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Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
First Regular Session  
2005

# HOUSE BILL 2055

AN ACT

AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-6008 AND 42-6009; RELATING TO MUNICIPAL TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 42, chapter 6, article 1, Arizona Revised Statutes,  
3 is amended by adding sections 42-6008 and 42-6009, to read:

4 42-6008. Municipal interest rates

5 A CITY OR TOWN THAT LEVIES AND COLLECTS A TAX UNDER THE MODEL CITY TAX  
6 CODE SHALL COMPUTE INTEREST ON A DEFICIENCY ASSESSMENT OR A CLAIM FOR REFUND  
7 OR CREDIT AT THE RATE AND IN THE MANNER PRESCRIBED BY SECTION 42-1123,  
8 SUBSECTION A.

9 42-6009. Municipal refunds; valid claim; notice of denial;  
10 limitations period; conditions or requirements;  
11 interest; recovery of fees; definitions

12 A. A CLAIM FOR CREDIT OR REFUND OF MUNICIPAL TRANSACTION PRIVILEGE TAX  
13 FILED WITH THE TAX COLLECTOR IS VALID FOR PURPOSES OF FILING IF THE CLAIM IS  
14 IN WRITING, IDENTIFIES THE CLAIMANT BY NAME, ADDRESS AND TAX IDENTIFICATION  
15 NUMBER AND PROVIDES THE AMOUNT OF CREDIT OR REFUND REQUESTED, THE SPECIFIC  
16 TAX PERIOD INVOLVED AND THE SPECIFIC GROUNDS FOR THE CLAIM.

17 B. IF A CREDIT OR REFUND CLAIM IS VALID UNDER SUBSECTION A OF THIS  
18 SECTION, THE TAX COLLECTOR SHALL NOT REFUSE TO PROCESS THE CLAIM OR REQUIRE  
19 THE CLAIMANT TO REFILE THE CREDIT OR REFUND CLAIM. IF THE TAX COLLECTOR  
20 REFUSES TO PROCESS OR REQUIRES REFILEING OF A CREDIT OR REFUND CLAIM THAT IS  
21 VALID UNDER SUBSECTION A OF THIS SECTION:

22 1. FOR PURPOSES OF THE LIMITATION PERIOD, THE CREDIT OR REFUND CLAIM  
23 SHALL BE DEEMED RECEIVED ON THE DATE THE ORIGINAL FILING WAS RECEIVED BY THE  
24 TAX COLLECTOR NOTWITHSTANDING THE TAX COLLECTOR'S REFUSAL TO PROCESS OR  
25 REQUIREMENT TO REFILE THE CLAIM.

26 2. THE CLAIMANT MAY TREAT THE TAX COLLECTOR'S REFUSAL TO PROCESS OR  
27 REQUIREMENT TO REFILE AS A DENIAL OF THE CREDIT OR REFUND CLAIM BY FILING A  
28 PETITION FOR HEARING REGARDING THE REFUSAL TO PROCESS OR REQUIREMENT TO  
29 REFILE UNDER THE ADMINISTRATIVE REVIEW PROVISIONS OF THE MODEL CITY TAX CODE  
30 OR STATE LAW, AS APPLICABLE. THE CLAIMANT MAY FILE A PETITION FOR HEARING AT  
31 ANY TIME AFTER THE REFUSAL TO PROCESS OR REQUIREMENT TO REFILE THE CLAIM.

32 C. NO DENIAL OF THE CREDIT OR REFUND CLAIM OCCURS UNTIL THE TAX  
33 COLLECTOR NOTIFIES THE CLAIMANT IN WRITING THAT STATES:

34 1. THE CLAIM FOR CREDIT OR REFUND HAS BEEN DENIED AND THE REASONING  
35 FOR THE DENIAL.

36 2. THE NOTICE CONSTITUTES A DENIAL OF THE CREDIT OR REFUND CLAIM THAT  
37 TRIGGERS THE DEADLINE FOR FILING A PETITION FOR HEARING UNDER THE  
38 ADMINISTRATIVE REVIEW PROVISIONS OF THE MODEL CITY TAX CODE OR STATE LAW, AS  
39 APPLICABLE. NO TIME LIMITATION FOR FILING AN ADMINISTRATIVE APPEAL BEGINS  
40 UNTIL THE TAX COLLECTOR ISSUES SUCH NOTIFICATIONS.

41 D. ANY REQUEST BY THE TAX COLLECTOR FOR ADDITIONAL INFORMATION TO  
42 PROCESS THE CREDIT OR REFUND CLAIM SHALL BE REASONABLY RELATED TO THE CREDIT  
43 OR REFUND CLAIM. THE TAX COLLECTOR SHALL NOT REQUIRE A CLAIMANT TO PROVIDE  
44 ANY REPORT OR INFORMATION THAT IS NOT REQUIRED TO BE MAINTAINED IN THE NORMAL  
45 COURSE OF BUSINESS UNDER THE RECORDKEEPING REQUIREMENTS OF THE MODEL CITY TAX  
46 CODE. EXCEPT FOR INFORMATION REASONABLY NECESSARY TO SUBSTANTIATE A

1 CUSTOMER'S EXEMPTION CLAIM, THE TAX COLLECTOR SHALL NOT REQUIRE A CLAIMANT TO  
2 PROVIDE ANY INFORMATION RELATING TO THE CLAIMANT'S SPECIFIC CUSTOMERS,  
3 WHETHER OR NOT THE CLAIMANT COLLECTED THE TAX FROM CUSTOMERS BY SEPARATELY  
4 STATED ITEMIZATION. THE TAX COLLECTOR SHALL NOT IMPOSE UNREASONABLE TIME  
5 LIMITS FOR A CLAIMANT TO RESPOND TO ANY VALID REQUEST FOR A REPORT OR  
6 INFORMATION. THE TAX COLLECTOR SHALL GRANT A CLAIMANT'S REASONABLE REQUEST  
7 FOR ONE OR MORE EXTENSIONS TO PROVIDE ANY REQUESTED REPORT OR INFORMATION.  
8 ANY DENIAL OF THE REQUEST SHALL STATE IN WRITING THAT:

9 1. THE CLAIM FOR CREDIT OR REFUND HAS BEEN DENIED AND THE REASON FOR  
10 THE DENIAL.

11 2. THE NOTICE CONSTITUTES A DENIAL OF THE CREDIT OR REFUND CLAIM THAT  
12 TRIGGERS THE DEADLINE FOR FILING A PETITION FOR HEARING UNDER THE  
13 ADMINISTRATIVE REVIEW PROVISIONS OF THE MODEL CITY TAX CODE OR STATE LAW, AS  
14 APPLICABLE.

15 E. THE TAX COLLECTOR SHALL NOT CONDITION A CREDIT OR REFUND ON THE  
16 CLAIMANT'S REMITTANCE OF THE CREDIT OR REFUND TO CUSTOMERS, WHETHER OR NOT  
17 THE TAX WAS COLLECTED BY SEPARATELY STATED ITEMIZATION. TAX PAID ON AN  
18 ACTIVITY THAT IS NOT SUBJECT TO TAX OR THAT QUALIFIES FOR AN EXEMPTION,  
19 DEDUCTION, EXCLUSION OR CREDIT IS NOT EXCESS COLLECTED TAX.

20 F. INTEREST ON A CREDIT OR REFUND FOR OVERPAID MUNICIPAL TRANSACTION  
21 PRIVILEGE TAX SHALL BE PAID TO THE CLAIMANT AT THE RATE AND IN THE MANNER  
22 PRESCRIBED BY SECTION 42-1123, SUBSECTION A. INTEREST ON A REFUND OR CREDIT  
23 CLAIM SHALL BE COMPUTED FROM THE DATE THE CLAIM IS FILED.

24 G. A CLAIMANT THAT IS ULTIMATELY DETERMINED TO BE ENTITLED TO A CREDIT  
25 OR REFUND OF MUNICIPAL TRANSACTION PRIVILEGE TAX MAY BE AWARDED BY ORDER OF A  
26 COURT, BOARD OR HEARING OFFICER, REASONABLE FEES AND OTHER COSTS RELATING TO  
27 THE ADMINISTRATIVE PROCESSING OR ADMINISTRATIVE APPEAL OF THE CREDIT OR  
28 REFUND CLAIM, IF THE TAX COLLECTOR'S POSITION WAS NOT SUBSTANTIALLY JUSTIFIED  
29 OR WAS BROUGHT FOR THE PURPOSE OF HARASSING THE CLAIMANT, FRUSTRATING THE  
30 CREDIT OR REFUND PROCESS OR DELAYING THE CREDIT OR REFUND.

31 H. IF A DISCREPANCY OCCURS BETWEEN THIS SECTION AND ANY PROVISION OF  
32 THE MODEL CITY TAX CODE, THIS SECTION SHALL APPLY.

33 I. FOR THE PURPOSES OF THIS SECTION:

34 1. "CLAIMANT" MEANS A TAXPAYER THAT HAS PAID THE MUNICIPAL TRANSACTION  
35 PRIVILEGE TAX THAT IS THE SUBJECT OF THE CREDIT OR REFUND CLAIM. EXCEPT  
36 WHERE THE TAXPAYER HAS GRANTED A CUSTOMER A POWER OF ATTORNEY TO PURSUE A  
37 CREDIT OR REFUND CLAIM ON THE TAXPAYER'S BEHALF, CLAIMANT DOES NOT INCLUDE  
38 ANY CUSTOMER OF SUCH TAXPAYER, WHETHER OR NOT THE CLAIMANT COLLECTED THE TAX  
39 FROM CUSTOMERS BY SEPARATELY STATED ITEMIZATION.

40 2. "MODEL CITY TAX CODE" MEANS THE MODEL CITY TAX CODE AS DEFINED IN  
41 SECTION 42-6051, ITS APPENDICES AND REGULATIONS, AS ADOPTED IN THE CITY OR  
42 TOWN AND INCLUDES THE SPECIFIC STATE LAW INCORPORATED IN THE MODEL CITY TAX  
43 CODE AND THE INTERPRETATION OF STATE LAW.

44 3. "MUNICIPAL TRANSACTION PRIVILEGE TAX" MEANS A MUNICIPAL TRANSACTION  
45 PRIVILEGE TAX, MUNICIPAL PRIVILEGE LICENSE TAX OR MUNICIPAL TRANSACTION

1 PRIVILEGE LICENSE TAX, MUNICIPAL USE TAX OR SIMILAR EXCISE TAX THAT IS  
2 IMPOSED BY THE TAX COLLECTOR.

3 4. "REASONABLE FEES AND OTHER COSTS" MEANS FEES AND OTHER COSTS THAT  
4 ARE BASED ON PREVAILING MARKET RATES FOR THE KIND AND QUALITY OF THE  
5 FURNISHED SERVICES, NOT TO EXCEED THE AMOUNTS ACTUALLY PAID FOR EXPERT  
6 WITNESSES, THE COST OF ANY STUDY, ANALYSIS, REPORT, TEST, PROJECT OR COMPUTER  
7 PROGRAM THAT IS FOUND TO BE NECESSARY TO PREPARE THE CLAIMANT'S CASE AND  
8 NECESSARY FEES FOR ATTORNEYS OR OTHER REPRESENTATIVES.

9 5. "TAX COLLECTOR" MEANS THE MUNICIPAL TAX COLLECTOR OR THE DEPARTMENT  
10 WHEN IT IS ACTING AS THE TAX COLLECTOR FOR THOSE CITIES AND TOWNS IN THE  
11 STATE COLLECTION PROGRAM, AS APPLICABLE UNDER THE MODEL CITY TAX CODE AND ITS  
12 APPENDICES.

13 Sec. 2. Effective date; application

14 A. This act is effective September 30, 2005.

15 B. Sections 42-6008 and 42-6009, Arizona Revised Statutes, as added by  
16 this act, shall not be cited or considered in the construction or the  
17 interpretation of the municipal tax refund or credit provisions, interest  
18 provisions or appeal provisions in the model city tax code in effect before  
19 October 1, 2005.