



CITY OF TUCSON

A GUIDE TO UNDERSTANDING BUSINESS TAXES AND LICENSES

FREQUENTLY ASKED QUESTIONS BROCHURE

This brochure is intended to answer some commonly misunderstood areas of the City of Tucson business privilege (sales) tax law. This information is based on the City of Tucson Business Privilege Tax Code in effect on October 1, 2011. In cases of inconsistency or omission, the Tucson Tax Code will prevail.

REAL PROPERTY RENTALS

Q: “I don’t have to worry about sales tax on my rental income because I only own one rental property... right?”

A: Apparently many taxpayers believe that if they own only one real property rental it is not taxable. But this is not the case. Even if the lessor leases to a related lessee, it is taxable. For example, if a landlord leases to a Subchapter S Corporation that the landlord has an interest in, the transaction is taxable. If you receive rental income from the leasing of real property located in Tucson, you must obtain a Business Privilege License from the City of Tucson. If you lease to the tenant in actual possession, you must pay sales tax. ***Effective July 29, 2010:*** Rental of commercial property between corporations if one owns at least 80% of the other corporation is exempt. The exemption includes a third corporation if it owns 80% of both the landlord and the lessor corporations, and treats a “reciprocal insurer” as if it were a corporation. ***Note: Residential rentals to permanent tenants are not taxable.***

Q: “If my tenant only pays the common area maintenance fees and property taxes for me, I don’t have to report those payments as rental income, do I?”

A: Landlords with net-net-net leases tend to under report their rental income. The most frequently found problem is when the tenant pays the landlord's real property taxes directly to the county treasurer. Many times the landlord fails to report this constructive rental income on the tax return form. The Tucson Tax Code states that payments made by the lessee to, or on behalf of, the lessor for mortgage payments, property taxes, repairs or improvements are considered to be part of the taxable gross income. Also, charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income. However, if individual utility meters have been installed for each tenant and the lessor separately charges each tenant for the exact billing from the utility company, such charges are exempt. Security deposits are taxable at the time they are forfeited by the lessee.

CONSTRUCTION CONTRACTING

Q: “Sales of real property aren’t taxable, are they?”

A: An owner who sells improved real property that consists of custom, model or inventory homes, regardless of the stage of completion of such homes, or improved residential or

commercial lots without a structure, is subject to sales tax on the sale. Also, an owner who sells improved real property prior to completion (other than that described above) or before the end of twenty-four months after the improvements are substantially complete, is subject to tax on the sale. "Improved real property" means any real property upon which a structure has been built; or where improvements have been made to land containing no structure (such as paving or landscaping); or certain properties which have been renovated; or where water, power, and streets have been built to the property line.

Q: "Any income I make as a contractor in the City of Tucson, even as a subcontractor, is taxable, right?"

A: Subcontractors are not liable for tax on a job under the following circumstances:

If you are working for a construction contractor who is not the owner:

1. Obtain a written declaration (such as an Arizona Form 5005) that the construction contractor is liable for the tax for the project, and
2. Obtain their city business license number.

If you are working for a person selling manufactured buildings:

1. Obtain a written declaration that this seller is liable for the tax for the site preparation and set-up, and
2. Obtain their city business license number.

If you are working for the owner of the project:

1. Obtain a written declaration that the owner is improving the property for sale, and is liable for the construction contracting tax, and
2. Obtain the owner's city business license number. If you are working for the owner, and he is not improving the property for sale, you are liable for the tax on your income from the project. You must prove your income is exempt.

RETAIL SALES

Q: "When shown proof, such as a driver's license, that a customer lives in another state, sales to them aren't taxable, are they?"

A: Disallowed out-of-state sales are a continuing problem. Unlike the state, the city requires that an out of state customer place their order from out of state if they do not wish to pay city sales tax. Be sure to document customer location at the time the order is placed.

The following are examples of documentation that the customer placed the order from outside the State of Arizona:

1. A purchase order indicating an out-of-state company (may also qualify as a resale).
2. A letter or note, with the postmarked envelope, sent to the vendor with the payment as a follow-up to a phone order.
3. An envelope postmarked out-of-state and a copy of a check drawn on an out-of-state bank.
4. An envelope postmarked out-of-state and a money order showing the customer's address.
5. A credit card receipt indicating "mail order" in the usual signature space.
6. For businesses having an "800" number, a telephone company log or billing noting the originating location of the phone call orders.

Also, document that the item is to be used out-of-state by a non-resident of Arizona and is shipped to your customer at a location outside the state.

The following are examples of documentation that the customer took possession or delivery outside the State of Arizona:

1. A copy of common carrier receipts (i.e., Federal Express, UPS, and U.S. Postal Service).
2. A receipt from a federally licensed customs house broker.
3. Copies of import documents showing inspection by foreign customs officials.
4. When a seller delivers merchandise in their own vehicle, a driver's trip sheet or log indicating that the driver delivered the merchandise out-of-state and witnessed by a Notary of that state or gas or hotel receipts for the day of delivery from the out-of-state destination.

Q: If my store is located outside the city limits, I don't have to bother with Tucson's city tax, do I?"

A: The out-of-city sales exemption is sometimes misunderstood. To take a valid out-of-city deduction, the order must be received at the seller's permanent out-of-city business location. Also, transfer of title and possession must take place outside the city and the stock must be located outside the city. If the order is received at your business location in Tucson, you must pay 2% tax to the City of Tucson even if the customer is located in another city. If your business is located outside Tucson city limits but you come into the city to take orders and/or deliver goods, you must contact the License Section to determine which business licenses are required.

Q: "I work part-time at my church, and occasionally have to buy their office supplies, which I charge to the church. The Tucson store where I buy the supplies shouldn't be charging the church sales tax, should they?"

A: Most sales to city, county, or state governments or government agencies or school districts are taxable. Most sales to non-profit organizations, including churches, are taxable. Sales to qualifying hospitals, qualifying community health centers, or qualifying health care organizations that hold a current year exemption letter from the state or City of Tucson are exempt. Obtain a copy of their letter for documentation of a sale to a nonprofit primary health care facility. Sales to non-profit organizations that engage in training, job placement or rehabilitation programs, or testing for mentally or physically handicapped people are exempt if the property is used exclusively for those activities.

Q: "I'm an artist. Anything I create and sell myself isn't taxable, is it?"

A: Sales of paintings, sculptures or similar works of fine art sold by the original artist are exempt from tax. Sales of "art creations," such as jewelry, macramé, glasswork, pottery, woodwork, metal work, furniture and clothing, when such "art creations" have a dual purpose, both aesthetic and utilitarian, are taxable.

Q: "Sales of motor vehicles in Tucson are always taxable, no matter what the circumstance, right?"

A: Sales to nonresidents of Arizona for use outside Arizona if the vendor ships or delivers the vehicles out of Arizona are not taxable

FOR MORE INFORMATION ABOUT...

Taxes –Audit Section: City of Tucson – Tax Audit Section - (520) 791-4681
255 W. Alameda - Second Floor,
P.O. Box 27210, Tucson, Arizona , 85726-7210

Licenses –License Section: City of Tucson - License Section - (520) 791-4566
255 W. Alameda - First Floor
P.O. Box 27210, Tucson, Arizona, 85726-7210

Hearing impaired: TDD (520) 791-2639

Visit the City of Tucson Web Page at: <http://www.tucsonaz.gov>

To read more about the business privilege tax: <http://www.tucsonaz.gov/finance/BusInfo.html>

The City of Tucson prepared this brochure. It does not provide comprehensive explanations of Tucson tax laws, rules, or regulations. Specific questions should be addressed to the City of Tucson Tax Audit Section. Rev. 10-11