STATE OF ARIZONA
HOUSE OF REPRESENTATIVES
FOURTIETH 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)
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Be it enacted by the Legislature of the State of Arizona:

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

42-6008. Municipal interest rates

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

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

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

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

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

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

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

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

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

D. ANY REQUEST BY THE TAX COLLECTOR FOR ADDITIONAL INFORMATION TO PROCESS THE CREDIT OR REFUND CLAIM SHALL BE REASONABLY RELATED TO THE CREDIT OR REFUND CLAIM. THE TAX COLLECTOR SHALL NOT REQUIRE A CLAIMANT TO PROVIDE ANY REPORT OR INFORMATION THAT IS NOT REQUIRED TO BE MAINTAINED IN THE NORMAL COURSE OF BUSINESS UNDER THE RECORDKEEPING REQUIREMENTS OF THE MODEL CITY TAX CODE. EXCEPT FOR INFORMATION REASONABLY NECESSARY TO SUBSTANTIATE A
CUSTOMER’S EXEMPTION CLAIM, THE TAX COLLECTOR SHALL NOT REQUIRE A CLAIMANT TO PROVIDE ANY INFORMATION RELATING TO THE CLAIMANT’S SPECIFIC CUSTOMERS, WHETHER OR NOT THE CLAIMANT COLLECTED THE TAX FROM CUSTOMERS BY SEPARATELY STATED ITEMIZATION. THE TAX COLLECTOR SHALL NOT IMPOSE UNREASONABLE TIME LIMITS FOR A CLAIMANT TO RESPOND TO ANY VALID REQUEST FOR A REPORT OR INFORMATION. THE TAX COLLECTOR SHALL GRANT A CLAIMANT’S REASONABLE REQUEST FOR ONE OR MORE EXTENSIONS TO PROVIDE ANY REQUESTED REPORT OR INFORMATION. ANY DENIAL OF THE REQUEST SHALL STATE IN WRITING THAT:

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

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

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

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

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

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

I. FOR THE PURPOSES OF THIS SECTION:

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


3. "MUNICIPAL TRANSACTION PRIVILEGE TAX" MEANS A MUNICIPAL TRANSACTION PRIVILEGE TAX, MUNICIPAL PRIVILEGE LICENSE TAX OR MUNICIPAL TRANSACTION PRIVILEGE LICENSE.
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PRIVILEGE LICENSE TAX, MUNICIPAL USE TAX OR SIMILAR EXCISE TAX THAT IS IMPOSED BY THE TAX COLLECTOR.

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

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

Sec. 2. Effective date; application

A. This act is effective September 30, 2005.

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