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Expansion of Transaction Privilege Tax to Services

Prepared for the Citizens Finance Review Commission

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1. **Overview**

This Memorandum addresses the potential expansion of the TPT to retailers of services. Similar to the sales taxes of most states, Arizona imposes the TPT on relatively few services.¹ Only a few states, Hawaii, New Mexico and South Dakota, have a general sales tax on services. In addition, Connecticut, Iowa and Texas impose taxes on an extensive number of consumer business services. According to the Federation of Tax Administrators (“FTA”), a majority of states apply their sales tax to less than one-third of 164 potentially-taxable service categories.² Eight of the 45 states with sales taxes impose them on fewer than 20 service categories used in the FTA survey.³

In 1987 and 1990, respectively, Florida and Massachusetts enacted sales taxes on services, in the case of Massachusetts, applicable solely to business services. The Florida tax was repealed after only six months and the Massachusetts tax was repealed retroactively after only 2 days in effect. The failure of the tax laws in these states is educational in evidencing what types of problems can be presented by an attempt to expand a sales tax to services. An expansion of the TPT may create some of the same issues, some of which likely led to the demise of the services tax in those jurisdictions.⁴

One commentator has noted that the fact that most services are excluded from the sales tax base is actually an historical accident.⁵ Mazerov notes that when sales taxes were first imposed in the 1930s, focusing the tax on the sale of goods was simpler. A sale of goods was “easy to describe and identify.”⁶ He also notes that at that time, the production and sale of goods dominated the economy.

One commentator has observed that “(t)here is no basic reason why sales taxes should be confined to commodities; the tendency to do so . . . is more the product of historical accident than logic. . . . Acquisitions of service by households constitutes consumption expenditure in the same fashion as the purchase of commodities; there is no basis difference between the two that warrants different tax treatment. Consumers gain satisfaction from services just as they do from commodities.”⁷ Eliminating the differing tax treatment between services and goods would avoid many legal issues such as the determining if a transaction involved a sale of tangible personal property or a service, the distinction between a rental of tangible personal property and services, and the treatment of “custom made goods.”

Expanding the TPT to retail sales of services carries some additional complexity in administration than posed by the current TPT on goods. However, as a general matter, as described below, the TPT imposed on services could be collected in the same manner as the current tax on the retail sale of goods. The fact that some services are currently subject to tax evidences the ability to do so. Presumably, the costs of collection would also be similar to the costs of collection of the current TPT.

2. **Current Taxation Of Services In Arizona.**

Although the State of Arizona TPT does not currently generally apply to services, Arizona law does provide for imposition of the TPT on the sale of certain specified services. Currently, Arizona taxes such as transporting, utilities, telecommunications, pipeline services

and amusements. The FTA study, using 164 categories of services, found in 1996, that Arizona taxed 57 of the categories. Of these 57 categories, only 2 were for personal services and none were for professional services.

3. Benefits Of Taxation Of Services.

A number of commentators have argued that there are significant benefits to expanding the sales tax (or in the case of Arizona, the TPT) generally to apply to services in addition to the mere ability to collect additional revenues

Household spending has been shifting from the purchase of goods to services for a number of years. Mazerov notes that the traditional sales tax base, purchases of goods, other than groceries, has fallen from 39% of household consumption in 1970 to 33% in 2001. Consumption of services by households rose in the same period from 31% to 44%.⁸

Commentators note that imposing the sales tax on services in a sales tax state would reduce the year-to-year volatility of sales tax collections, which often are based on purchases of big ticket durable goods.⁹ Mazerov suggests that the purchases of services would not fall as precipitously as durable good purchases during economic slowdowns. It is difficult for individuals to stockpile services; even in recessions they must be purchased.¹⁰

Quick and Mazerov both address equity issues in connection with broadening the sales tax to include both goods and services. "A broad-base sales tax on consumption of both goods and services applies to every dollar of consumption regardless of who makes the purchase."¹¹ Horizontal equity should require that two individuals making the same total consumption purchases would pay the same total tax. Currently, a purchaser of services may pay no tax while a purchaser of goods will be subject to a tax. Individuals who prefer to devote consumption dollars to the purchase of goods under current law will likely pay a much greater amount of tax each year than a person whose preference is to utilize their income on services. Since the purpose of this tax is to impose a tax on consumption of resources, those situations should receive a similar imposition of tax. If services were subject to tax, the amount would not vary even if there are differences in the mix of goods and services consumed by the household.

Vertical equity, that is, maintaining or increasing progressivity of the amount of tax paid by different income groups, is also maintained by a sales tax on services. Mazerov indicates that a review of available data on personal consumption expenditures suggest higher income groups consume a relatively greater proportion of services than they do goods. Thus, it is argued, adding taxable services to a consumption base reduces regressivity. It should be noted that one study done in connection with the services tax in Florida using 1972 statistics concluded that the progressivity benefit was slight.¹²

A study by the Arizona Department of Revenue for the fiscal year 2001-2002 determined that exemptions for services resulted¹³ in tax revenue loss of \$553,027,000 for professional services, \$541,260,000, for business services, \$80,281,000 for personal services and \$23,204,000 for advertising.

The amount of additional revenues that could be generated from expanding the TPT to services was estimated by Mazerov. Mazerov estimated sales tax revenue on a state-by-state

basis by utilizing the gross domestic product accounts published by the Commerce Department. He utilized each state's proportional size of the state's economy to estimate the revenues that could potentially be collected assuming all household purchases of services were subject to tax other than healthcare, housing, education, legal, banking, public transit, insurance and funeral services. In the case of Arizona, he estimated that an additional \$1,017,000,000 could be collected from the expansion of the TPT to services. The actual additional revenue would be less, of course, because some services are subject to tax. Nevertheless, this indicates the magnitude of the additional revenue that could be obtained.

3. Taxation Of Services In States That Tax The Full Range Of Services

Three states have a general tax on receipts from an extensive number of services—Hawaii, New Mexico and South Dakota. In each case the tax is similar to the TPT in that it is imposed on the seller of the service, not the buyer, if the seller is subject to the tax. Further, except for New Mexico, there is a use tax to compliment the gross receipts tax in connection with in-state sales of services. In addition, Iowa taxes a substantial number of services.

Hawaii

Hawaii imposes a business privilege tax measured by the values of products, gross proceeds of sales or gross income on, among other businesses, contractors, theaters, amusements, etc., the sales representatives and agents of these businesses, and on all service businesses.¹⁴ Similar to the TPT, the tax is levied on the person conducting the business, not the customer. Depending on the type of business activity, Hawaii imposes varying general excise tax rates. Wholesaling, producing, manufacturing, or certain services rendered for an intermediary are taxed at 0.5% of the gross income, gross proceeds from sales, or value of products in the chain of distribution. The tax rate on income for retail activity at the consumer level is 4%, and .15% on insurance commissions. The use tax is generally 4%, but individuals who import goods for resale at retail in Hawaii are taxed at 0.5%.

For taxes accruing after December 31, 1999, the tax is imposed on the value of services or contracting that are performed by an “unlicensed seller,” i.e., a non Hawaiian seller, at a point outside of Hawaii and imported or purchased for use in Hawaii. The tax accrues when the service or contracting is received by the importer or purchaser and becomes subject to the taxing jurisdiction of the State.¹⁵ The law exempts services or contracting exported outside Hawaii for a customer located outside Hawaii where the services or contracting are for resale, consumption, or use outside Hawaii.¹⁶

New Mexico

New Mexico taxes all receipts derived from performing services in New Mexico unless the services are specifically exempt or deductible.¹⁷ The tax is imposed on both personal services and business services. Receipts from performing a service may be deducted from gross receipts if the sale of the service is made to an out-of-state buyer who delivers to the seller either an appropriate nontaxable transaction certificate or other evidence acceptable to the secretary unless the buyer of the service or any of the buyer's employees or agents makes initial use of the product of the service in New Mexico or takes delivery of the product of the service in New

Mexico.¹⁸ The use tax does not apply to the value of services performed outside of New Mexico for persons in New Mexico even though the persons in New Mexico may have contracted for and received direct benefit from the service.¹⁹

South Dakota

South Dakota generally taxes the gross receipts arising from all services except for those services that are specifically exempt.²⁰ There is also a use tax that applies to the use of services in South Dakota if the services were purchased outside of South Dakota.²¹ Previously, the tax did not apply if the use of the service was entirely outside South Dakota.²² However, this exemption was repealed effective July 1, 2003. As a result, it would appear that services purchased by out-of-state buyers from in-state vendors would be taxable, regardless of where the service is used by the buyer.

Iowa

Iowa does not have a general tax on service transactions. Instead, Iowa taxes enumerated services.²³ Both the seller and the buyer are liable for the tax, but the tax is imposed on the seller.²⁴ The sales and use tax applies to gross receipts, for example, from rendering, furnishing or performing the following services: alteration and garment repair; armored car; vehicle repair; battery, tire, and allied services; investment counseling; service charges of all financial institutions; barber and beauty; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dating services; dry cleaning, pressing, dyeing, and laundering; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; swimming pool cleaning and maintenance; telephone answering service; test laboratories, including mobile testing laboratories and field testing by testing laboratories, and excluding tests on humans or animals; termite, bug, roach, and pest eradicators; and lawn care, landscaping and tree trimming and removal.²⁵

Iowa law imposes a use tax on the use of these services if not collected by the retailer. An exemption is provided for sales of services in the case where the person contracted to provide a service subcontracts with another person to provide the service. There is a specific exemption for services performed on property if the property is then shipped out of Iowa.²⁶ There does not appear to be any general exemption for services performed in Iowa that are “used” out-of-state. There is simply a general exemption required by the U.S. Constitution. This should be compared to the complex “benefit” provisions described below that were part of the Florida services tax.

4. **Florida and Massachusetts Service Taxes**

The short-lived sales taxes on services in Florida and Massachusetts highlight the problems with expanding the sales tax to services and may offer some guidance on avoiding these problems. In particular, as described below, Florida’s attempt to tax national advertising triggered substantial opposition to the tax which, at least in part, led to its repeal only six months

after it went into effect. In addition, some of the difficulties that these two states found in sustaining a sales tax on services, supports limiting any tax on services to household purchases.

The Florida sales and use tax on services, enacted in 1987²⁷ was imposed on a broad range of services, including advertising, legal accounting and construction services. Exempt from the Florida tax were Medical and health services, education and social services, services provided by employees for employers and other certain services. The tax was generally similar to sales taxes on goods imposed in Florida in that the sale of the service was taxable if it was sold within the state and, additionally, the use of a service was taxable if purchased outside the state but used within the state. This Florida tax contained an exemption for sales of services purchased within the state for use outside the state. Services whose benefit was enjoyed part in Florida and part outside the state were subject to an apportionment rule, in contrast to sales taxes on purchases of goods which are not apportioned simply because the goods may be enjoyed, in part, in another state.

The law provided complex rules for determining where the benefit of a service was enjoyed in the case of a purchase of services by businesses. If a business purchased a service directly related to real estate, the benefit was deemed to be where the real estate was located. If directly related to tangible personal property, the benefit of the service was presumed to be enjoyed where the property had acquired a business situs. If the service directly involved sales to the purchaser's local market, the benefit of the service was presumed to be enjoyed where the purchase's market existed. A final rule provided that if the business purchaser was doing business in Florida and outside of Florida, the service was presumed to be enjoyed in Florida to the extent that the purchaser was doing business in Florida. The corporate income tax apportionment formulas were to be employed to make this determination of the extent the purchaser of the service was doing business in Florida. Some of the complexities of the law were a direct result of the attempt to apportion the tax in the case of multi-state or multi-national companies.

The rules for non-business purchasers were somewhat different. If the service purchased was related to real estate, the benefit of the service was deemed to be where the real estate was located. If the purchased service was related to personal property, it was deemed to be enjoyed where the personal property representing the service was received. If neither of these two rules applied, an individual was presumed to enjoy the benefit where the greater proportion of the service was performed based on the cost of performance. This allowed the purchaser to apply the appropriate apportionment factors.

Like the tax on the sales of goods in Florida, the tax was generally collected by the seller of the services in the state and in the case of sales outside the state, the tax was to be remitted by the user if the purchaser had nexus to Florida.. If the sale of services was made in Florida to a multistate purchaser which wanted to use the out-of-state exemption, the business was to present an exemption permit to the seller and self assess the tax and remit it to the State.

The statute provided special rules for certain industries. For example, in the case of advertising in a nationally circulated magazine, the cost of the advertising was allocated to

Florida based on the portion of its circulation in Florida. Since the advertising was sold outside the state, the obligation to remit the tax was on the purchaser, the advertiser, not the magazine.

The Florida tax was subject to a number of legal challenges, including one by the media arguing that the tax on advertising violated the First Amendment. While the Florida Supreme Court in an Advisory Opinion found that it was unpersuaded by the arguments that the First Amendment had been violated,²⁸ the issue was never resolved. Similarly, lawyer groups argued the tax on legal services violated the Constitution's right to counsel. This argument was rejected in the Advisory Opinion by the Florida Supreme Court. Other challenges were mounted based on the Due Process Clause and the Commerce Clause.²⁹

Advertisers and the media led strong opposition to the tax. Multistate businesses claimed that compliance with the apportionment rules was impossible.³⁰ Subsequently, the tax was repealed in legislation which replaced the lost revenue with an increase in the general sales tax rate from 5% to 6%.³¹

The Massachusetts tax was somewhat different than Florida's in that it attempted to extend its sales tax only to services provided to businesses.³² Massachusetts legislation provided for the taxation of professional services provided to businesses including legal services accounting, auditing and bookkeeping, engineering services and architectural services. Services would be taxable to the extent they were utilized by business in Massachusetts regardless of where the professional services were actually performed.³³ The statute listed 23 general categories of taxable services generally defined by reference to codes in a 1987 U.S. Standard Industrial classification. Sales of enumerated services were to be taxed where the sales of services occurred in Massachusetts deemed to be the case if a greater proportion of the service occurred in Massachusetts than any other state, based on the cost of performance. There was an exemption for sales of services used outside of Massachusetts. For purposes of the exemption, services directly related to real property, were presumed to be used within Massachusetts if the property was located in Massachusetts; services directly related to tangible personal property were presumed to be used within Massachusetts if the purchaser accepted the property in Massachusetts; and services not directly related to either of the two, were presumed to be used within Massachusetts if the services were performed for an individual or for a business engaged primarily in business within Massachusetts, or whose principal place of business was in Massachusetts. Services used both within and outside of Massachusetts ultimately were apportioned based on the corporate income tax apportionment mechanism. Bushkin notes the complexity of determining when, where and to what extent of services were used in one state or another.

Because the taxed services were limited to those provided to businesses, the definition of "business" was critical. The difficulty in this is described by Bushkin.³⁴ He notes that many transactions involve both a business expense and a personal expense, for example, a purchase of a residence where there are services provided to the lender but paid for by the homeowner. Buskin concludes that the Massachusetts tax failed for political reasons based to some extent on problems of definition, compliance and administration inherent in the law. In addition, Bushkin concludes that the tax created competitive disadvantages for services providers located in Massachusetts.³⁵

The Florida and Massachusetts tax made valiant attempts to tax—in the case of Florida—both household and businesses, and in the case of Massachusetts, businesses, on some equitable manner that would take into account purchases within the state and outside the state and attempted to avoid economic disincentives to both purchasers and sellers located in the State.. Nevertheless, the failure of these state laws is strong evidence that the taxation of business services may create difficulties that will lead any tax on services to be doomed. As described below, the taxation of household consumption of services is significantly simpler, generally avoids the complex interstate issues presented by business purchases and thus is easier to administer.

5. What Services To Tax

Assuming that expanding the TPT to services is determined to be an appropriate policy, the types of services to be taxed must be considered. In determining what services to tax, the threshold decision is whether to tax all services, services purchased primarily by households or services purchased primarily by businesses. The decision as to what services should be subject to the TPT requires consideration of several factors. The sales tax on services imposed by the state of Florida and Massachusetts, in part, likely failed because of the complex rules necessary to impose a services tax on businesses, particularly interstate and multinational businesses, doing business in the state. Complex administrative rules required to tax services purchased by businesses significantly increase the difficulty in compliance with the imposition of the tax.

The three states that tax all services do not differentiate between services provided to households and services provided businesses. However, New Mexico and South Dakota are relatively small states, and geography limits interstate issues for Hawaiian purchasers and providers of services.

A number of factors would support limiting the services tax to household purchases and exempt business to business purchases. A primary concern is that taxing business purchases of services presents “pyramiding issues”, that is, taxes are subsequently imposed on taxes since a business will include the tax it is required to pay in the cost of the final products sold to households that are themselves subject to tax. This results in an effectively higher, but hidden tax rate. Further, goods like groceries, that are nominally exempt from tax, nonetheless may have significant taxes imposed on their consumption.

In the case of a sales tax on goods, the pyramiding is somewhat ameliorated by the use of exemptions for resale. Because of the nature of services, it is less likely that resale exemptions will be a significant limitation on double taxation.

In Florida, the resale exemption provided by the statute was very limited.³⁶ Generally, no exemption was provided for overhead services or services that would be “incorporated” into a product. The exemption was limited to services not consumed by the purchaser.

Taxing business services can also result in uneconomical allocations of resources. Generally, existing taxes on services, as well as the Massachusetts and Florida taxes, do not impose any tax on the services provided by an employee to an employer. As a consequence a

vertically integrated business will have an edge over a business that is required to outsource service needs. This may lead to economic decisions impacted by this differing tax treatment. This result violates the desire for horizontal equity. Further, this difference may impact the state economy by causing companies that are forced to outsource services to move to states that do not impose a services tax.

Hellerstein notes that some objections to taxing business purchases of services are not equally applicable to business purchases of goods. He notes that the taxation of services purchased by businesses such as legal accounting and information processing might induce those businesses to provide services in-house to avoid the burden of the tax. However, a business most likely will be less likely to produce products in-house, than to bring in-house services that might be subject to tax. Hiring employees to provide services is easier than setting up production facilities.

In-state service providers to businesses may be more affected by a tax on services than businesses providing services used by households. Purchasers of business services are more likely to be able to go out-of-state to purchase services such as accounting or consulting services than households that purchase personal or professional services. While the three states addressing this issue, as well as Florida and Massachusetts, address this issue by including a “use tax” to compliment the tax imposed on in-state transactions, difficulties in the enforcement of a use tax make this solution imperfect.

In addition, multi-state companies will have the ability to purchase services outside of the state to avoid taxation by claiming that the services are used outside of Arizona in all or in part. Florida’s attempt to solve this issue by using a complex apportionment structure was a major factor in the ultimate demise of the tax. Households are less likely or able to make service purchases out-of-state to avoid imposition of the tax.

Any tax that includes a service tax on business purchases must also avoid creating a disadvantage for in-state providers wanting to provide services for out-of-state purchasers. Again, this was addressed in the Florida statute, as well as in the current Hawaii and New Mexico statutes, but the complexity may drive purchasers to look to providers in other states.

Assuming that practical administrative issues, as well as potential economic impacts, suggest that purchases of services by business cannot be taxed, many of the issues described above will not exist with respect to minor items purchased by businesses or purchases by businesses that are also singularly made by households.

6. Statutory Form of a Services Tax

Taxation of services may be accomplished primarily in one of two approaches. The first approach creates legislation that taxes all services broadly and creates specific exemptions for services, such as business to business services, that the legislature determines are to be taxed. This is the approach followed in Hawaii and New Mexico.

The other approach is for the legislature to create a specific list of services that will be held taxable. This is the approach followed in Iowa.

There are, of course, advantages and disadvantages to each. The advantage of imposing the tax broadly is that newly developing services will automatically be held taxable, absent any specific exemption. This provides for a more constant source of service tax revenue as the need/desire for some purchased services end and other newly developing services are purchased. The disadvantage is that the taxation of a newly developing service may not be in the best interest of the state or may not have been intended to be taxed by the legislature. The alternative approach of taxing only specifically mentioned services provides an advantage in that the service business industry knows exactly what services are taxable. The disadvantage is that new services are not taxed without specific legislation and service tax revenues may decline.

7. Arizona and the Cities & Towns of Arizona

The State of Arizona imposes TPT via State Statute for the State and for the counties. The counties in Arizona levy a TPT as a percentage of the State's TPT rate. There are generally two types of excise taxes: a special district excise tax and a county excise tax. Special district excise taxes provide tax revenue for special districts and are levied upon the affirmative vote of the residents of the county. County excise taxes are levied upon the unanimous vote of the county board of supervisors and provide funding for general county government. Both of these types of county excise taxes "piggy back" on the state TPT system, allowing the state tax base to be used in levying the county tax. The approved county excise tax rate is simply added to the state TPT rate. By "piggy backing" on the state TPT tax base, the county excise taxes tax the same activities and provide the same exemptions as the state TPT system. If the state's tax base is expanded to include a tax on services, policy makers must consider whether or not county excise taxes will continue to share the same tax base as the state TPT system. If the state chooses to tax services, this will essentially allow county excise taxes to apply to the same services.

The cities and towns of Arizona impose a similar tax, referred to as a privilege license tax ("PLT") via the Model City Tax Code. While there are similarities between the two taxing codes regarding the activities held taxable and the exemptions to the taxes imposed, there are numerous differences that have generally created a larger taxable base for the cities and towns. The Model City Tax Code generally has fewer exemptions from tax and includes the taxation of certain services not taxed by the State of Arizona. Expanding the State's tax base to include a tax on services that are not already taxable for the cities and towns will likely be met with an effort by the cities and towns to include taxation of these services within the Model City Tax Code. In addition to enhancing local jurisdictions' tax revenues, matching the Model City Tax Code to State Statute on the taxation of services will ease business' administration of the two tax programs in that it will be easiest for business to understand that which is taxable for the State is also taxable for the cities and towns.

The State of Arizona currently shares transaction privilege tax collected at the state level with the counties and cities and towns of Arizona through a distribution formula found in state statute. Increasing the State's tax base to include the taxation of services must be designed so the increase in tax revenues are part of revenues shared with cities and towns. Additionally, in order

to enhance tax revenues for the State and for the cities and towns, the increased tax base should be taxed at the current tax rates.

Examples of services that are taxable in the Model City Tax Code and are taxed by some of the non-program cities are alarm monitoring, advertising, rental of commercial property, rental of residential rentals, cable television and wastewater services (non-program cities are those cities that self-collect and administer their own privilege tax programs). State Statutes currently impose a tax on the rental of commercial property but at a zero percentage.

Below is a chart representing the projection of estimated State tax that could be realized through taxation of a few services currently taxed by the non-program cities of Arizona. The projection estimates that the non-program cities' portion of statewide taxable revenues is approximately 60% based on population and that the State would tax these services at its current 5.6% general TPT rate (0.6% of the general tax rate is dedicated to education).

	Non-Program Cities Tax Revenue	Non-Program Cities Taxable Revenue (1)	Statewide Taxable Estimate	Projected State Tax at 5.6%
Residential & Commercial Leases and Licenses	111,480,477	6,509,550,780	10,849,251,300	607,558,073
Advertising	5,709,014	834,229,403	1,390,382,338	77,861,411
Total	117,189,491	7,343,780,183	12,239,633,638	685,419,484

(1) The Non-Program cities represent approximately 60% of the State's population. Statewide taxable is based on non-program cities' taxable revenues also representing 60% of State taxable revenues in these taxable activities.

8. Nexus/Sourcing - Special consideration for Arizona Cities and Towns

With taxation of services, a service provider may be located in one taxing jurisdiction while the customer of the service is located in another taxing jurisdiction. Take for example income tax preparation services. The accounting service providing the service is located in one jurisdiction though the customer of the service is in another. Taxation of services must take into account not only what services to tax, but also where the transaction is to be held taxable. Generally, in Arizona, a sale of goods is taxable where the seller is located notwithstanding other considerations such as exemptions. Currently taxed services such as water services and telecommunications are taxable where the ratepayer, or customer is located. Ease of administration of taxing services is related, in part, to a clear understanding of where the incidence of tax falls. A case can be made to limit taxation of services to those services where it is easy to determine where a service takes place, such as dry cleaning and shoe repair.

These issues are particularly important for the local taxing jurisdictions (counties, cities and towns) assuming that the cities and towns add corresponding legislation to the Model City Tax Code to tax the same services as the State. It will be important to the counties and the cities and towns that legislation that imposes a tax on services makes it clear as to where a service is

taxable. Without such clarity, the business community will not understand where the tax is due and this will add an administrative burden on the business community as well as the local jurisdictions. Attached is a list of potential services that may be included in the expansion of TPT to services. The listed services are illustrative only and are not exhaustive.

Arizona is one of only a few states that imposes tax as a privilege tax rather than as a sales tax. Local jurisdictions (counties and cities and towns) in Arizona likewise impose the tax as a privilege tax rather than a sales tax. In a sales tax state, the tax is imposed on the customer but is collected and remitted by the business. In privilege tax, the tax is imposed on the business itself for the privilege of conducting the taxable transactions within the jurisdiction based on the value of the transaction. The business-taxpayer may pass the tax on to its customers but is held responsible for the payment of the tax. Taxation as privilege tax jurisdictions (state and locals) allows the taxing jurisdictions to impose the tax on transactions the business conducts with the federal government. Since the federal government cannot be taxed, sales tax jurisdictions may not impose the tax. Taxation of the business conducting these same transactions under the privilege tax method allows the imposition of the tax. The federal government generally will pay the business the amount of tax for which the business has a liability. Arizona statutes and the Model City Tax Code under which the local jurisdictions impose the privilege tax allow certain deductions for transactions conducted with the federal government such as a 50% reduction in tax on retail sales and 100% tax reduction on sales by a manufacturer. The tax liability of taxing services is likewise on the vendor of the service rather than the customer. Accordingly, transactions that would be exempt in a sales tax environment are taxable through the privilege tax.

EXHIBIT A

These are examples of services that may be suitable to be included in developing a list of taxable services. Basically, this list is comprised of services that are based on the business operating from one location. Taxation of services based on a sole location avoids sourcing issues among counties, cities and towns.

Alterations, repairs, dyeing, and imprinting of clothing and accessories
Apartment search and roommate matching services
Architectural services
Art/antique collecting advisory and brokerage services
Bill paying services (fee and commission)
Condominium/co-op maintenance fees
Consulting engineer services
Custom butchering services
Dating services
Day spa services (facials, makeovers, etc.)
Debt counseling services
Diaper service
Escort services
Escrow agent services
Fees/commissions for check cashing, money orders, travelers checks, money wiring
Gift wrapping services
Hair care
Hair removal
Hospital services
Jewelry repair/cleaning/custom design and fabrication
Laundry and dry cleaning and pressing services, coin-operated
Laundry and dry cleaning and pressing services, non-coin-operated
Medical testing services
Nail care
Nursing home services
Nursing home/elder care consultants
Nutritionists/dieticians
Occupational/physical/massage/speech therapy
Optometrists
Original tailoring of clothing
Psychologist/social work/counseling services
School and university tuition, room and board charges, student fees
Services of doctors and dentists
Shoe repair
Shoe shining and dyeing
Specialized facilities (substance abuse, hospice, dialysis, etc.)
Summer camp tuition and fees
Tattoo and piercing services
Taxidermy services
Test preparation classes
Watch/clock repair

Weight loss salons and counseling

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- ¹ See below for a list of services currently subject to the TPT in Arizona.
- ² Federation of Tax Administrators, *Sales Taxation of Services*, 1996 Update, April 1997 (hereafter FTA study).
- ³ FTA at page 3.
- ⁴ See, Hellerstein, *Florida's Sales Tax on Services*, 41 National Tax Journal 1 (March, 1988) (hereinafter "Hellerstein"); and Bruskin and Parker, *State Sales Tax on Services: Massachusetts as a Case Study*, 45 Tax Lawyer 49 (Fall 1991) (hereinafter "Brushkin").
- ⁵ Mazerov, Michael, *Expanding Sales Taxation of Services: Options and Issues*, published by the Center on Budget and Policy, June, 2003 (hereafter Mazerov); Fox and Murray, *Aspects of Taxing Services*, 41 National Tax Journal 19 (March 1988)
- ⁶ *Id.*
- ⁷ W. Hellerstein, *State Taxation*, at ¶15.01, citing J. Due, *Proposed Application of the Illinois Sales Tax to Services*, 44 Ill. Bus. Rev. 3 (June 1987).
- ⁸ Mazerov, at 2.
- ⁹ Quick and McKee, *Sales Tax on Services: Revenue or Reform*, 41 National Tax Journal 395, 402 (September 1988) (hereinafter "Quick")
- ¹⁰ Quick at p. 402.
- ¹¹ Quick at p. 400.
- ¹² Siegfried and Smith, *The Distributional Effects of a Sales Tax on Services*, 44 National Tax Journal 41 (March 1971).
- ¹³ Arizona Department of Revenue, *Revenue Impact of Arizona Tax Expenditures*, November, 2002.
- ¹⁴ Haw. Rev. Stat. §237-13.
- ¹⁵ Haw. Rev. Stat. §238-2.
- ¹⁶ Haw. 237-29.53.
- ¹⁷ NMSA §7-9-3.1(A)(2).
- ¹⁸ NMSA §7-9-57(A).
- ¹⁹ NM Admin. Code §3.2.10.10
- ²⁰ S.D. Codified Laws §10-45-4.
- ²¹ S.D. Codified Laws §10-46-2.1
- ²² S.D. Codified Laws §10-45-12.3, repealed by L. 2003, c. 61 §3, eff. July 1, 2003.
- ²³ Iowa Code §422.43.
- ²⁴ Iowa Code §422.47(3).
- ²⁵ Iowa Code §422.43(11).
- ²⁶ Iowa Code §422.45(46).
- ²⁷ Chapter 87-6, Fla Laws 9.
- ²⁸ *In re Advisory Opinion to the Governor*, 509 So.2d. 292 (Fla. 1987).
- ²⁹ Hellerstein, at p. 13.
- ³⁰ Hellerstein, at 15.
- ³¹ Ch.87-548, 1987 Fla. Laws.
- ³² See Brushkin at 49.
- ³³ *Id.*
- ³⁴ At 58.
- ³⁵ At 67.
- ³⁶ V. Weber, *Florida's Fleeting Tax on Services*, 15 Fla. St L.R. 613 (1987).