

Tax time is almost upon us and with it new questions about what is taxable under the transaction privilege tax (rent tax) imposed by many valley cities.

In response to several inquiries late last year, we contacted all of the cities that presently impose transaction privilege taxes. Those cities are Apache Junction, Avondale, Buckeye, Chandler, Fountain Hills, Gilbert, Glendale, Goodyear, Maricopa, Mesa, Peoria, Phoenix, Queen Creek, Scottsdale, Surprise, Tempe, Tolleson and Wickenburg.

To date we have had official responses from Scottsdale, Tempe, Peoria and Gilbert. Each of them has advised us that all charges imposed under the lease agreement is subject to the city's transaction privilege tax, even if the income is only income that passes through to other entities. For purposes of those cities, this "income" specifically includes rent, late fees, repaid concessions, damages, utilities, transaction fees, attorneys' fees and court costs. The only incoming money that is exempt from these taxes is refundable deposits; those deposits are not taxable because that money does not belong to the property.

We have also spoken informally with representatives from most of the other cities and have gotten mixed responses from them on the subject of whether court costs and attorneys' fees are taxable under the transaction privilege tax. Because these answers were informal they may not represent the official position of the local entity so we are reluctant to rely upon them. As we hear from more cities we will update you on any official information that we receive from these other governments. As of now, however, we recommend that properties treat all costs and charges that are imposed on tenants as subject to the local transaction privilege tax.