufacturing or smelting and business activities
24 directly related to manufacturing or smelting.

25 (d) "Smelting" means to melt or fuse a metalliferous mineral, often
26 with an accompanying chemical change, usually to separate the metal.

27 7. Gross proceeds of sales or gross income derived from sales of
28 electricity or natural gas to a business that operates an international
29 operations center in this state and that is certified by the Arizona
30 commerce authority pursuant to section 41-1520.

31 D. For the purposes of this section:

32 1. "Ancillary services" means those services so designated in
33 federal energy regulatory commission order 888 adopted in 1996 that
34 include the services necessary to support the transmission of electricity
35 from resources to loads while maintaining reliable operation of the
36 transmission system according to good utility practice.

37 2. "Cable operator" has the same meaning prescribed in section
38 9-505 and includes a video service provider.

39 3. "Electric distribution service" means distributing electricity
40 to retail electric customers through the use of electric distribution
41 facilities.

42 4. "Electric generation service" means providing electricity for
43 sale to retail electric customers but excluding electric distribution or
44 transmission services.

1 5. "Electric transmission service" means transmitting electricity
2 to retail electric customers or to electric distribution facilities so
3 classified by the federal energy regulatory commission or, to the extent
4 permitted by law, so classified by the Arizona corporation commission.

5 6. "Other services" includes metering, meter reading services,
6 billing and collecting services.

7 7. "Retail electric customer" means a person who purchases
8 electricity for that person's own use, including use in that person's
9 trade or business and not for resale, redistribution or retransmission.

10 8. "Utility pole" means any wooden, metal or other pole used for
11 utility purposes and the pole's appurtenances that are attached or
12 authorized for attachment by the person controlling the pole.

13 Sec. 2. Applicability

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