

## CHAPTER 12 – SALES TAX CODE

### Sec. 12-445. Rental, leasing, and licensing for use of real property.

- (a) The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the City for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the City for a consideration including any improvements, rights, or interest in such property; provided further that:
  - (1) Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.
  - (2) Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.
  - (3) However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section 12-470.
- (b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.
- (c) 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.
- (d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services are exempt from the tax imposed by this Section.
- (e) Effective from and after September 1, 1988, all real property rental gross income from a person who has obtained a permit to enter into life care contracts pursuant to A.R.S. §20-1802(B) and subject to the tax under this Section shall be allowed a deduction of thirty-five percent (35%).
- (f) (Reserved)
- (g) (Reserved)
- (h) (Reserved)
- (i) (Reserved)
- (j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 12-444 of this code.
- (k) (Reserved)

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- (l) (Reserved)
- (m) (Reserved)
- (n) Notwithstanding the provisions of Section 12-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this Section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this Section.
- (o) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this State or of any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this Section.
- (p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or other real property during the course of their treatment by such facilities are exempt.
- (q) Charges to patients receiving “personal care” or “directed care”, by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statutes and Title 9 of the Arizona Administrative Code are exempt.
- (r) Income received from the rental of any “low-income unit” as established under Section 42 of the Internal Revenue Code (“IRC”), including the low-income housing credit provided by IRC Section 42, to the extent that the collection of tax on rental income causes the “gross rent” defined by IRC Section 42 to exceed the income limitation for the low-income unit is exempt. This exemption also applies to income received from the rental of individual rental units subject to statutory or regulatory “low-income unit” rent restrictions similar to IRC Section 42 to the extent that the collection of tax from the tenant causes the rental receipts to exceed a rent restriction for the low-income unit. This subsection also applies to rent received by a person other than the owner or lessor of the low-income unit, including a broker. This Subsection does not apply unless a taxpayer maintains the documentation to support the qualification of a unit as a low-income unit, the “gross rent” limitation for the unit, and the rent received from that unit.
- (s) The gross proceeds of a commercial lease of real property between affiliated companies, businesses, persons or reciprocal insurers are exempt. For the purposes of this paragraph:
  - (1) "affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, an affiliated entity holds a controlling interest in both the lessor and the lessee or an unrelated person holds a controlling interest in both the lessor and lessee.

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(2) "controlling interest" means direct or indirect ownership of at least eighty per cent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

(3) "Reciprocal Insurer" has the same meaning as prescribed in A.R.S. Section 20-762.

(Code 1977, § 9A-445)

(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

(Ord. 07-07, 3/20/07, Amended added (r) SUPP 2007-1

(Ord. 2014-17, 4/22/14, Amended) SUPP 2014-2