Senate Engrossed

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1308

AN ACT

AMENDING SECTION 42-5070, ARIZONA REVISED STATUTES; RELATING TO THE TRANSIENT LODGING TRANSACTION PRIVILEGE TAX CLASSIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 42-5070, Arizona Revised Statutes, is amended to read:

42-5070. Transient lodging classification; definition

A. The transient lodging classification is comprised of the business of operating, for occupancy by transients, a hotel or motel, including an inn, tourist home or house, dude ranch, resort, campground, studio or bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure, and also including a space, lot or slab ~~which~~ THAT is occupied or intended or designed for occupancy by transients in a mobile home or house trailer furnished by them for such occupancy.

B. The transient lodging classification does not include:

1. Operating a convalescent home or facility, home for the aged, hospital, jail, military installation or fraternity or sorority house or operating any structure exclusively by an association, institution, governmental agency or corporation for religious, charitable or educational purposes, if no part of the net earnings of the association, corporation or other entity inures to the benefit of any private shareholder or individual.

2. A lease or rental of a mobile home or house trailer at a fixed location or any other similar structure, and also including a space, lot or slab ~~which~~ THAT is occupied or intended or designed for occupancy by transients in a mobile home or house trailer furnished by them for such occupancy for thirty or more consecutive days.

3. Leasing or renting four or fewer rooms of an owner-occupied residential home, together with furnishing no more than a breakfast meal, to transient lodgers at no more than a fifty per cent average annual occupancy rate.

C. The tax base for the transient lodging classification is the gross proceeds of sales or gross income derived from the business, except that the tax base does not include:

1. Gross proceeds of sales or gross income derived from business activity that is properly included in another business classification under this article and that is taxable to the person engaged in that business classification, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

2. Gross proceeds of sales or gross income from leases or rentals of lodging space to a motion picture production company if, at the time of lease or rental, the motion picture production company presents to the business its certificate of qualification that is issued pursuant to section 42-5009, subsection H.

D. For the purposes of this section, the tax base for the transient lodging classification does not include gross proceeds of sales or gross income derived from:

1. 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.

2. 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 42-5062 or 42-5073 due to an exclusion, exemption or deduction.

3. Commissions paid to a person that is engaged in transient lodging business subject to taxation under this section by a person providing services or property to the customers of the person engaging in the transient lodging business.

E. FOR THE PURPOSES OF THIS SECTION, A BUSINESS IS CONSIDERED TO BE OPERATING AN ESTABLISHMENT DESCRIBED IN SUBSECTION A OF THIS SECTION, AND IS SUBJECT TO TAXATION PURSUANT TO THIS SECTION, IF THE BUSINESS DOES ANY OF THE FOLLOWING:

1. ESTABLISHES OR CHARGES A RENTAL RATE FOR OCCUPANCY BY TRANSIENTS BY DIRECT OR INDIRECT REFERENCE TO THE PER DIEM REIMBURSEMENT RATE OF UNITED STATES GOVERNMENT OR MILITARY SERVICE MEMBERS FOR TEMPORARY DUTY ASSIGNMENT, TEMPORARY ADDITIONAL DUTY, TEMPORARY DUTY TRAVEL OR TEMPORARY DUTY.

2. SOLICITS OR ADVERTISES FOR LODGERS ON THE BASIS OF THE PER DIEM REIMBURSEMENT RATE OF UNITED STATES GOVERNMENT OR MILITARY SERVICE MEMBERS FOR TEMPORARY DUTY ASSIGNMENT, TEMPORARY ADDITIONAL DUTY, TEMPORARY DUTY TRAVEL OR TEMPORARY DUTY.

3. ESTABLISHES, CHARGES, SOLICITS OR ADVERTISES ON THE BASIS OF ANY OTHER SIMILAR DESIGNATION BY ANY FOREIGN OR DOMESTIC GOVERNMENTAL, MILITARY OR BUSINESS ENTITY.

~~E.~~ F. For the purposes of this section, "transient" means any person who either at the person's own expense or at the expense of another obtains lodging space or the use of lodging space on a daily or weekly basis, or on any other basis for less than thirty consecutive days.

Sec. 2. Purpose

The purpose of this act is to clarify statutory intent and codify historical administrative interpretation. This act does not provide for any substantive change to the law.