

ORDINANCE NO. 90-A45

AN ORDINANCE OF THE TOWN OF CAMP VERDE, ARIZONA, RELATING TO THE PRIVILEGE LICENSE TAX; ADOPTING "THE 1990 AMENDMENTS TO THE TOWN TAX CODE OF THE TOWN OF CAMP VERDE, ARIZONA" BY REFERENCE AND FIXING THE EFFECTIVE DATE THEREOF AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF CAMP VERDE, ARIZONA:

Section 1: That certain document known as "The 1990 Amendments to the Town Tax Code of the Town of Camp Verde, Arizona," three copies of which are on file in the office of the town clerk of the Town of Camp Verde, Arizona, which document was made a public record by Resolution No 90-11 of the Town of Camp Verde, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2: The provisions of this ordinance and the public record adopted herein are effective on August 1, 1990.

Section 3: Any person found guilty of violating any provision of these amendments to the tax code shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

Section 4: If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the tax code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Council of the Town of Camp Verde, Arizona, this 29th day of May, 1990.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Town Attorney

**A PUBLIC RECORD OF THE TOWN OF CAMP VERDE**

**1990 AMENDMENTS TO THE TOWN TAX CODE**

**Section 1.** Section 8-100 of the town tax code is amended by amending the definition of "speculative builder" and inserting a new definition of "substantially complete" to read:

**"Speculative Builder"** means EITHER:

- (1) **AN OWNER-BUILDER WHO SELLS OR CONTRACTS TO SELL, AT ANYTIME, IMPROVED REAL PROPERTY (AS PROVIDED IN SECTION 8-416) CONSISTING OF:**
  - (A) **CUSTOM, MODEL, OR INVENTORY HOMES, REGARDLESS OF THE STAGE OF COMPLETION OF SUCH HOMES; OR**
  - (B) **IMPROVED RESIDENTIAL OR COMMERCIAL LOTS WITHOUT A STRUCTURE; OR**
- (2) **an owner-builder who sells or contracts to sell improved real property, OTHER THAN IMPROVED REAL PROPERTY SPECIFIED IN SUBSECTION (1) ABOVE:**
  - (A) **PRIOR TO COMPLETION; or**
  - (B) **before the expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete. ~~and the construction or reconstruction has passed final inspection and the permit holder has been issued a Certificate of Occupancy by the town; provided, however, that in cases where no permit for construction or Certificate of Occupancy was issued by the town, "substantially complete" shall mean "ready for immediate occupancy."~~**

**"SUBSTANTIALLY COMPLETE" MEANS THE CONSTRUCTION CONTRACTING OR RECONSTRUCTION CONTRACTING:**

- (1) **HAS PASSED FINAL INSPECTION OR ITS EQUIVALENT; OR**
- (2) **CERTIFICATE OF OCCUPANCY OR ITS EQUIVALENT HAS BEEN ISSUED; OR**
- (3) **IS READY FOR IMMEDIATE OCCUPANCY OR USE.**

**Section 2.** Section 8-310 of the town tax code is amended by adding a new subsection (j) to read:

**(j) (RESERVED)**

**Section 3.** Section 8-415(c) of the town tax code is amended to read:

**Sec. 8-415.** Construction contracting: ~~prime~~ **CONSTRUCTION** contractors.

- (c) **Subcontractor** means a construction contractor performing work for either:
  - (1) **a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor ~~both his Arizona Transaction Privilege License number and his town Privilege License number.~~**
  - (2) **an owner-builder who has provided the subcontractor with a written declaration that:**
    - (A) **the owner-builder is improving the property for sale; and**
    - (B) **the owner-builder is liable for the tax for such construction contracting activity; and**
    - (C) **the owner-builder has provided the contractor ~~both his Arizona Transaction Privilege License number and his town Privilege License number.~~**

**SUBCONTRACTOR ALSO INCLUDES A CONSTRUCTION CONTRACTOR PERFORMING WORK FOR ANOTHER SUBCONTRACTOR AS DEFINED ABOVE.**

**Section 4.** Reg. 8-415.1 of the town tax code is amended to read:

**Reg. 8-415.1.** Distinction between the categories of construction contracting.

For the purposes of this Chapter, transactions involving improvements to, or sales of, real property are designated into one of the following categories, and these categorizations shall apply, whether or not a person designates himself as a contractor, construction manager, developer, or otherwise:

- (a) A person performing improvements to real property is one of the following:
- (1) an "Owner-Builder" when the work is performed by the owner or lessor or lessee-in-possession. An "owner-builder" may also be a "speculative builder".
  - (2) a "Prime CONSTRUCTION Contractor" when performing work for the owner or lessor or lessee-in-possession of the real property, unless that person has provided a written declaration stating that:
    - (A) the owner-builder is improving the property for sale; and
    - (B) the owner-builder is liable for the tax for such construction contracting activity; and
    - (C) the owner-builder has provided the contractor ~~both his Arizona Transaction Privilege Tax License number and his town Privilege License number.~~
  - (3) a "Subcontractor" **AS PROVIDED IN SECTION 8-415 (C).** ~~when performing work for either:~~
    - ~~(A) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor both his Arizona Transaction Privilege License number and his town Privilege License number.~~
    - ~~(B) an owner builder who has provided the subcontractor with a written declaration as provided in subsections (a)(2)(A) through (a)(2)(C) above.~~
- (b) An owner or lessor ("owner-builder") of improved real property is one of the following:
- (1) a "Speculative Builder" **AS PROVIDED IN SECTION 8-100;** ~~OR if he sells such property within twenty four (24) months after the improvement is "substantially completed".~~
  - (2) an "owner-builder who is not a speculative builder" in all other cases.
- (c) The terms "owner", "lessor", and "lessee-in-possession" shall be deemed to include any authorized agent for such person.

**Section 5.** Section 8-416(b) of the town tax code is amended to read:

**Sec. 8-416.** Construction contracting: speculative builders.

- (b) Exclusions.
- (1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.
  - (2) Fair market value of land. Gross income from the sale of improved real property shall not include the "fair market value" of the land which is included in the real property sold, when a charge for such land is included in the total selling price of the real property sold.
    - (A) Except as provided in subsection (b)(2)(B) below, the taxpayer must document such "fair market value" to the satisfaction of the Tax Collector, and maintain and provide such documentation upon demand in addition to and in like manner to the books and records required in Article III.
    - (B) In lieu of the documented fair market value of land allowed in subsection (b)(2)(A) above, an amount equal to twenty percent (20%) of the total selling price may be used to estimate the "fair market value" of land.
  - (3) (Reserved)

- (4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:
- (A) The speculative builder purchasing the partially improved residential real property has ~~both a valid town and valid state~~ privilege license for construction contracting as a speculative builder; and
  - (B) At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the town ~~and the state~~ at the time of sale of the partially improved residential real property; and
  - (C) The seller also:
    - (i) maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and
    - (ii) retains a copy of the written declaration provided by the buyer for the transaction; and
    - (iii) is properly licensed with the town as a speculative builder and provides the town with the written declaration attached to the town privilege tax return where he claims the exclusion.

**Section 6.** Article IV of the town tax code is amended by adding Section 8-444 to read:

**Sec. 8-444. HOTELS.**

**THE TAX RATE SHALL BE AT AN AMOUNT EQUAL TO ONE PERCENT (1%) OF THE GROSS INCOME FROM THE BUSINESS ACTIVITY UPON EVERY PERSON ENGAGING OR CONTINUING IN THE BUSINESS OF OPERATING A HOTEL CHARGING FOR LODGING AND/OR LODGING SPACE FURNISHED TO ANY:**

- (a) **PERSON.**
- (b) **(RESERVED)**

**Section 6.** Section 8-445 of the town tax code is amended by amending subsection (f) and adding new subsections (j) and (k) to read:

**Section 8-445.** Rental, leasing, and licensing for use of real property.

- (f) A person who has less than three (3) apartments, houses, trailer spaces, or other lodging spaces **RENTED, LEASED OR LICENSED OR** available for rent, lease, or license within the State **AND NO UNITS OF COMMERCIAL PROPERTY FOR RENT, LEASE OR LICENSE WITHIN THE STATE**, is not deemed to be in the rental business, and is therefore exempt from the tax imposed by this Section on such income. However, a person who has one (1) or more units of commercial property ~~plus one (1) or more lodging spaces rented, leased, or licensed or available for rent, lease or license~~ is subject to the tax imposed by this Section on all **SUCH LODGING SPACES AND COMMERCIAL UNITS** rental, lease, or license income even though said person may have fewer than three (3) lodging spaces.
- (j) **EXEMPT FROM THE TAX IMPOSED BY THIS SECTION IS GROSS INCOME DERIVED FROM THE ACTIVITIES TAXABLE UNDER SECTION 8-444 OF THIS CODE.**
- (k) **(RESERVED)**

**Section 7.** Regulation 8-445.1(a) of the town tax code is amended to read:

**Reg. 8-445.1.** When the rental, leasing, and licensing of real property is exempt as "casual".

- (a) The person who has less than three (3) apartments, houses, trailer spaces, or other lodging spaces **RENTED, LEASED OR LICENSED OR** available for rent, lease, or license within the State **AND NO UNITS OF COMMERCIAL PROPERTY FOR RENT LEASE OR LICENSE WITHIN THE STATE** is deemed not to be in the business of renting, leasing, or licensing real property, and is therefore exempt from the tax imposed by Section 8-445 on such income. However, a person who has one (1) or more units of any other real property ~~plus one (1) or more lodging spaces rented, leased, or licensed or available for rent, lease, or license~~ is deemed to be in the business of renting, leasing, or licensing real property, and subject to the tax imposed by Section ~~8-455~~ **8-445** on all **SUCH LODGING SPACES AND COMMERCIAL UNITS** real estate rental, lease, and license income even though said person may have fewer than three (3) lodging spaces within the State.

**Section 8.** Section 8-447 of the town tax code is amended to read:

**Sec. 8-447.** Rental, leasing, and licensing for use of real property: additional tax upon transient lodging.

In addition to the taxes levied as provided in Section ~~8-445~~ **8-444**, there is hereby levied and shall be collected an additional tax in an amount equal to one percent (1%) of the gross income from the business activity of any hotel engaging or continuing within the town in the business of charging for lodging and/or lodging space furnished to any transient. "Transient" means any person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any lodging space in any hotel for which lodging or use of lodging space a charge is made.

**Section 9.** Article IV of the town tax code is amended by adding a new Section 8-452 to read:

**Sec. 8-452. (RESERVED)**

**Section 10.** Article IV of the town tax code is amended by adding a new Section 8-485 to read:

**Sec. 8-485. (RESERVED)**

**Section 11.** Regulation 8-110.1(a) of the town tax code is amended to read:

**Reg. 8-110.1.** Income-producing capital equipment: in general.

- (a) The term "income-producing capital equipment" applies only when purchaser or lessee **LESSEE** is directly using such equipment primarily for the purpose of directly producing income in his normal course of business. For example:
- (1) Rental of a printing press to a job printer would qualify. Rental of the same equipment to a trade school or an airline company would not qualify.
  - (2) A lease of an electric generator rated at 75KV to an electric utility company or a manufacturer or job printer would qualify. The same lease to a telecommunications company or an irrigation district would not qualify.

**Section 12.** Regulations - Privilege and Excise Taxes of the town tax code is amended by adding a new Regulation 8-300.2 to read:

**Reg. 8-300.2. (RESERVED)**

## SUMMARY OF THE 1990 AMENDMENTS TO THE MODEL TAX CODE

The following is a short summary of each of the changes to the model tax code proposed in the 1990 amendments. These amendments were drafted and approved by the Unified Audit Committee for presentation to the Municipal Tax Code Commission. At its meeting on April 3, the Tax Code Commission approved the amendments along with a recommendation that all cities and towns adopt the changes. The League is required to report to the Commission how many cities and towns have adopted these 1990 amendments. The report is due in September.

None of the changes should substantially affect actual tax receipts; the amendments primarily seek to clarify the imposition of the tax particularly on contractors and rental of real property. For those cities administering their own tax, the deadline for tax returns has been changed and the requirement to follow the Arizona Rules of Evidence has been deleted.

The 1990 amendments make the following changes or corrections to the code:

Section -100 changes the definition of speculative builder and adds a definition of substantially complete. These changes along with the changes in Sections -415 and -416 and Regulation -415.1 are designed to make it easier for a speculative builder to understand when contracting taxes are due. These changes also revise a twenty-four month provision for taxing speculative builders which placed a financial burden on certain contractors due to the absence of any income to the speculative builder. The twenty-four month provision will still apply to certain transactions.

Section -290<sup>1</sup> changes Local Option #D to allow exemptions for other military reservations under this option by deleting the specific reference to Williams Air Force Base.

Section -310 adds a Reserved section for conformance with the master version of the model tax code to accommodate a change made by the City of Glendale.

Sections -415, -416 and Regulation -415.1 See note under Section -100 above. In addition, removes the requirement that the state privilege license number must be provided by a subcontractor, since some contractors, under limited circumstances, are not required to be licensed by the State. The sections are intended to clarify the imposition of the tax.

Section -430(a)(2)<sup>2</sup> provides an additional local option to exempt timbering activities from tax.

Section -444 provides a specific taxing section for hotels. Current code provisions tax hotels but not specifically. If your city or town exempts long term residential rentals, then a definition of "transient" is provided in subsection (b) so that long term rentals of hotel rooms are treated the same as other long term residential rentals.

Section -445 and Regulation -445.1 clarify when a person is in the rental business. There is also a conforming change in subsection (j) due to the specific imposition of the tax on hotels noted above. The addition of (k) as reserved is to accommodate a change to the master version of the tax code made by the City of Glendale.

Section -447 correctly references Section -444 on hotels and allows cities collecting their own tax to insert the number of days transient rentals are to be taxed.

Section -452 and Section -485 are added as Reserved sections to accommodate changes to the master version of the tax code made by the City of Phoenix.

---

<sup>1</sup>Applies only to cities with military bases

<sup>2</sup>Applies only to the City of Flagstaff

Section -530<sup>3</sup> revises the delinquency date for privilege tax returns to be less punitive on the late taxpayer. Under the old wording, a tax return was due on the twentieth of the month and delinquent if it was received on the last business day of the month. This change makes returns delinquent on the first business day of the next month so that taxpayers would not be subject to a 5% penalty for being one day late.

Section -550<sup>4</sup> allows use tax to be included in the computation of underreported gross income by replacing "gross income" with "activity".

Section -570<sup>4</sup> simplifies the hearing procedures by removing the Arizona Rules of Evidence as they relate to privilege tax hearings.

Regulation -110.1 corrects an error that was created in the initial drafting of the Model Tax Code.

Regulation -300.2 adds a Reserved regulation to accommodate a change made by the City of Glendale to the master version of the tax code.

If you have any questions on these changes, please give the League office a call.

---

<sup>3</sup>Applies only to those cities collecting their own tax

<sup>4</sup>Applies to those cities collecting their own tax and to cities and towns doing local supplemental audits