

ORDINANCE NO. 235

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

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

Section 1: That certain document known as "The 1990 Amendments to the Town Tax Code of the Town of Jerome, Arizona," three copies of which are on file in the office of the town clerk of the Town of Jerome, 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 Common Council of the Town of Jerome, Arizona, this *26th* day of *June*, 1990.



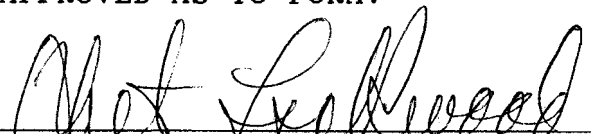
Phil Tovrea, Mayor

ATTEST:



Betsy Lloyd, Town Clerk

APPROVED AS TO FORM:



Chester R. Lockwood, Jr.
Town Attorney

A PUBLIC RECORD OF THE TOWN OF JEROME

1990 AMENDMENTS TO THE TOWN TAX CODE

Section 1. Section 8A-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 8A-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 8A-310 of the town tax code is amended by adding a new subsection (j) to read:

(j) (RESERVED)

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

Sec. 8A-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. 8A-415.1 of the town tax code is amended to read:

Reg. 8A-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 8A-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 8A-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 8A-416(b) of the town tax code is amended to read:

Sec. 8A-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) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this Section.
 - (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~~ 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 8A-444 to read:

Sec. 8A-444. HOTELS.

THE TAX RATE SHALL BE AT AN AMOUNT EQUAL TO TWO PERCENT (2%) 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 7. Section 8A-445 of the town tax code is amended by adding new subsections (j) and (k) to read:

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

- (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)**

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

Sec. 8A-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 ~~8A-445~~ **8A-444**, there is hereby levied and shall be collected an additional tax in an amount equal to two percent (2%) 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 8A-452 to read:

Sec. 8A-452. (RESERVED)

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

Sec. 8A-485. (RESERVED)

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

Reg. 8A-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 8A-300.2 to read:

Reg. 8A-300.2. (RESERVED)