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ARIZONA TAX RESEARCH ASSOCIATION

ATRA SUPPORTS HB2118

Clarifies TPT Sourcing for Businesses Located in this State

Under current law, the retail sale of tangible personal property (TPP) is sourced to the seller's business location if the seller receives the order *at a business location in this state* (origin-based) and to the purchaser's location if the *seller receives an order from a location outside of this state* (destination-based). HB2118 clarifies that a business location is a "physical space that a person can occupy, such as an office or a room in a house, and in which business is carried on" and regardless of where the servers are located when transmitting the information necessary to accept the order.

In 2023, the Arizona Department of Revenue (ADOR) drafted a taxpayer ruling that would have clarified exactly what is being proposed under HB2118. Under the draft Arizona Transaction Privilege Tax Ruling TPR 23-X, the Department outlined that when sourcing retail sales of TPP, **"Servers alone neither establish a business location nor receive orders. A *business location* is a physical place that a person can occupy—such as an office or a room in a house—and in which business is carried on."**

This ruling would have provided clarity for taxpayers; however, it was never published due to opposition from Arizona's cities and towns. This clarification is necessary because Arizona cities are actually auditing businesses and enforcing an interpretation of sourcing that is dramatically different than the clear reading of current state law.

Despite cities opposition to ADOR's draft ruling, A.R.S. § 42-6005 clearly states that *"If the state statutes and model city tax code are the same and the department has issued written guidance, the department's interpretation is binding on cities and towns."*

Taxpayers deserve clarity in Arizona's complicated TPT system and shouldn't be threatened with city audits that undermine the department's interpretation of Arizona's tax laws.

ATRA Encourages Lawmakers to Vote YES on HB2118!