

## **CITY OF SHOW LOW PUBLIC NOTICE**

Date: Friday, April 14, 2023  
Contact: Rachael Hall, City Clerk  
Phone: (928) 532-4061  
e-mail: rahall@showlowaz.gov



### **NOTICE OF INTENT FOR PROPOSED BED TAX**

This Notice of Intent is provided by the City of Show Low pursuant to ARIZ. REV. STAT. ANN. § 42-6053. The City Council of Show Low, Arizona will hold a public hearing on a proposed change to the City Tax Code. The proposed change will implement a 3% Transient Lodging Bed Tax. Mayor and Council will consider, and approve or disapprove, adoption of the proposed Bed Tax at this time.

The public hearing will be held at 7:00 P.M. on May 2, 2023 at the Council Chambers at 181 North 9th Street, Show Low.

Additional information can be obtained at:

Show Low City Hall, 180 North 9th St., Show Low, AZ; [Show Low, AZ - Official Website | Official Website \(showlowaz.gov\)](#); or by calling 928-532-4000.

#### **ATTACHMENTS:**

Ordinance No. 2023-02

Resolution No. R2023-10

**CITY OF SHOW LOW ORDINANCE NO. 2023-02**

**AN ORDINANCE OF THE CITY OF SHOW LOW, ARIZONA, AMENDING THE CITY TAX CODE TO ADOPT A LOCAL TRANSIENT LODGING TAX BY WITHDRAWING MODEL OPTION #6; PROVIDING FOR SEVERABILITY; AND DESIGNATING AN EFFECTIVE DATE.**

**BE IT ORDAINED** by the Mayor and Council of the City of Show Low, Arizona as follows:

**Section 1**

Model Option #6 of the Model City Tax Code is hereby withdrawn, and the City Transient Lodging Tax is established at a tax rate of three percent (3%) under Section 8A-447 of the Tax Code of the City of Show Low.

**Section 2**

That certain document known as "The 2023 Transient Lodging Tax Amendment to the Tax Code of the City of Show Low", three copies of which are on file in the office of the City Clerk of the City of Show Low, Arizona, which document was made a public record by Resolution No. R2023-10 of the City of Show Low, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

**Section 3**

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.

**Section 4**

The City Clerk is hereby directed to publish this ordinance upon adoption as required by A.R.S. 9-812 and A.R.S. 9-813.

**Section 5**

The provisions of this ordinance shall become effective on and after July 1, 2023.

**PASSED AND ADOPTED** this 2nd day of May 2023, by the Mayor and Council of the City of Show Low, Arizona.

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John Leech, Jr., Mayor

ATTEST:

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Rachael Hall, City Clerk

APPROVED AS TO FORM:

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Anna M. Atencio, City Attorney

**CITY OF SHOW LOW RESOLUTION NO. R2023-10**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SHOW LOW, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "THE 2023 TRANSIENT LODGING TAX AMENDMENT TO THE TAX CODE OF THE CITY OF SHOW LOW ".**

**BE IT RESOLVED** by the Mayor and Council of the City of Show Low, Arizona as follows:

THAT certain document entitled "THE 2023 TRANSIENT LODGING TAX AMENDMENT TO THE TAX CODE OF THE CITY OF SHOW LOW ", three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the City Clerk.

**PASSED AND ADOPTED** this 2nd day of May, 2023, by the Mayor and Council of the City of Show Low, Arizona.

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John Leech, Jr., Mayor

ATTEST:

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Rachael Hall, City Clerk

APPROVED AS TO FORM:

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Anna M. Atencio, City Attorney

# The 2023 Transient Lodging Tax Amendment to the Tax Code of the City of Show Low

## Section I. The Tax Code of the City of Show Low Section 8A-444 is amended as follows, with an effective date of July 1, 2023.

### **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) Transient PERSON.
- (b) Exclusions. The tax imposed by this Section shall not include:
  - (1) 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.
  - (2) Gross proceeds of sales or gross income that is properly included in another business activity under this Article and that is taxable to the person engaged in that business activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.
  - (3) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person not subject to tax under this Article.
  - (4) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under Section 8A-410 or Section 8A-475 due to an exclusion, exemption or deduction.
  - (5) Gross proceeds of sales or gross income from commissions received from a person providing services or property to the customers of the hotel. However, such commissions may be subject to tax under Section 8A-445 or Section 8A-450 as rental, leasing or licensing for use of real or tangible personal property.
  - (6) Income from providing telephone, fax or internet services to customers at an additional charge, that is separately stated to the customer and is separately maintained in the hotel's books and records. However, such

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gross proceeds of sales or gross income may be subject to tax under Section 8A-470 as telecommunication services.

### **Section II. The Tax Code of the City of Show Low Section 8A-445 is amended as follows, with an effective date of July 1, 2023.**

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

- (a) 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 leasing or renting real property located within the City for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the City 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) Exempt from the tax imposed by this Section is gross income derived from the rental, leasing, or licensing for use of real property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C.

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Section 512.

- (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.~~ EXCEPT AS MAY BE PROVIDED IN ANOTHER SECTION OF THIS CHAPTER, 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.
- (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) (Reserved)
- (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.

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- (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.
  
- (s) The gross proceeds of a commercial lease of real property between affiliated companies, businesses, persons or reciprocal insurers are exempt. For the purposes of this paragraph:
  - (1) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, an affiliated entity holds a controlling interest in both the lessor and the lessee or an unrelated person holds a controlling interest in both the lessor and lessee.
  - (2) "Controlling interest" means direct or indirect ownership of at least eighty percent (80%) of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.
  - (3) "Reciprocal insurer" has the same meaning as prescribed in A.R.S. Section 20-762.

**Section III. The Tax Code of the City of Show Low Section 8A-447 is amended as follows, with an effective date of July 1, 2023.**

**Sec. 8A-447. (Reserved) 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-444, THERE IS HEREBY LEVIED AND SHALL BE COLLECTED AN ADDITIONAL TAX IN AN AMOUNT EQUAL TO THREE PERCENT (3%) OF THE GROSS INCOME FROM THE BUSINESS ACTIVITY OF ANY HOTEL ENGAGING OR CONTINUING WITHIN THE CITY IN THE BUSINESS OF CHARGING FOR LODGING AND/OR LODGING SPACE FURNISHED TO ANY TRANSIENT.