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EXTRACTED FROM AN OPINION LETTER
DATED FEB. 25, 1994
FROM D.O.R. TAX RESEARCH & ANALYSIS SECTION
[Emphasis added]

For your general information, Arizona's transaction privilege tax differs from the sales tax imposed by most states. It is a tax on the privilege of conducting business in the State of Arizona, and is imposed upon the **seller/lessor**. The seller/lessor may pass the burden of the tax on to the purchaser, but the seller/lessor is ultimately liable to Arizona for the tax.

Arizona Revised Statutes (A.R.S.) § 42-1310.09 provides that the commercial lease classification is comprised of the business of leasing for a consideration the use or occupancy of real property. The rental of storage units, in which the lessee retains the right of direct access to the stored property, is subject to tax under this classification. Arizona Administrative Code (A.A.C.) R15-5-1608 specifically addresses these rentals and is enclosed for your reference.

All of the lessor's gross proceeds of sales or gross income derived from the business of leasing real property are subject to the transaction privilege tax unless statutorily exempt. A.A.C. R15-5-1603 clarifies that this includes "all income from whatever source customarily received by a person engaged in the business of renting." Late fees, which are normally imposed to encourage timely rental payments, are included in the income customarily received by a lessor, and are therefore subject to tax.

The combined transaction privilege tax and county excise tax rate applicable to commercial leases in Maricopa County is currently 4.5% (4% state and .5% county). As of December 1, 1993, the City of Phoenix' sales tax rate is 1.3%; and Section 14-446 of the Phoenix City Code imposes an additional .1 % tax rate on income derived from non-residential rental business activities. Therefore, the combined state, county and city tax rate applicable to commercial leases should be 5.9%. However, you may wish to contact the City of Phoenix to verify the combined tax rate. In any event, the same tax rate should apply to both the rental payments and the late charges.