

COMMERCIAL LEASE

To better serve you, the Arizona Department of Revenue offers online assistance and filing of your business taxes. To register to use the site and to file your taxes online, go to www.AZTaxes.gov.

This publication provides general information about transaction privilege tax (TPT) on commercial leases. The Arizona transaction privilege tax is a tax on the privilege of doing business in Arizona. For complete details, refer to the Arizona Revised Statutes and the Arizona Administrative Code. In case of inconsistency or omission in this publication, the language of the Arizona Revised Statutes and the Arizona Administrative Code will prevail.

Who Must Pay

Transaction privilege tax is imposed on the business of renting or leasing the use or occupancy of real property.

Examples of taxable facilities include:

- office buildings
- stores
- factories
- farm land
- parking and storage facilities
- banquet halls
- meeting rooms

What is the Tax Rate and How Do I Pay?

The Arizona transaction privilege tax on commercial leases was reduced to zero effective July 1, 1997. The current combined state and county tax rates for the commercial lease classification can be found in the *Arizona State, County and City Transaction Privilege and Other Tax Rate Tables* under business class code 013. For ease of reporting, state and county rates are combined. City tax is reported separately.

Factoring Transaction Privilege Tax

When a business “factors” transaction privilege tax, it means the tax is included in the total price rather than shown as a separate charge. If you choose to factor the tax, the tax must be calculated using a factoring formula. There are many different factoring formulas depending on city taxes, county taxes, or differences in allowable city tax deductions. See Transaction Privilege Tax Procedure TPP 00-1 for information about factoring.

County Rate Still Applicable

Although the state has reduced its tax rate under the commercial lease classification to zero, there remains in effect the commercial lease rate for certain counties. The corresponding county rate should be imposed.

Not all counties tax commercial leases. To determine which counties tax commercial leases and the applicable rate, please refer to the *Arizona State, County and City Transaction Privilege and Other Tax Rate Tables*.

When You are “in the Business” and Taxable

A taxpayer is in the commercial lease business and considered taxable if such taxpayer rented or had available for rent:

1. One or more units of real property, not including real property used for residential or agricultural purposes.
2. More than three units of real property used for agricultural purposes.

Example: Mary Jones owns a large farm and leases three parcels of the property used for agricultural purposes under three leases or rental agreements. Mary’s gross receipts from these leases are *not* subject to the transaction privilege tax. If Mary leased **four** parcels of the property, she would be considered *in the business* and subject to tax on the gross receipts from all leases.

Special Situations

1. Residential Property

Leases or rentals of dwelling units, lodging facilities, or trailer or mobile home spaces intended as the principal or permanent place of residence for the renter are not subject to the state transaction privilege tax imposed under the commercial lease classification if leased to a single tenant for 30 or more consecutive days.

NOTE: Many cities tax residential rentals. Check with the appropriate city for details.

2. Subleases

When subleases are involved, who is liable for the tax?

The gross receipts derived from a lease of real property that is subleased by the lessee is not subject to the transaction privilege tax. The taxable landlord is the lessor leasing to the tenant in actual possession of the property.

EXAMPLE: Brad leases Property Z to Janet who subleases Property Z to Frank. Janet’s rental income from Frank is taxable since she directly rents the property to the actual tenant. Brad would not be taxable on the lease of Property Z to Janet.

3. Additions to Rent

Extra charges included in the rent for services such as cleaning, cable television, and common area maintenance fees are to be included in the tax base. Also, if a tenant pays for improvements to the real property or for expenses on behalf of the landlord, the amounts paid on behalf of the landlord are considered income to the landlord.

Reimbursements to the lessor for utility services are deductible from the tax base. Where lessors have not provided separate utility meters for their tenants or where lessors are reimbursed for utilities used in common areas, any reasonable method may be used to allocate the amount of utility charges between tenants. However, the amount of the allowed deduction from the tax base for reimbursed utility costs is limited to

COMMERCIAL LEASE

the lesser of the actual utility reimbursements or the charges shown on the utility bill.

4. Renting to Governments

Income from the rental of property to the U.S. government, the State of Arizona and all other government subdivisions is fully taxable.

5. Pre-1968 Leases

Certain existing leases entered into before December 1, 1967, may be taxed at a different rate under the rental occupancy tax.

Exemptions

1. Affiliated Corporations

Leases between affiliated corporations. Affiliated corporations are those that own at least 80% of the voting shares of the lessor, or have at least 80% of their voting shares owned by the lessor, or are at least 80% owned or controlled by a corporation which also owns or controls at least 80% of the lessor.

2. Boarding Horses

Leasing or renting commercial property for the boarding of horses.

3. Major League Baseball or Golf

Leasing or renting commercial property at exhibition events sponsored, operated or conducted by a nonprofit organization associated with a major league baseball team or a national touring professional golf association if no part of the organization's net earnings benefit any private shareholder or individual.

4. Rodeos

Leasing or renting commercial property at a rodeo that features primarily farm and ranch animals, and is sponsored, operated or conducted by a nonprofit organization if no part of the organization's net earnings benefit any private shareholder or individual.

5. Religious Worship

Leasing or renting real property for use primarily for religious worship by a nonprofit organization if no part of the organization's net earnings benefit any private shareholder or individual.

6. Agricultural Leases

Leases of agricultural real property between family members or family owned entities or, leases of agricultural real property where the lessor leases or rents agricultural real property under no more than three leases or rental agreements.

7. Trade or Industry Associations

Leases of real property for a period of 21 days or less by a nonprofit organization to vendors or exhibitors where the event to take place on the property meets certain conditions.

8. State Owned Complex

Leasing real property for a period of 21 days or less by a coliseum, civic center, civic plaza, convention center, auditorium or arena owned by the State of Arizona or by any of its subdivisions.

9. Nursing Care Institutions

Leases or subleases of real property used by a licensed nursing care institution.

10. Profit A Prendre

Granting the right to use real property to mine minerals, which includes the right to enter upon the land and the right to remove minerals from the land.

FOR ADDITIONAL INFORMATION:

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