**Commercial Real Property Rental**

# CITY OF PHOENIX
# TRANSACTION PRIVILEGE (SALES) AND USE TAX

## WHO MUST PAY THE TAX?

You must be licensed and pay tax if you are in the business of leasing, licensing or renting non-residential real property located within the city of Phoenix to a tenant in actual possession (not subleased by them to someone else).

Licensing means any agreement between the property owner and the user of real property that does not grant the full rights of a lease. Examples of licensing income include commissions received for licensing space for vending and amusement game machines or pay telephones, the use of a business or property for filming movies or commercials, and similar charges for use of space.

## WHAT IS THE CITY TAX RATE?

The City's tax rate is 2.4%; the combined rate (including County tax) is 2.9%.

## WHEN IS TAX DUE?

Your tax return and payment are due on the 20th day of the month following the reporting period.

## WHO IS TAXABLE?

A person in the business of leasing, licensing or renting any non-residential land, building, or space must pay tax to the city of Phoenix on the units located within the city of Phoenix. Effective July 1, 2013, the rental of commercial property to related business entities may be exempt pursuant to A.R.S. §42-6004(A)(12) and Phoenix Tax Code Section 14-445(s). The statutory provisions allow the exemption of gross income on rental of real property if commercial real property is leased or rented to affiliated entities with ownership controlling interests as defined by statute. Examples of taxable commercial rentals include the following:

- office buildings
- parking lots
- stores
- banquet halls
- factories
- meeting rooms
- commissions on vending machine or pay phone space
- storage facilities
- government agencies
- vacant land
- space at a swap meet
- churches
- safe deposit boxes
- booth rental
- non-profit organizations

Rental of commercial property to related business entities prior to July 1, 2013 is taxable.

## WHAT IS TAXABLE?

All amounts paid by the tenant under the terms of the lease agreement are gross income to the lessor. All amounts paid by the tenant to the lessor, or paid on the lessor's behalf, are gross income including common area maintenance, property tax (paid to the lessor or the County), mortgage, repairs, insurance, forfeited deposits and recoveries due to court action.

## DEDUCTIONS THAT CAN BE TAKEN (when included in the gross income on the front of your tax return form):

1. County and City sales tax collected whether charged separately or included in the lease price
2. bad debts on which tax was paid on a previously filed City tax return form

3. leases for release (including subleases)
4. discounts, refunds or returns
5. leases to "Qualifying Health Care Facilities", including hospitals, nursing homes and dialysis centers (must be non-profit entities)
6. utility charges **only if** individual utility meters have been installed for each tenant and the lessor charges each tenant the exact billing from the utility company

## 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)
  ÷ 10,000 square feet in primary lease (between A and B)
  = 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.

## CALCULATING THE TAX

You may choose to charge the tax separately or you may include the tax in your price. If you include tax in your price (i.e., no separate charge for tax), you may back out the tax in order to compute the amount of tax included in your gross income. The formula is as follows:

TAXABLE LEASES divided by 1 + COMBINED TAX RATE of 2.9% (County & City, no State tax)
Calculate the tax deduction as follows:

Taxable Leases ÷ Factor (1.029) = Computed Taxable Income
Taxable Leases less Computed Taxable Income equals your deduction for tax collected.

Example: $3,000.00 ÷ 1.029 = $2,915.45
$3,000.00 - $2,915.45 = $84.55 (tax collected deduction)

If more tax was collected than was due, the City's portion of excess tax collected must be paid to the City, unless it is refunded to the customer. Please refer to the Transaction Privilege (Sales) and Use Tax Instruction Sheet for instructions on how to report excess tax collected or the tax collected deduction.

This material is available in alternate formats upon request. For more information, call (602) 262-6785, press 4, TTY (602) 534-5500 or write to City of Phoenix, TAX DIVISION, 251 W. Washington Street, 3rd Floor, Phoenix, Arizona 85003. For more information on our licensing, tax rates, tax return instructions or access to the city of Phoenix Tax Code, visit our website at www.phoenix.gov/finance/plt.

*This is general information only. For complete details, refer to the city of Phoenix Tax Code.*