

# City of Prescott Tax Seminar Construction



# Cell Phones

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- As a courtesy to others, please turn your cell phones off or put on silent mode.
- If you need to use your cell phone, please leave the room.



# Disclaimer

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- Section 4-1-541 of the City of Prescott tax code states that anytime oral advise is given we must inform the recipient that the Tax Collector is not bound by oral advise.



# Contact Information

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[www.prescott-az.gov](http://www.prescott-az.gov)

**(928)-777-1268**

**Matt Dunbar - Privilege Tax Supervisor  
Barbara Goddard – Privilege Tax Auditor  
Katie Pehl – Privilege Tax Audit Associate  
Carla Lambert - Privilege Tax Clerk  
Jayne Gamboa – Accounting Technician**

# General Definitions

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“Construction Contracting” refers to the activity of a construction contractor.





# General Definitions

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“Construction Contractor” means a person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof.



# General Definitions

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"Construction contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction project except for remediation contracting. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract.



# Construction Contracting:

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The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the City.



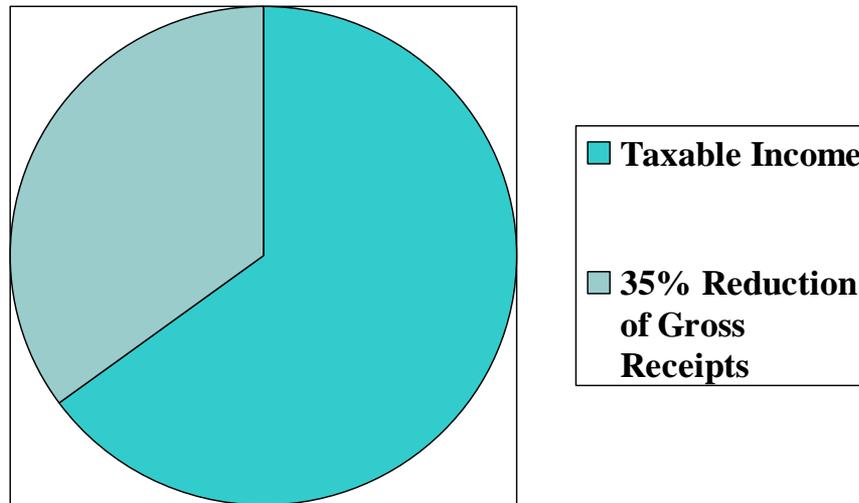
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# **Deductions and Exemptions**

# Deductions & Exemptions

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All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).



# Deductions & Exemptions

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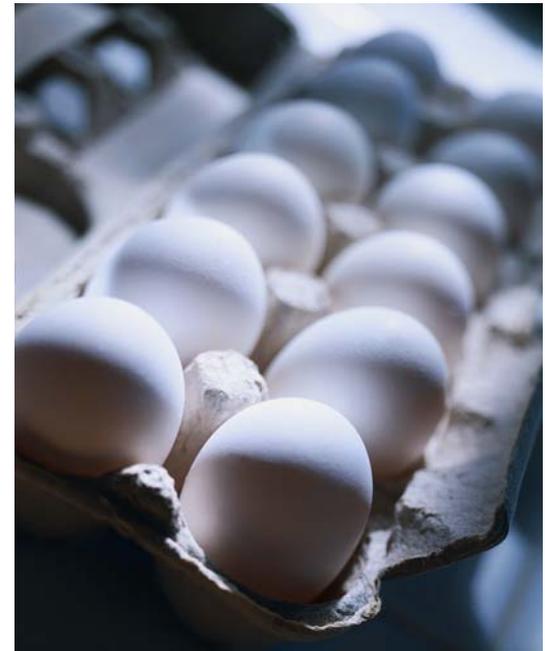
- Installation, assembly, repair, or maintenance of income-producing capital equipment.
- Retail portion of contracts with qualifying hospital or qualifying health care organization.



# Deductions & Exemptions

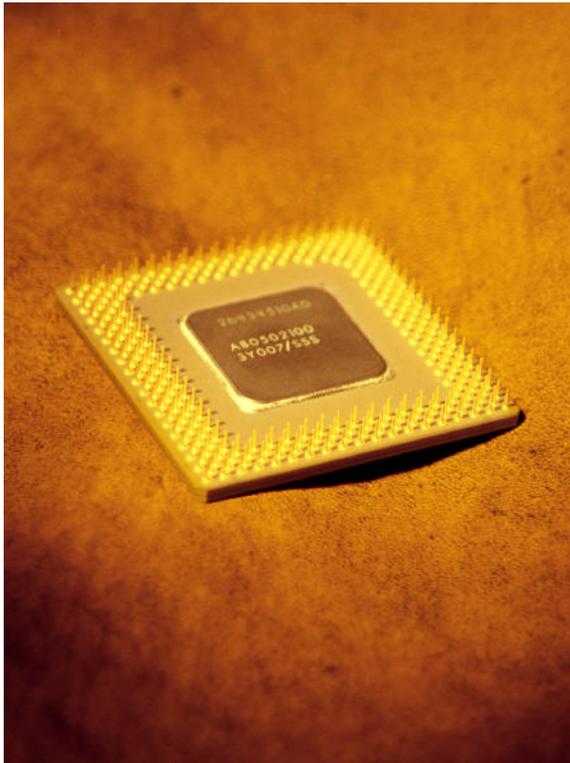
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The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.



# Deductions & Exemptions

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The gross proceeds of sales or gross income derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification.

# Deductions & Exemptions

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The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.



# Deductions & Exemptions

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The gross proceeds of sales or gross income received from a post construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this section.

# Deductions & Exemptions

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- Design and Engineering Fees
- Impact and Development Fees
- Installation of Solar Equipment



# Deductions & Exemptions

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Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.



# Subcontractors

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"Subcontractor" means a construction contractor performing work for either:



# Subcontractors

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A construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his City Privilege License number.



# Subcontractors

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An owner-builder who has provided the subcontractor with a written declaration that:

(A) The owner-builder is improving the property for sale; and

(B) The owner-builder is liable for the tax for such construction contracting activity; and

(C) The owner-builder has provided the contractor his City Privilege License number.

# Subcontractors

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Subcontractor also includes a construction contractor performing work for another subcontractor





# Exemption Certificates

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## **Prime Contractor's Certificate Arizona Form 5005**



# Arizona Department of Revenue

## Prime Contractor's Certificate

**ARIZONA FORM**  
**5005**

The purpose of this form is to provide a subcontractor with the validation required for tax exemption of a particular project, for a period of time, or until revoked. This certificate establishes responsibility for the transaction privilege tax; therefore, it must be completed by the prime contractor assuming the contracting transaction privilege tax liability for the contracting project(s). The asterisked (\*) items must be completed, otherwise the certificate is not valid. The Department may disregard this certificate pursuant to ARS § 42-5075.E if the certificate is incomplete or erroneous. If disregarded, the entity accepting the certificate (subcontractor) will have the burden of proving (pursuant to ARS § 42-5075.D), that it is not subject to transaction privilege tax as a taxable prime contractor.

### A. Prime Contractor

\* NAME:

\* TRANSACTION PRIVILEGE LICENSE #:

\* ADDRESS:

AZ Contractor License #:

Telephone #:

### B. Subcontractor

\* NAME:

\* TRANSACTION PRIVILEGE LICENSE #:

\* ADDRESS:

AZ Contractor License #:

Telephone #:

**C. Type of Certificate (check one and provide requested information)**

Single Project Certificate

PROJECT DESCRIPTION

OR

Blanket Certificate (check applicable box and fill in requested information).

Period From: \_\_\_\_\_

Through: \_\_\_\_\_

Until revoked

Specific Exceptions: \_\_\_\_\_

\*\* (For example; Building Permit #, Address, Subdivision, Book/Map/Parcel #s, and/or Legal Description)

I hereby certify that I have authority to sign this Certificate on behalf of Prime Contractor. I understand that by executing this Certificate, Prime Contractor is assuming the prime contracting transaction privilege tax liability applicable to the above referenced project(s).

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
DATE SIGNED



# Arizona Form 5000

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## Transaction Privilege Tax Exemption Certificate



# Arizona Department of Revenue

## Transaction Privilege Tax Exemption Certificate

**ARIZONA FORM**

**5000**

This form replaces earlier forms: 5000, 5001, 5002.

This exemption Certificate is prescribed by the Department of Revenue pursuant to ARS § 42-5009. The purpose of the certificate is to document tax-exempt transactions with qualified purchasers. It is to be filled out completely by the purchaser and furnished to the vendor. The vendor shall retain this Certificate for single transactions or for specified periods as indicated below. Incomplete Certificates are not considered to be accepted in good faith. Only one form of exemption can be claimed on a certificate.

### Purchaser's Name and Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Vendor's Name \_\_\_\_\_

### Check Applicable Box:

- Single Transaction Certificate
- Period From: \_\_\_\_\_ Through: \_\_\_\_\_

*(You must choose specific dates for which certificate will be valid)*

### Choose one transaction type per Certificate

#### Transactions with a Business

*(Please check appropriate item from numbers 1 - 19)*

Arizona Transaction Privilege Tax License Number \_\_\_\_\_

SSN / EIN \_\_\_\_\_

Other Tax License Number \_\_\_\_\_

Tax number for another tax agency \_\_\_\_\_

If no license number, provide reason: \_\_\_\_\_

Precise Nature of Purchaser's Business  
\_\_\_\_\_  
\_\_\_\_\_

#### Transactions with Native Americans & Native American Businesses

*(Please check item number 24 or 24a)*

Tribal Business License # \_\_\_\_\_

OR

Tribal ID# \_\_\_\_\_

Name of Tribe \_\_\_\_\_

#### Transactions with a Government entity or certain Health Care Institutions

*(Please check appropriate item from numbers 1 - 23)*

#### Transactions with nonresidents

*(Please check appropriate item from numbers 25 - 26)*

State of residence \_\_\_\_\_

Driver's License# \_\_\_\_\_

Driver's License State \_\_\_\_\_

SSN/ID \_\_\_\_\_

30 day Drive out permit # \_\_\_\_\_

**Reason for Exemption - check as applicable**

- 1. Tangible personal property to be resold in the ordinary course of business.
- 2. Tangible personal property to be leased or rented in the ordinary course of business.
- 3. Tangible personal property to be incorporated into a taxable contracting project.
- 4. Food, drink, or condiments purchased by a restaurant business.
- 5. Motor vehicle fuel and use fuel subject to tax under ARS § 28-5606 or 5708.
- 6. Use fuel to a holder of a valid single trip use fuel tax permit issued under ARS § 28-5739.
- 7. Aviation fuel subject to the tax imposed under ARS § 28-8344.
- 8. Pipes or valves four inches in diameter or greater to be used for transportation of oil, natural gas, artificial gas, water or coal slurry.
- 9. Neat animals, horses, asses, sheep, ratites, swine or goats used as breeding or production stock (including ownership shares in such animals).
- 10. Aircraft, navigational and communication instruments and related accessories sold or leased to:
  - Airlines holding a federal certificate of public convenience and necessity; or  Airlines holding a foreign air carrier permit for air transportation; or
  - Any foreign government or nonresidents of Arizona who will not use such property in Arizona other than in removing such property from this state.
- 11. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property for hire.
- 12. Buses or urban mass transit vehicles used directly to transport persons or property for hire or pursuant to a government mass transit program.
- 13. Central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier.  
Equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems sold or leased to persons engaged in the telecommunications business.
- 14. New machinery and equipment, used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state, consisting of tractors, tractor-drawn implements, self-powered implements, drip irrigation lines, and machinery and equipment necessary for extracting milk and for cooling milk and livestock.
- 15. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution.

(OVER)

- 25. Sales of tangible personal property to nonresidents of Arizona who are temporarily within Arizona, for their use outside of Arizona, when the vendor ships the property out of Arizona by common carrier or United States mail or delivers such property out of Arizona via the vendor's own conveyance.  
**NOTE:** The vendor shall retain adequate documentation substantiating the shipment of the property out of Arizona.
- 26. Sale of a motor vehicle (vehicle must be self-propelled) to a nonresident of Arizona whose state of residence does not allow a use tax exemption for transaction privilege taxes paid to Arizona and who has secured a special 30-day nonresident registration for the vehicle (please see Arizona Form 5010).

Describe the tangible personal property or service purchased or leased and its use below. (Use additional pages if needed)

### Certification

**A vendor that has reason to believe that the certificate is not accurate or complete will not be relieved of the burden of proving entitlement to the exemption. A vendor that accepts a certificate in good faith will be relieved of the burden of proof and the purchaser may be required to establish the accuracy of the claimed exemption. If the purchaser cannot establish the accuracy and completeness of the information provided in the certificate, the purchaser is liable for an amount equal to the transaction privilege tax, penalty and interest which the vendor would have been required to pay if the vendor had not accepted the certificate. Misuse of this Certificate will subject the purchaser to payment of the ARS § 42-5009 amount equal to any tax, penalty or interest. Willful misuse of this Certificate will subject the purchaser to criminal penalties of a felony pursuant to ARS § 42-1127.B.2.**

I, (print full name) \_\_\_\_\_, hereby certify that these transactions are exempt from Arizona transaction privilege tax and that the information on this Certificate is true, accurate and complete. Further, if purchasing or leasing as an agent or officer, I certify that I am authorized to execute this Certificate on behalf of the purchaser named above.

Signature of purchaser \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

# Break Time



# Construction vs. Other

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**Distinction between  
construction contracting  
and certain related  
activities**





# Construction vs. Spec Building

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- Any custom, inventory, model home, or improved commercial or residential lot sold at anytime by the owner regardless of the stage of completion is a taxable spec sale.
- Any other sale of improved real property prior to completion or before the expiration of 24 months after substantial completion is a spec sale.

# Spec Building Sales Deductions

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- Fair Market Value of Land = The higher of:
  - 20% of sales price
  - FMV if land only appraisal done at close of escrow, or
  - Cost





# Spec Building Sales Deductions

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- Factored tax deduction.  
(Watch your rate!)
- 35% standard deduction.
- Tax credit for taxes paid on materials or separately charged by a construction contractor.

# Spec Building Sales Deductions

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- Homeowner's bona fide non-business sale of a family residence.
- All of the following must be met:
  - Used as principal residence or vacation residence by immediate family for six months prior to offering for sale.
  - Seller has not sold more than 2 such homes with-in 36 months of offer for sale.
  - The home was not leased or rented for any period with-in 24 months of offer for sale.

If all are met the sale is not taxable.



# Construction vs. Rental of TPP

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Certain rentals, leases, and licenses for use in connection with construction contracting.

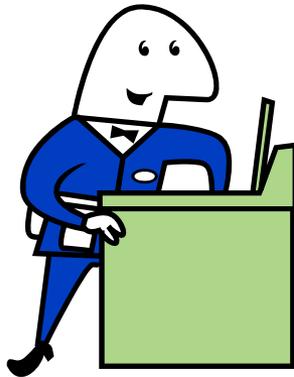
Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property.



# Retail vs. Construction

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- ❑ Distinction between construction contracting, retail, and certain direct customer service activities.



# Retail vs. Construction

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- ❑ When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.



# Retail vs. Construction

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- ❑ Items attached or installed on tangible personal property are retail sales.
- ❑ Installation and removal of tangible personal property which has independent functional utility is considered a retail activity.





# Retail vs. Construction

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- ❑ "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.

# Retail vs. Construction

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- ❑ Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.



# Retail vs. Construction

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- ❑ Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.



# Retail vs. Construction

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- ❑ Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscaping maintenance).

# Retail vs. Construction

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- ❑ Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.

# Retail vs. Construction

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- ❑ The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.



# Construction

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- ❑ Demolition, earth moving, and wrecking activities are considered construction contracting.



# Reporting Non-Program City Transaction Privilege Tax

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- ❑ The tax rates are dependent on where the job site is.
- ❑ Contractors doing business in many different cities may be required to be licensed to do business in each city.
- ❑ Gross receipts are reported and tax is paid to the city in which the contracting activity took place.

# Reporting Non-Program City Transaction Privilege Tax

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- ❑ All in state activity, regardless of job site, should be reported to the jurisdiction (city) where the business is located.
- ❑ Any activity that is being taxed in another jurisdiction can be deducted under Out-of-City Contracting.
- ❑ Any activity that is classified as subcontracting activity can be deducted under Exempt Subcontracting.



# Multiple Business Classes

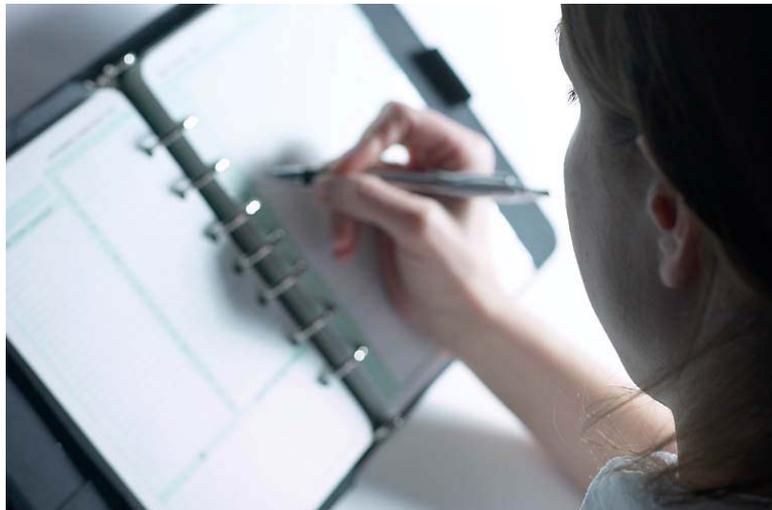
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It is possible for a business to have several different activities that they have to report tax for. It is important for the business to report the amount of gross receipts from each business class under the appropriate business class code, and take only valid deductions for that business class.

# When to File

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- Taxes shall be due and payable on or before the twentieth (20<sup>th</sup>) day of the month following the month in which the tax accrued.
- Interest and civil penalties will be assessed on returns received after the last business day of the month.
- Date received is not determined by postmark date.





# Interest & Civil Penalties

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- Failure to Pay- 10% of tax due.
- Failure to File- 5% of tax due per month.
- Can not exceed a total of 25%
- Interest accrues monthly with no cap.



# Factoring Tax

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Prescott's Factored Tax Rate for  
Construction is  
0.05729302 (this is for 9.35% tax rate)



# Example One: Painting

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**Contractor based in Chino Valley painted a residence in Prescott for which the homeowner provided all the paint, and the painter just provided labor of \$3,000.**

- ❑ Do you report this activity as contracting, retail, or not at all?**
- ❑ Where do you report the City activity?**
- ❑ What tax rate will you use?**

# Example One: Painting

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**Contractor based in Chino Valley painted a residence in Prescott for which the homeowner provided all the paint, and the painter just provided labor of \$3,000.**

- ❑ **Do you report this activity as contracting, retail, or not at all?  
Taxable as contracting, remember labor is taxable.**
- ❑ **Where do you report the City activity?  
Taxable to the City of Prescott.**
- ❑ **What tax rate will you use?  
State rate of 6.6% County .75% City 2% Total 9.35%**

# Example One: Painting

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Total gross receipt times factor...  $\$3,000 \times .05729302 = \$171.88$

Total cost less factored tax.....  $\$3,000 - \$171.88 = \$2,828.12$

Net cost times reduction.....  $\$2,828.12 \times 35\% = \$989.84$

Net cost less reduction.....  $\$2,828.12 - \$989.84 = \$1,838.28$

City of Prescott due.....  $\$1,838.28 \times 2\% = \$36.77$

State & County tax due.....  $\$1,838.28 \times 7.35\% = \$135.11$

**Total Tax Due \$171.88**



# Example Two: Construction

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**A Contractor based in Prescott Valley received \$140,000 for work performed in January. \$25,000 was for work performed in the county, \$15,000 was for work as a sub-contractor for which she received a proper form 5005, and the rest was in the City of Prescott**

**Use the Factoring Worksheet and complete the City of Prescott Sales & Use Tax Return**

# Example Two: Construction

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Column

1	\$140,000.00	Gross Receipts
	\$15,000.00	- Sub-contracting
	\$25,000.00	- <u>Out of City Contracting</u>
	<u>\$100,000.00</u>	
	\$5,729.30	- <u>Factored tax deduction (\$100,000 * .05729302)</u>
	<u>\$94,270.70</u>	
	\$32,994.74	- <u>35% Standard Deduction (\$94,270.70 * .35)</u>
3	<u>\$61,275.95</u>	Net Taxable
2	\$78,724.05	Total Deductions (Sub+Out of City+Factored Tax+Standard)
5	\$1,225.52	City tax Due (\$61,275.95 * .02)
	\$4,503.78	State and County Tax Due (\$61,275.95*.0735)
	<u>\$5,729.30</u>	Total Tax Due

# Use Tax



# Use Tax

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Purchase of tangible personal property from a retailer out of state when no tax, or a lesser amount of tax, is paid on the purchase at the point of sale.

# Use Tax

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Removal of tangible personal property from your inventory, on which no tax was paid at the time of purchase, for your own use or use in your business.



# Use Tax Rates

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The City of Prescott use tax rate is 2% times the cost of tangible personal property.

ADOR also has a use tax. Their rate is 6.6%.



# Questions ?

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**Please complete the  
evaluation handout**

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**Thank You**