

## Retail Sales General Information

### WHAT ARE YOUR RESPONSIBILITIES?

- The privilege (sales) tax is imposed upon the gross receipts of every person engaging in the business of selling tangible personal property at the retail level.
- You must have a City of Tempe tax license and pay tax if you are in the business of selling items to someone who plans to use the items and not resell or rent them.
- Each business is required to have a separate license for each Tempe location or name.
- The seller owes the tax to the City of Tempe whether or not tax was charged or passed on to the buyer.

### WHAT CITY IS OWED THE TAX?

The retail tax liability is based upon the seller's location, NOT the location of the buyer. If your business location is within the corporate limits of the City of Tempe, you must be licensed and pay tax to the City of Tempe.

### WHAT INCOME IS TAXABLE?

Examples of taxable sales include:

- Sales to individuals, corporations, partnerships, trusts
- Sales to churches, schools, universities, clubs, charities, nonprofit organizations and governmental agencies
- Sales to federally chartered banks and credit unions
- Sales of goods acquired on consignment / sales by brokers and auctioneers
- Sales of artwork
- Sales of non-custom (pre-written) computer software
- Sales of furnishings and appliances to consumers, apartment complexes, and businesses
- Sales of model home furnishings to builders
- Sales of tools and equipment to contractors
- Sales of supplies to doctors, dentists, and veterinarians
- Sales of food, drink, and condiments

- Sales of vehicles and machines, new and used
- Sales of clothing and jewelry
- Sales of prepaid calling cards or prepaid authorization numbers for telecommunication services
- All charges by a photographer resulting in the sale of a photograph.

### Taxable income includes revenues from the following:

- Membership, admission, or other fees charged by limited access retailers.
- Sales to a nonprofit organization. A transaction where the customer is a nonprofit organization is subject to the sales tax even though the property so acquired may be resold or leased by the nonprofit organization to others. However, sales to a qualifying healthcare organization are exempt.
- Sales to Government or Public Institutions other than limited sales exemptions to the federal government. Sales to the state, cities, counties, school districts and other political subdivisions are taxable, including sales to the City of Tempe.

### ZONING REQUIREMENTS

All businesses in Tempe are required to comply with the City's zoning and building codes. Before applying for a tax license you should verify your business activity is permitted at the location. Planning Division (480) 350-8331.

**Note: The purchaser of a business may be liable for taxes owed by the previous business owner. When purchasing a business request a letter of good standing.**

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### WHAT RETAIL SALE INCOME IS NOT TAXABLE?

Tax is calculated on your gross receipts. It is not a tax on your net income. The following items are examples of exempt sales that may be deducted on your tax return (only when included in the gross income on the front of your tax return). For a complete list and specific details refer to Tempe City Code 16:460-465 and 16:200-270:

- Tax collected or factored
- Bad debts on which tax was paid on a previous month's return
- Sales to a business engaged in reselling or renting the items
- Food sales to restaurants, bars, hotels or similar establishments Including sales of disposable cups, lids, plates, bags, napkins, straws, knives, forks, etc.
- Food sales (including disposable utensils, napkins, cups, straws) to commercial airlines, public educational entities and non-profit organizations serving meals to the needy at no cost
- Food purchased with food stamps
- Building materials sold to licensed contractors. The exemption does not apply to construction equipment and tools
- Sales to manufacturers or job printers which become a part of a product sold
- Charges for delivery or installation
- Sales of warranty, maintenance, and service contracts
- Trade-ins
- Refunds on returned merchandise
- Sales to a qualifying hospital, community health center or health care organization.
- Sales of prosthetics
- Sales of mining and metallurgical supplies
- Sales of income-producing capital equipment
- Sales of printed and electronic materials to publicly funded libraries
- Sales of personal hygiene items to hotels and motels for use by guests
- Limited sales of solar energy devices
- Fine art sold by the original artist
- Food products sold by producers as provided in A.R.S. Sections 3-561, 3-562 and 3-563.

### Documenting non-taxable sales

You do not owe tax on exempt sales if you have clear and complete documentation supporting the exemption claim. In the absence of documentation, taxes will be assessed on gross receipts.

### Sales for Resale

For each sale for resale it is recommended that you obtain an Exemption Certificate **at the time of sale**. The Arizona Department of Revenue certificate (Arizona Form 5000) will typically be accepted by the City. You must include all of the following information:

1. Customer's name and business address
2. Customer's specific business activity
3. Customer's State tax license number
4. Reason for exemption and evidence to establish to a reasonable businessperson the validity of the exemption.

### Out of State Sales are exempt from tax when all 4 of the following occur:

- the order is received from outside the State of Arizona,
- the order was placed by a non-Arizona resident,
- the delivery to the buyer is outside the State of Arizona
- the property is used outside of the State of Arizona.

### Sales Made Directly to the Federal Government are exempt as follows:

- One hundred percent (100%) of the gross income derived from retail sales made by a manufacturer, modifier, assembler, or repairer.
- Fifty percent (50%) of the gross income derived from retail sales made by a retailer or wholesaler.

### SALES TO NATIVE AMERICANS are exempt from tax when all 3 of the following occur:

- solicitation and placement of the order occurs on the reservation,
- delivery is made to the reservation,
- payment originates from the reservation.

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### SERVICES

If you operate a service business, income from that business is generally exempt from tax. However, this is true only if sales of tangible items are an incidental part of your business. If you regularly make sales of tangible items to your customers and/or maintain an inventory of tangible items available for sale to customers, you are engaged in a retail business and are liable for tax on those sales. Examples of service businesses include personal services, such as, landscape or pool maintenance, and professional services that are provided by doctors, attorneys and accountants.

**Custom Computer Software:** When a sale is made of custom computer software which is prepared exclusively for a customer, the charges are considered direct customer services and are exempt from sales tax. However, a sale of non-custom computer software is taxable as a retail sale.

### DUE DATE

Tax reports and payments are due by the 20th of the month following a reporting period and are delinquent if not received in our office by the last business day of such month (without regard to postmark date). Delinquent reports and payments are subject to penalty.

### I had no sales during the month; do I still need to file a return?

Even if you had zero retail income, you are still required to file a return. On the return you will indicate no activity for the reporting period by entering zero in the revenue column.

### Change in ownership or mailing address

- Owners are required to notify the Tax & License Division within 30 days of any change in ownership or mailing address.
- A change in ownership requires a new license.
- A transfer of ownership from an individual to a LLC or Corporation is considered a change of ownership.

**PRIVILEGE & USE TAX CODE** This bulletin is for general information only. For complete details on privilege (sales) tax, refer to the Tempe Privilege and Use Tax Code and the Arizona Revised Statutes. In cases of inconsistency or omission in this bulletin, the language of the Tempe Code will prevail.

The City of Tempe and the State of Arizona maintain separate and distinct privilege (sales) tax codes. As a result, there are certain situations and circumstances where the taxability of certain business activities is different between the two codes.