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House Engrossed Senate Bill

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

SENATE BILL 1185

AN ACT

AMENDING TITLE 42, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5168; RELATING TO USE TAX.

(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 5, article 4, Arizona Revised Statutes,
3 is amended by adding section 42-5168, to read:

4 42-5168. Use tax percentage based reporting; definitions

5 A. THE DIRECTOR MAY PERMIT A TAXPAYER TO USE A PERCENTAGE BASED
6 REPORTING METHOD FOR DETERMINING THE AMOUNT OF USE TAX THAT IS DUE UNDER THIS
7 ARTICLE BY ISSUING A LETTER OF AUTHORIZATION TO THE TAXPAYER.

8 B. WHEN ISSUING A LETTER OF AUTHORIZATION AND DETERMINING THE
9 STANDARDS THAT A TAXPAYER SHALL USE TO CALCULATE USE TAX UNDER THIS ARTICLE,
10 THE DIRECTOR MAY CATEGORIZE TRANSACTIONS BY THE DOLLAR AMOUNT, THE TYPES OF
11 TAXABLE ITEMS THAT ARE PURCHASED OR THE PURPOSES FOR WHICH THE TAXABLE ITEMS
12 ARE USED OR BY OTHER STANDARDS THAT ARE APPROPRIATE TO THE TAXPAYER'S
13 OPERATIONS. THE DIRECTOR SHALL CONSIDER THE TAXPAYER'S TYPE, NATURE AND
14 AMOUNT OF RECORDS AND TRANSACTIONS WHEN DETERMINING THE STANDARDS.

15 C. A LETTER OF AUTHORIZATION THAT IS SIGNED BY THE DIRECTOR AND
16 COUNTERSIGNED BY THE TAXPAYER SHALL BE VALID FOR NO LONGER THAN FOUR YEARS.

17 D. THE DIRECTOR MAY REVOKE A LETTER OF AUTHORIZATION THAT IS ISSUED
18 UNDER THIS SECTION IF EITHER OF THE FOLLOWING APPLIES:

19 1. THE TAXPAYER HAS COMMITTED ANY FRAUD, MALFEASANCE OR
20 MISREPRESENTATION OF A MATERIAL FACT. A REVOCATION UNDER THIS PARAGRAPH IS
21 EFFECTIVE ON THE DATE THE FRAUD, MALFEASANCE OR MISREPRESENTATION OCCURRED OR
22 ON ANY LATER DATE THAT IS DETERMINED BY THE DIRECTOR.

23 2. THE DIRECTOR DETERMINES THAT THE PERCENTAGE STATED IN THE LETTER OF
24 AUTHORIZATION IS NO LONGER VALID BECAUSE OF A CHANGE IN THE LAW, A CHANGE IN
25 THE INTERPRETATION OF A LAW OR AN ADMINISTRATIVE RULE OR A CHANGE IN THE
26 TAXPAYER'S BUSINESS OPERATIONS. A REVOCATION UNDER THIS PARAGRAPH IS
27 EFFECTIVE ON THE FIRST DAY OF THE MONTH THAT IS AT LEAST NINETY DAYS AFTER
28 THE TAXPAYER RECEIVES THE NOTICE OF REVOCATION.

29 E. THE DIRECTOR'S DECISION TO REVOKE A LETTER OF AUTHORIZATION UNDER
30 SUBSECTION D IS FINAL AND MAY NOT BE APPEALED.

31 F. THE DEPARTMENT MAY AUDIT A TAXPAYER WHO HAS BEEN ISSUED A LETTER OF
32 AUTHORIZATION FOR THE TRANSACTIONS THAT ARE LISTED IN THE LETTER, BUT THE
33 AUDIT SHALL BE LIMITED TO WHETHER THE TAXPAYER PROPERLY CALCULATED THE AMOUNT
34 OF USE TAX ACCORDING TO THE TERMS OF THE LETTER. A TAXPAYER MAY PROTEST THE
35 DETERMINATION OF THE AUDIT, BUT THE PROTEST SHALL BE LIMITED TO WHETHER THE
36 DEPARTMENT'S PROPOSED CHANGES ARE CORRECT ACCORDING TO THE TERMS OF THE
37 LETTER OF AUTHORIZATION.

38 G. FOR THE PURPOSES OF THIS SECTION:

39 1. "LETTER OF AUTHORIZATION" MEANS A LETTER THAT IS SIGNED BY THE
40 DIRECTOR, THAT AUTHORIZES A TAXPAYER TO USE A PERCENTAGE BASED REPORTING
41 METHOD AND THAT SPECIFIES THE STANDARDS FOR THE TAXPAYER TO FOLLOW.

1 2. "PERCENTAGE BASED REPORTING METHOD" MEANS A METHOD BY WHICH A
2 TAXPAYER CATEGORIZES PURCHASE TRANSACTIONS ACCORDING TO THE STANDARDS THAT
3 ARE SPECIFIED IN A LETTER OF AUTHORIZATION, REVIEWS APPROVED SAMPLE INVOICES
4 FOR EACH CATEGORY OF TRANSACTIONS WHEN DETERMINING THE PERCENTAGE OF TAXABLE
5 TRANSACTIONS AND USES THAT PERCENTAGE TO CALCULATE THE AMOUNT OF USE TAX THAT
6 IS DUE UNDER THIS ARTICLE.

7 Sec. 2. Applicability

8 This act applies for taxable periods beginning from and after June 30,
9 2005 for taxpayers making an election under section 42-5167, Arizona Revised
10 Statutes. This act applies for taxable periods beginning from and after June
11 30, 2007 for all taxpayers subject to the tax imposed by title 42, chapter 5,
12 article 4, Arizona Revised Statutes.