

REAL PROPERTY RENTALS

YOU OWE TAX ON REAL PROPERTY RENTALS IF:

You are in the business of renting or leasing real property. If you rent residential property to non-permanent residents, see the Hotel/ Motel Sales Tax Brochure.

TAX RATE

The tax rate is 1.75% of the gross income. Income is any value received either as funds or bartered services on merchandise.

TAX FACTORS

Tax Factor on Commercial Lease	.02200489 (2.25%)
Tax Factor on Residential Rental and Licensing for Use	.01719902 (1.75%)

COLLECTION OF TAX

You may choose to charge the tax separately on each sale, or include sales tax in your price. If you over charge any tax to your customers, you must remit the excess tax to the city. If your price includes sales tax, you can compute how much of the total price is sales tax. You may deduct the total city, state, and county sales taxes from your gross receipts.

EXAMPLES OF TAXABLE FACILITIES INCLUDE:

- office buildings
- stores
- parking and storage facilities
- apartments/homes/duplex/triplex/fourplexes
- stores/factories/farm land
- banquet and meeting halls

A unit is one real property location rented to one tenant. For example a three-story office building rented to one law firm is one unit. On the other hand, if you rent three offices in a medical office building to three separate physicians, each office is one unit.

YOU ARE "IN THE BUSINESS" AND TAXABLE IF:

1. You have one or more non-residential rental units.
2. You have 2 or more residential units available for rent in the State. (Prior to October 1, 2008, the tax code specified 3 or more residential units in the State.)
3. You have 1 residential unit and one or more commercial units.

4. If you only own one residential single family home in the state and it is located in Mesa, and rented to multiple unrelated tenants, such as college students, it would be taxable to the City of Mesa. If this same home is rented to a single family or person, it would not be taxable.

Transactions between related companies or persons are taxable by the City of Mesa. See Mesa City Code Section 5-10-100 for the definition of a "Person", Section 5-10-210 "Determination of gross income: transactions between affiliated companies or persons", and Section 5-10-220 "Determination of gross income: artificially contrived transactions".

SUBLEASING

Income from subleasing is taxable, but the sublease provides an exemption to the primary lessor. The primary lessor is entitled to an exemption for the portion of the property subleased by their tenant.

For example, if A leases a 10,000 square foot building to B for \$6,000 per month (the primary lease), and B subleases 2,500 square feet to C for \$3,000 per month (the sublease), the tax liabilities of A and B are computed as follows:

- B's liability is for the tax on his subleasing income of \$3,000
- A's liability is reduced by the portion of the building that is subleased

2,500 square feet subleased (documented by B's sublease agreement with C)

divided by

10,000 square feet in primary lease (between A and B) equals

25% of the primary lease is exempt (75% is taxable)

- A is entitled to an exemption for 25% of their \$6,000 monthly income or \$1,500.

This exemption must be computed based on the square footage subleased, not the values of the primary lease and the sublease.

SPECIAL SITUATIONS

1. Sub-Leases

When a property is subleased, the taxable landlord is the one directly leasing to the tenant in actual possession of the property.

2. Additions to Rent

Extra charges included in rent for services such as cleaning, common area maintenance fees, tenant improvements, real property taxes, security services, insurance and utilities are taxable as part of rental income. But when a

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landlord installs individual utility meters for each tenant and charges each tenant for this service based on the meter reading, then those utility charges are not taxable. Monies received from the use of laundry rooms and or vending machines are also considered part of rental income.

3. Security Deposits

Security deposits are only taxable if and when they are forfeited. Non-refundable deposits are taxable when received.

4. Exemptions

Charges by a qualifying hospital, qualifying community health center or a qualifying health care organization to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt. The fair market value of one apartment in an apartment complex provided rent free to an employee is not taxable. For complexes with more than 50 units, an additional apartment provided rent free to an employee for every additional 50 units is not taxable.

5. Brokers, including property managers, shall file a return and remit tax imposed on the activity on behalf of the principal. No deduction shall be allowed for any commissions or fees retained by such broker, except as provided in Section 5-10-405 relating to advertising commissions. A broker acting for a seller, lessor, or other similar person deriving gross income in a category upon which this Chapter imposes a tax shall be liable for such tax, even if his principal would not be subject to the tax if he conducted such activity in his own behalf by reason of the activity being deemed a "casual" one. For example: A property manager is subject to the tax imposed upon rental, leasing, or licensing of real property, even if such rental, leasing, or licensing would be deemed "casual" if his principal managed such real property himself. (Regulation 5-10-100.1)

6. Real Property Rentals Between Affiliated Corporations

Section 445: New preemption in A.R.S. 42-6004 (A)(11) exempting leases between affiliated corporations, including reciprocal insurers. – New subsection 445(s) is added to incorporate HB2510, which prohibits cities and towns from taxing commercial rentals between two corporations when either the landlord or lessor corporation owns at least 80% of the voting stock of the other corporation. Also it allows exemption if a third corporation owns 80% of both the landlord and the lessor corporations, and treats a "reciprocal insurer" as if it were a "corporation" for purposes of the exemption. The effective date of this change matches the legislature's 2010 Regular Session general effective date of July 29, 2010.

Section 445(S)(2) Ownership and control are determined by reference to the voting shares of a corporation. Section 445(S)(3) "Reciprocal Insurer" has same meaning as ARS § 20-762.

RENTAL OF REAL PROPERTY & LICENSING FOR USE

Space rental to vendors at events may be taxable if the rental constitutes a lease of real property. This tax is imposed on any individual renting property or space to vendors at events. Tax may be added to the cost of the vendor's rental fee. If the rental were merely a "license" granting permission to use the space rather than an actual lease of the property, the rental income received would be taxable under licensing for use in the Mesa City Tax Code.

Examples of licensing for use income include commissions received for licensing space for vending and amusement game machines or pay telephones, commissions received for the use of a business or property or similar charges for the use of space.

The definition of "Licensing for Use" means any agreement between the user ("licensee") and the owner or the owner's agent ("licensor") for the use of the licensor's property whereby the licensor receives consideration, where such agreement does not qualify as a "sale" or "lease" or "rental" agreement.

This publication is for general information only about Transaction Privilege (Sales) Tax on real property rentals. For complete details, refer to the City of Mesa Privilege & Excise Tax Code and related regulations. In case of inconsistency or omission in this publication, the language of the Tax Code will prevail. The transaction privilege tax is commonly referred to as a sales tax, however, the tax is on the privilege of doing business in Mesa and is not a true sales tax.

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