

REAL PROPERTY RENTALS

Licensing and Tax Information: (623) 333-2001 | salestax@avondale.org



YOU OWE TAX ON REAL PROPERTY RENTALS IF: | You are in the business of leasing, licensing or renting real property for use to the final licensee or renter located within the City of Avondale.

The lessor is personally liable for payment of the tax to the City whether or not it was charged or passed on to the lessee.

Licensing of real property means any agreement between the property owner and the final user of real property. Examples include commissions received for licensing space for vending and amusement game machines, pay telephones, video rental machines, and the use of a portion of a business or property for filming movies or commercials.

If you rent residential property to nonpermanent residents, see the Hotel/ Motel Sales Tax Brochure.

TAX RATE | The tax rate is 2.5% of the gross income. Income is any value received either as funds or bartered services on merchandise.

TAX FACTORS

Tax Factor on Commercial Lease	.0291262136 (3.00%)
Tax Factor on Residential Rental and Licensing for Use	.0243902439 (2.50%)

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.

All payments made by the renter to, or on behalf of, the lessor are taxable. Taxable income includes payments for property taxes, repairs, improvements, telecommunications, utilities, pet fees, non-refundable deposits, forfeited deposits, and common area maintenance charges.

EXAMPLES OF TAXABLE RESIDENTIAL RENTALS INCLUDE:

- ▶ Houses
- ▶ Apartments
- ▶ Manufactured Homes
- ▶ Mobile Home (Trailer) Spaces
- ▶ Duplex/triplex/fourplexes

Residential rentals for less than 30 days are subject to an additional 2% transient lodging tax, see Hotel/Motel Sales Tax Brochure.

EXAMPLES OF TAXABLE COMMERCIAL RENTALS INCLUDE:

- ▶ Office Buildings
- ▶ Rentals to most Non-Profit Organizations and all Government Agencies
- ▶ Stores
- ▶ Parking and Storage Facilities
- ▶ Factories/Farm Land/Vacant Land
- ▶ Banquet and Meeting Halls
- ▶ Churches
- ▶ Vending Machine Spaces

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:

- ▶ You have one or more non-residential rental units
- ▶ You have one or more residential units available for rent in the State
- ▶ You have one residential unit and one or more commercial units
- ▶ Rental of commercial property to Non-Profit Organization and Government Agencies



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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

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

ADDITIONS TO RENT | Extra charges included in rent for services such as maid and laundry service, 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 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 ("pass-through" charge). Reimbursements received from tenant for damages, keys, etc. are also considered part of rental income. Monies received from the use of laundry rooms and or vending machines are also considered part of rental income.

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

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.

Gross receipts derived from incarcerating or detain inmates 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.

Transactions may be exempt from the tax if the income derived from the rental leasing, or licensing of real property to a corporation; provided that the lessor's aggregate holdings in the lessee corporation amount to at least eighty percent (80%) of the voting stock of the lessee corporation. See Avondale City Code Section 13A-445(i).

UTILITIES | Utility charges are exempt if individual utility meters are installed and each tenant pays the exact amount billed by the utility company.

GUIDELINES FOR REAL PROPERTY MANAGEMENT COMPANIES

BROKER | Any person engaged or continuing in business who acts for another for a consideration in the conduct of a taxable business activity, and who receives for his principal all or part of the gross income from the taxable activity.

MASTER LICENSE HELD BY BROKER | The broker is responsible for submitting a property list with each tax return remitted per required reporting period. The list must include the gross income, deductions and taxes by property address for the reported period.

CONTRACT TERMINATIONS | When a management contract has been terminated, the property manager should take on one of the following actions:

- ▶ If the property continues to be a rental, notify the City the tax responsibility has reverted back to the property owner and provide the current mailing address; or
- ▶ If the property has been sold or foreclosed, notify the City to remove the property from the property list as of the date of the sale.

This publication is for general information only about Transaction Privilege (Sales) Tax on income from contracting activities. This is an informal and nonbinding communication.

For complete details, refer to the City of Avondale 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 Avondale and is not a true sales tax.

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