

Founded 1876
Incorporated 1899

TOWN OF JEROME, ARIZONA

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

ORDINANCE #375



AN ORDINANCE OF THE TOWN OF JEROME, ARIZONA, ADOPTING MODEL OPTION 5B; REMOVING AN EXEMPTION IN THE TOWN TAX CODE (SECTIONS 8A-445, 8A-300.1 AND 8A-445.1) FOR OWNERS OF LESS THAN THREE RESIDENTIAL RENTAL UNITS; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; PROVIDING FOR SEVERABILITY; AND DESIGNATING AN EFFECTIVE DATE.

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

Section 1. Sec. 8A-445 of the Town tax code is amended to read:

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) ~~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~~

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Jerome Town Hall Located at 600 Clark Street, Jerome Civic Center

~~one (1) or more units of commercial property is subject to the tax imposed by this Section on rental, lease and license income from all such lodging spaces and commercial units of real estate even though said person may have fewer than three (3) lodging spaces. (Reserved)~~

- (g) (Reserved)
- (h) (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-300.1 of the Town tax code is amended to read:

Reg. 8A-300.1. Who must apply for a license.

- (a) For the purposes of determining whether a license is required under Section 8A-300, a person shall be deemed to be "engaged in or continuing in business" within the Town, if he meets any of the following conditions:

- (1) He is engaged in any activity subject to the Town's Privilege Taxes as principal or broker.
 - (2) He has or maintains within the Town directly, or if a corporation by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this Town under the authority of such person or if a corporation its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily or whether such person or subsidiary is authorized or licensed to do business in this State or this Town.
 - (3) He is soliciting sales, orders, contracts, leases, and other similar forms of business relationships, within the Town from customers, consumers, or users located within the Town, by means of salesmen, solicitors, agents, representatives, brokers, and other similar agents or by means of catalogs or other advertising, whether such orders are received or accepted within or without this Town.
 - (4) (Reserved)
 - (5) (Reserved)
- (b) ~~For the purposes of obtaining a Privilege License, a person who has less than three (3) apartments, houses, trailer spaces, or other lodging spaces available for rent, lease, or license within the State is not considered to be regularly engaged in business and need not obtain a Privilege License; provided, however, if that person is also receiving income from the activity of renting, leasing, or licensing one (1) or more commercial properties or units within a commercial property, he is considered to be regularly engaged in business and must obtain licenses for all his rental, lease, or license property. (Reserved)~~

Section 3. Regulation 8A-445.1 of the town tax code is amended to read:

Reg. 8A-445.1. (RESERVED) ~~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 8A-445 on such income. However, a person who has one (1) or more units of any other real property is deemed to be in the business of renting, leasing, or licensing real property, and subject to the tax imposed by Section 8A-445 on rental, lease, and license income from all such lodging spaces and commercial units of real estate even though said person may have fewer than three (3) lodging spaces within the state.~~

~~(b) (Reserved)~~

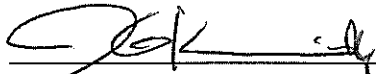
Section 4. Any person found guilty of violating any provision of this ordinance shall be subject to civil and/or criminal penalties pursuant to Town of Jerome Tax Code.

Section 5. 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 6. All parts of ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 7. The provisions of this ordinance shall become effective on October 1, 2010.


FINALLY APPROVED this 10th day of August, 2010.


 Jay Kinsella, Mayor

ATTEST:

APPROVED AS TO FORM:


 Candace Gallagher, Town Manager/Clerk

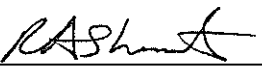

 Kathleen G. Williamson, Williamson & Young, PC
 Town Attorney

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|---|------|-----------|---------|-------------------|------|---------|---------|
| Date of First Reading: | | 7/13/2010 | | Date of Adoption: | | 8/10/10 | |
| Ayes | Nays | Absent | Abstain | Ayes | Nays | Absent | Abstain |
| 5 | 0 | 0 | 0 | 5 | 0 | 0 | 0 |
| Dates Published: 7/21/10 (notice of public hearing on 8/10/10); 8/15/10 | | | | | | | |

CERTIFICATION OF POSTING

I, the duly appointed Deputy Clerk of the Town of Jerome, Arizona, or my representative, hereby certify that Ordinance No. 375 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 | 8-11-2010 | 6:00 pm | 301 Main Street, second floor, exterior posting case |
| 2 | 8-11-2010 | 6:00 pm | 970 Gulch Road, side of Gulch Fire Station, exterior posting case |
| 3 | 8-11-2010 | 6:00 pm | 600 Clark Street, Jerome Town Hall, exterior posting case |
| 4 | 8-11-2010 | 6:00 pm | 120 Main Street, Jerome Post Office, interior posting case |


 R.A. Shemaitis, Deputy Clerk