

SPECULATIVE BUILDER

Transaction Privilege (Sales) and Use Tax



Who is a speculative builder?

A speculative builder refers to an owner-builder who sells or contracts to sell improved real property prior to completion, or before the expiration of 24 months after the improvements to the real property sold are substantially complete as stated in Phoenix City Code (P.C.C.) Section 14-100. The measurement date for substantial completion is the execution date of the Purchase and Sale Agreement (PSA) (i.e., the contract to sell improved real property). The PSA's closing date does not toll the 24-month statutory period and circumvent the tax. The gross income of a speculative builder is considered taxable and includes the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title, as stated in P.C.C. Section 14-416(a)(1).

A speculative builder also refers to an owner-builder who sells or contracts to sell, at any time, improved real property consisting of custom, model, or inventory homes regardless of the stage of completion of such homes, or improved residential or commercial lots without a structure, as specified in P.C.C. Section 14-100.

What constitutes “substantially complete” construction?

As stated in P.C.C. Section 14-100, “substantially complete” means that the construction contracting or reconstruction contracting

1. has passed final inspection or its equivalent, or
2. a Certificate of Occupancy (CO) or its equivalent has been issued, or
3. is ready for immediate occupancy or use.

A **temporary** Certificate of Occupancy (CO) is not the equivalent of a CO and is not evidence of substantially complete construction.

What is taxable?

The Code imposes a speculative builder tax on the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the city of Phoenix, including developers, owner-builders, owners, or lessors of real property as stated in P.C.C. Section 14-416(a). Speculative builders are entitled to deductions (see page 2) and a tax credit.

When are the speculative builder taxes due?

Tax returns and payments are due on the 20th day of the month following the reporting period.

What is improved real property?

Improved real property means, any real property

1. upon which a new structure has been substantially completed, or
2. where improvements have been made to land containing no structure (such as paving or landscaping), or
3. which has been reconstructed, or
4. where water, power, and streets have been constructed to the property line.

What is the sale of improved real property?

The sale of improved real property includes any form of transaction, whether characterized as a lease or otherwise, which, in substance, is a transfer of title or equitable ownership in improved real property and includes any lease of the property for a term of thirty (30) years or more with all options for renewal being included as a part of the term. In the case of multiple unit projects, “sale” refers to the sale of the entire project or to the sale of any individual parcel or unit.

What exemptions, deductions, and credits may apply to a speculative builder's gross income?

Please refer to the Phoenix Tax Code Section 14-416, as well as Section 14-417 for Construction Contracting.

Common Deductions

<u>Deduction Code</u>	<u>Description of Deduction Code</u>
502	35% Deduction
551	Factored Tax Deduction
557	Cost of Architectural or Engineering Service
560	Development Fees
801	In Place Lease Values
802	State/County Tax Paid by Contractor

A credit is allowed for the city Transaction Privilege Tax **paid** by the Construction Contractor, if any.

For a more detailed list of deductions, see the Arizona Department of Revenue's Deduction Code List at https://azdor.gov/sites/default/files/TPT_SIMPLIFICATION_DED-NL.pdf or the Phoenix Tax Code, accessible at <https://www.codepublishing.com/AZ/Phoenix/?Phoenix14/Phoenix14.html>.

If you have questions or need assistance with the calculation of the speculative builder tax, please contact the city of Phoenix, Finance Department, at (602) 262-6785 or email your questions to tax@phoenix.gov.

This publication is for general information regarding Transaction Privilege (Sales) Tax on Speculative Builders. For complete details, refer to the city of Phoenix Tax Code and related regulations. In the case of an 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, under State of Arizona law, the tax is on the privilege of conducting business in Phoenix, imposed on the business and not the purchaser.