

ARIZONA

SALES/USE TAXES -- Yes LOCAL TAXES -- Yes

SALES:

5.60%. Arizona imposes a Transaction Privilege Tax (TPT) that differs from the sales tax imposed by most states. The TPT is a tax that is imposed in the privilege of conducting business in the state of Arizona. The tax is levied on the seller, not the purchaser. The seller may pass the burden of the tax onto the purchaser; however, the seller is ultimately liable to Arizona for the tax. The TPT applies to the retail sales of aircraft. In addition, all 15 counties levy a tax. Incorporated municipalities also levy a transaction privilege tax that range approximately from 0% - 7.1%. Effective June 1, 2010 the state transaction privilege (sales) and use tax increased from 5.6% to 6.6%. This is a temporary increase until May 31, 2013. On June 1, 2013 the AZ State Transaction Privilege Tax and Use tax reverted back to 5.6%.

References: (ARS Sec. 42-5010.11, Sec. 42-1317, Pub 616)

LEGISLATIVE ACTIVITY

On 5/19/16 the Governor SIGNED HB2533 that will exempt certain aircraft operated on a 135 certificate from the TPT and Use Tax, effective 7/1/17 and retroactive to 1998.

On 3/23/17 the Governor SIGNED HB2064 that addresses the treatment of jet fuel. Fuel tax only applies to the first 10M gallons of fuel. The tax is dedicated to the airport at which it was collected.

On 4/10/17 the Governor VETOED HB2533 what would have provided an exemption for aircraft operating under FAR 91 Subpart K (aircraft in a fractional program).

POSSIBLE EXEMPTIONS

Common Carrier: - Yes

Effective July 1, 2017

42-5061.B.7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person:

(i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(ii) That is certificated or licensed under federal aviation regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(iii) Holding a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(iv) Operating an aircraft to transport persons in any manner for compensation or hire including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection N.

42-5009.N. The department shall prescribe the form of a certificate to be used by a person purchasing an aircraft to

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document eligibility for a deduction pursuant to section 42-5061, subsection B, paragraph 7, subdivision (a), item (v) or an exemption pursuant to section 42-5159, subsection B, paragraph 7, subdivision (a), item (v), relating to aircraft. The person must provide this certificate and documentation confirming that the operational control of the aircraft has been transferred or will be transferred immediately after the purchase to one or more persons described in section 42-5061, subsection B, paragraph 7, subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159, subsection B, paragraph 7, subdivision (a), item (i), (ii), (iii) or (iv). Operational control of the aircraft must be transferred for at least fifty percent of the aircraft's flight hours. If such operational control is not transferred for at least fifty percent of the aircraft's flight hours during the recapture period, the owner of the aircraft is liable for an amount equal to any tax that the seller or purchaser would have been required to pay under this chapter at the time of the sale, plus penalty and interest. The recapture period begins on the date that operational control of the aircraft is first transferred and ends on the later of the date the aircraft is fully depreciated for federal income tax purposes or five years after operational control was first transferred. For the purposes of this subsection, operational control of the aircraft must be within the meaning of federal aviation administration operations specification A008, or its successor, except that:

1. If it is determined that operational control has been transferred for less than fifty percent but more than forty percent of the aircraft's flight hours, the owner of the aircraft is liable for an amount equal to any tax that the seller or purchaser would have been required to pay under this chapter at the time of the sale, plus interest.
2. If the aircraft is sold during the recapture period, the seller is not liable for the amount determined pursuant to this subsection unless the operational control of the aircraft had not been transferred for at least fifty percent of the aircraft's flight hours at the time of the sale.

References: (ARS Sec. 42-5061(B)(7)(a), 42-5159(B)(7)(a), 42-5009.N & Form 5000AC)

Casual/Occasional Sales: - Yes

Gross receipts from a casual sale, as defined in R15-5-2001, are not taxable under the retail classification. R15-5-2001 defines a "casual sale" as an occasional transaction of an isolated nature made by a person who is not engaged in the business of selling, within or without the state, the same type or character of property as that which was sold. Publication 610 - Casual sales between individuals are not subject to the use tax.

References: (R15-5-102 & R15-5-2312 & 15-5-2001 & PUB 610)

Related Entity: - Yes

Gross receipts from the sale of a business as a going concern shall not be taxable if the sale is for the business as an operating enterprise. The tax shall be computed upon the constructive purchase price when the transaction is between affiliated persons.

References: (R15-5-103 & R15-5-2010)

Fly Away Exemption: - Yes

No tax applies to the sale of aircraft and related equipment if such property is 1) not used in the state except to remove such property from the state, and 2) sold to persons who are not residents of Arizona.

A non-resident is an individual who is not a resident for Arizona income tax purposes or an entity that has no business location or business nexus in Arizona.

References: (ARS Sec. 42-5061(B)(7)(c), 42-5159(B)(7)(c) & 15-5-176 and LR 01-003 and Form 5000AC)

Trade In Allowance: - Yes

The dollar amount of the payment represented by the trade-in is deductible from the retailer's gross receipts from that sale.

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References: (R15-5-132 & 42-5001(6))

Credit for Tax Paid: - Yes

A. When a Sales Tax has been paid in the state of purchase equal to or greater than the Arizona Use Tax, the purchaser has no further liability.

B. In cases where the amount of Sales Tax paid in the state of purchase is less than the Arizona Use Tax, the purchaser has an additional liability to the state of Arizona. For example, if the amount of tax paid in another state is 3% of the purchase price and the Arizona Use Tax rate is 4%, the purchaser is required to pay an additional 1%.

References: (R15-5-2305 & ARS 42-5159(A)(2))

Other:

NON-RESIDENT

The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property: Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state. (ARS 42-5159.A.6)

AGRICULTURAL EXEMPTION

1) HB2133 was signed by the Governor 5/5/16 and is retroactive to back to 1985. It clarifies the TPT & Use tax exemption for Agricultural Aircraft. It exempts crop dusters and other aircraft used by farms from the TPT and use tax. (ARS 42-5159.B.13)

FLIGHT TRAINING

Leasing or renting aircraft, flight simulators or similar training equipment to students or staff by nonprofit, accredited educational institutions that offer associate or baccalaureate degrees in aviation or aerospace related fields. (42-5071.a.6)

References: (ARS 42-5159.A.6.)

RESALE/LESSOR: - Yes

5.6%, plus local taxes.

The Transaction Privilege Tax is imposed on the business of leasing or renting of tangible personal property for a consideration with or without crew. However, leases or rentals of an aircraft, which, if it had been purchased instead of leased or rented by the lessee, would have been exempt under the common carrier exemption, are exempt from the tax on the lease payments.

References: (R15-5-101, ARS 42-5061(V)(3), R15-5-2309, ARS Sec. 42-5071 & ARS 42-5062(A)(2) & Form 5000A)

RESALE/DEALER: - Yes

5.6%, plus local taxes.

Gross receipts from the sale of tangible personal property to be resold by the purchaser in the ordinary course of business are not taxable under the retail classification. Gross receipts from the sale of tangible personal property to be leased out by a person in the business of leasing such personal property are not taxable under the retail classification.

References: (ARS Sec. 42-5071 & ARS 42-5062(A)(2) & 42-5061 and Form 5000A)

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5.60%. Retail sales of aircraft parts are subject to the TPT.

Exemptions 1: - Yes

Effective 7-1-2017

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(a) A person:

- (i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.
- (ii) That is certificated or licensed under federal aviation regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.
- (iii) Holding a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.
- (iv) Operating an aircraft to transport persons in any manner for compensation or hire including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.
- (v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection N.

References: (ARS 42-5159.B.7(a) and ARS 5061.B.7(a))

Exemptions 2: - Yes

Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

References: (ARS 42-5159(B)(8))

Exemptions 3: - Yes

Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

Any foreign government, or

Sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

References: (ARS 42-5061(B)(7)(b) & (c), 42-5159(B)(7)(c) and Form 5000AC and LR 02-016)

LABOR:

5.60%.

Exemptions 1: - Yes

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

References: (ARS 42-5151.14(b))

AIRCRAFT REGISTRATION FEES -- Yes

The aircraft registration fee is \$5. NOTE - You can go to <https://servicearizona.com/webapp/aircraft/renewal> to register your aircraft.

References: (ARS Sec. 28-8325)

PERSONAL PROPERTY TAX -- No

Unscheduled aircraft pay the aircraft registration fee in lieu of the personal property tax.

AIRCRAFT ANNUAL LICENSE TAX -- Yes

The annual license tax is imposed on all aircraft required to be registered within the state. This license tax is one-half percent of the average fair market value of the aircraft. If a nonresident has an aircraft in the state for more than 90 consecutive days or more than 90 days in any one calendar year, that aircraft will be required to be registered and will be subject to the license tax. The license tax for a nonresident whose aircraft is based in this state for more than ninety days but less than 210 days in a calendar year is equal to one-tenth of one percent of the average fair market value of the particular make, model and year of aircraft if the aircraft is not engaged in any intrastate commercial activity.

The annual license tax for a maintenance aircraft owned by a non-resident is \$20 for each aircraft. To qualify for the exemption, the nonresident owner or representative shall annually file a sworn affidavit on a form provided by the department with the department not later than the last day of February or within 90 days after the maintenance aircraft enters this state. For purposes of this section "maintenance aircraft" means an aircraft that is not based in this state but is present in this state solely for the purpose of maintenance, repair, or servicing at a Federal certified maintenance facility.

"Resident", for the purpose of registration and operation of motor vehicles:

Except as provided by paragraph 2, means the following:

1. A person who, regardless of domicile, remains in this state for an aggregate period of seven months or more during a calendar year.
2. A person who engages in a trade, profession or occupation in this state or who accepts employment in other than either:
 - a. Seasonal agricultural work.
 - b. Temporary seasonal work for a period of not more than three months if the state in which the temporary seasonal worker is permanently domiciled has a similar exception.
3. A person who places children in a public school without payment of nonresident tuition.
4. A person who declares that the person is a resident of this state for the purpose of obtaining at resident rates a state license or tuition fees at an educational institution maintained by public monies.
5. An individual, partnership, company, firm, corporation or association that maintains a main office, a branch office or warehouse facilities in this state and that bases and operates motor vehicles in this state.
6. An individual, partnership, company, firm, corporation or association that operates motor vehicles in intrastate transportation, for other than seasonal agricultural work.
7. A person who is registered to vote in this state.

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References: (ARS Sec 28-8335, ARS 8322(D)(2), ARS 28-8336 and ARS 28-8341)

JET FUEL TAX ARS Sec. 42-5352(A)

Excise Tax = \$0.0305

Sales Tax = N/A

Exemptions = The Federal government and the U.S. Military are exempt from 50 percent of the excise tax on jet fuel. This tax is on the first ten million gallons of fuel purchased (Form 5008)

AVIATION GASOLINE TAX (ARS Sec. 28-8344(A))

Excise Tax = \$0.0500

Sales Tax = N/A

Exemptions = Aerial applicators are entitled to a refund of the aviation gasoline tax by submitting a request form and documentation of purchase.

STATE AVIATION TRUST FUND -- Yes

Dedication of Taxes

Jet Fuel	No
Aviation Gasoline	Yes
Aircraft Registration Fee	Yes
Personal Property Tax	No
Sales Taxes	No

CONTACT INFORMATION

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