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Incorporated 1899

TOWN OF JEROME, ARIZONA

POST OFFICE BOX 335, JEROME, ARIZONA 86331
(928) 634-7943 FAX (928) 634-0715

ORDINANCE NO. 373

AN ORDINANCE OF THE TOWN OF JEROME, ARIZONA, RELATING TO THE PRIVILEGE LICENSE TAX; REMOVING THE EXEMPTION FROM TAXATION FOR RESIDENTIAL RENTAL PROPERTY; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; PROVIDING FOR SEVERABILITY; DESIGNATING AN EFFECTIVE DATE AND PROVIDING FOR APPLICATION OF TAX TO CERTAIN CONTRACTS.

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

Section 1. Section 8A-445 of the town tax code is hereby amended as follows (additions underlined; deletions in ~~strikeout text~~):

Sec. 8A-445. Rental, leasing, and licensing for use of real property.

- (a) The tax rate shall be at an amount equal to three and one-half percent (3.5%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the Town for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the Town for a consideration including any improvements, rights, or interest in such property; provided further that:
 - (1) Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.
 - (2) Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.
 - (3) However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section 8A-470.
- (b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.
- (c) 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.
- (d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services are exempt from the tax imposed by this Section.
- (e) (Reserved)
- (f) (Reserved)
- (g) (Reserved)
- (h) ~~The tax prescribed by this section shall not include gross income from the rental, leasing, or licensing of lodging or lodging space to an individual who resides therein.~~ (Reserved)

- (i) (Reserved)
- (j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 8A-444 of this code.
- (k) (Reserved)
- (l) (Reserved)
- (m) Notwithstanding the other provisions of this section, the tax imposed by this section does not apply to the rental, leasing or licensing for use of commercial property.
- (n) Notwithstanding the provisions of Section 8A-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this Section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this Section.
- (o) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this State or of any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this Section.
- (p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or other real property during the course of their treatment by such facilities are exempt.
- (q) Charges to patients receiving "personal care" or "directed care", by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statutes and Title 9 of the Arizona Administrative Code are exempt.
- (r) Income received from the rental of any "low-income unit" as established under Section 42 of the Internal Revenue Code, including the low-income housing credit provided by IRC Section 42, to the extent that the collection of tax on rental income causes the "gross rent" defined by IRC Section 42 to exceed the income limitation for the low-income unit is exempt. This exemption also applies to income received from the rental of individual rental units subject to statutory or regulatory "low-income unit" rent restrictions similar to IRC Section 42 to the extent that the collection of tax from the tenant causes the rental receipts to exceed a rent restriction for the low-income unit. This subsection also applies to rent received by a person other than the owner or lessor of the low-income unit, including a broker. This subsection does not apply unless a taxpayer maintains the documentation to support the qualification of a unit as a low-income unit, the "gross rent" limitation for the unit and the rent received from that unit.

Section 2. Regulation 8A-200.1 of the town tax code is amended as follows (additions underlined; deletions in ~~strikeout text~~):

Reg. 8A-200.1. When deposits are includable in gross income.

- (a) Refundable deposits shall be includable as gross income of the taxpayer for the month in which the deposits are forfeited by the lessee.
- (b) ~~(Reserved)~~ Nonrefundable deposits for cleaning, keys, pet fees, maintenance, or for any other purpose are deemed gross income upon receipt.

Section 3. Any person found in violation of this ordinance shall be subject to civil and/or criminal penalties pursuant to Town of Jerome Tax Code.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance 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.

Section 5. The provisions of this ordinance and the increase in tax rate provided herein shall become effective on August 1, 2010.

PASSED AND ADOPTED this 8th day of June, 2010.

Al Palmieri
Al Palmieri, Mayor

ATTEST:

APPROVED AS TO FORM:

Candace Gallagher
Candace Gallagher, Town Manager/Clerk

Kathleen G. Williamson
Kathleen G. Williamson, Williamson & Young, PC
Town Attorney

I, the duly appointed Deputy Clerk of the Town of Jerome, Arizona, or my representative, hereby certify that Ordinance No. 373 was posted in accordance with A.R.S. § 9-813 on the following dates and times, and at the following places:

	DATE	TIME	PLACE
1	6.9.10	7:00 pm	301 Main Street, second floor, exterior posting case
2	6.9.10	7:00 pm	970 Gulch Road, side of Gulch Fire Station, exterior posting case
3	6.9.10	7:00 pm	601 Clark Street, Jerome Town Hall, exterior posting case
4	6.9.10	7:00 pm	120 Main Street, Jerome Post Office, interior posting case

R.A. Shemaitis
R.A. Shemaitis, Deputy Clerk

