

EXHIBIT A

2025 CITY TAX CODE AMENDMENTS

Section 1: Effective Date of Tax Rate Changes

The tax rate in each of the following sections of the Flagstaff City Code shall be increased from two and two-hundred eighty-one thousandths percent (2.281%) to two and four-hundred eighty-six thousandths percent (2.486%) effective July 1, 2025:

Section 3-05-004-0405	Advertising.
Section 3-05-004-0410	Amusements, exhibitions, and similar activities.
Section 3-05-004-0415	Construction contracting: construction contractors.
Section 3-05-004-0416	Construction contracting: speculative builders.
Section 3-05-004-0417	Construction contracting: owner-builders who are not speculative builders.
Section 3-05-004-0420	Feed at wholesale.
Section 3-05-004-0425	Job printing.
Section 3-05-004-0427	Manufactured buildings.
Section 3-05-004-0430	Timbering and other extraction.
Section 3-05-004-0435	Publishing and periodicals distribution.
Section 3-05-004-0445	Rental, leasing, and licensing for use of real property
Section 3-05-004-0450	Rental, leasing, and licensing for use of tangible personal property.
Section 3-05-004-0460	Retail sales: measure of tax; burden of proof; exclusions.
Section 3-05-004-0470	Telecommunication services.
Section 3-05-004-0475	Transporting for hire.
Section 3-05-004-0480	Utility services.
Section 3-05-006-0610	Use tax: imposition of tax; presumption.

The tax rate in each of the following sections of the Flagstaff City Code shall be increased from four and two-hundred eighty-one thousandths percent (4.281%) to four and four-hundred eighty-six thousandths percent (4.486%) effective July 1, 2025:

Section 3-05-004-0444	Hotels.
Section 3-05-004-0455	Restaurants and bars.

Section 2: In General

The Flagstaff City Code, Title 3, *Business Regulations*, Chapter 3-05, *Privilege and Excise Taxes*, is hereby amended as set forth below (additions are shown in uppercase BLUE TEXT and underlined; deletions are shown in ~~red text~~ with strikethrough)

**CHAPTER 3-05
PRIVILEGE AND EXCISE TAXES**

DIVISION 3-05-001

GENERAL CONDITIONS AND DEFINITIONS

SECTIONS:

[3-05-001-0001 WORDS OF TENSE, NUMBER AND GENDER; CODE REFERENCES](#)

[3-05-001-0100 ~~WORDS OF TENSE, NUMBER AND GENDER; CODE REFERENCES; AND~~
GENERAL CONDITIONS AND DEFINITIONS:](#)

[3-05-001-0100.1 BROKERS](#)

[3-05-001-0100.2 DELIVERY, INSTALLATION, OR OTHER DIRECT CUSTOMER SERVICES](#)

[3-05-001-0100.3 RETAILERS](#)

[3-05-001-0100.4 OUT-OF-CITY/OUT-OF-STATE SALES: SALES TO NATIVE AMERICANS](#)

[3-05-001-0100.5 REMEDIATION CONTRACTING](#)

[3-05-001-0110](#) DEFINITIONS:; INCOME-PRODUCING CAPITAL EQUIPMENT;

[3-05-001-0115](#) DEFINITIONS:; COMPUTER SOFTWARE; CUSTOM COMPUTER
PROGRAMMING;

[3-05-001-0120](#) REPEALED;

[3-05-001-0001 WORDS OF TENSE, NUMBER AND GENDER; CODE REFERENCES](#)

[A. FOR THE PURPOSES OF THIS CHAPTER, ALL WORDS OF TENSE, NUMBER, AND GENDER
SHALL COMPLY WITH A.R.S. SECTION 1-214 AS AMENDED.](#)

[B. FOR THE PURPOSES OF THIS CHAPTER, ALL CODE REFERENCES, UNLESS SPECIFIED
OTHERWISE, SHALL:](#)

[1. REFER TO THIS CITY CODE.](#)

[2. BE DEEMED TO INCLUDE ALL AMENDMENTS TO SUCH CODE REFERENCES.](#)

**[3-05-001-0100 ~~WORDS OF TENSE, NUMBER AND GENDER; CODE REFERENCES; AND~~
GENERAL CONDITIONS AND DEFINITIONS:](#)**

For the purposes of this chapter, the following definitions apply:

"Assembler" means a person who unites or combines products, wares, or articles of manufacture so as to produce a change in form or substance of such items without changing or altering component parts.

"Broker" means any person engaged or continuing in business who acts for another for a consideration in the conduct of a business activity taxable under this Chapter, and who receives for his principal all or part of the gross income from the taxable activity.

"Business" includes all activities or acts, personal or corporate, engaged in or caused to be engaged in with the object of gain, benefit, or advantage, either directly or indirectly, but does not include either: casual activities or sales; or the transfer of electricity from a solar photovoltaic generation system to an electric utility distribution system.

"Business Day" means any day of the week when the Tax Collector's office is open for the public to conduct the Tax Collector's business.

"Casual Activity or Sale" means a transaction of an isolated nature made by a person who neither represents himself to be nor is engaged in a business subject to a tax imposed by this Chapter. However, no sale, rental, license for use, or lease transaction concerning real property nor any activity entered into by a business taxable by this Chapter shall be treated, or be exempt, as casual. This definition shall include sales of used capital assets; provided, that the volume and frequency of such sales do not indicate that the seller regularly engages in selling such property.

"Combined Taxes" means the sum of all applicable Arizona Transaction Privilege and Use Taxes; all applicable transportation taxes imposed upon gross income by this County as authorized by [Chapter 8.3](#) [ARTICLE III, CHAPTER 6](#), Title [42](#), Arizona Revised Statutes; and all applicable taxes imposed by this Chapter.

"Commercial Property" is any real property, or portion of such property, used for any purpose other than lodging or lodging space, including structures built for lodging but used otherwise, such as model homes, apartments used as offices, etc.

"Communications Channel" means any line, wire, cable, microwave, radio signal, light beam, telephone, telegraph, or any other electromagnetic means of moving a message.

"Construction Contracting" refers to the activity of a construction contractor.

"Construction Contractor" means a person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof. "Construction

contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction project except for remediation contracting. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract.

"Delivery (of Notice) by the Tax Collector" means "receipt (of notice) by the taxpayer."

"Delivery, Installation, or Other Direct Customer Services" means services or labor, excluding repair labor, provided by a taxpayer to or for his customer at the time of transfer of tangible personal property; provided further that the charge for such labor or service is separately billed to the customer and maintained separately in the taxpayer's books and records.

"Engaging," when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.

"Equivalent Excise Tax" means either:

- (1) a Privilege or Use Tax levied by another Arizona municipality upon the transaction in question, and paid either to such Arizona municipality directly or to the vendor; or
- (2) an excise tax levied by a political subdivision of a state other than Arizona upon the transaction in question, and paid either to such jurisdiction directly or to the vendor; or
- (3) an excise tax levied by a Native American Government organized under the laws of the federal government upon the transaction in question, and paid either to such jurisdiction directly or to the vendor.

"Federal Government" means the United States Government, its departments and agencies; but not including national banks or federally chartered or insured banks, savings and loan institutions, or credit unions.

"Food" means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. Section ~~42-1387~~[42-5106](#). Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process. Under no circumstances shall "food" include an edible product, beverage, or ingredient infused, mixed, or in any way combined with medical marijuana or an active ingredient of medical marijuana. (Ord. 2011-21, Amended, 10/18/2011)

“GROSS INCOME” MEANS THE GROSS RECEIPTS OF A TAXPAYER DERIVED FROM TRADE, BUSINESS, COMMERCE, OR SALES AND THE VALUE PROCEEDING OR ACCRUING FROM THE SALE OF TANGIBLE PERSONAL PROPERTY OR SERVICE, OR BOTH, AND WITHOUT ANY DEDUCTION ON ACCOUNT OF LOSSES. “GROSS INCOME” DOES NOT INCLUDE GOODS, WARES, OR MERCHANDISE, OR VALUE THEREOF, RETURNED BY CUSTOMERS IF THE SALE PRICE IS REFUNDED EITHER IN CASH OR BY CREDIT, NOR THE VALUE OF MERCHANDISE TRADED IN ON THE PURCHASE OF NEW MERCHANDISE WHEN THE TRADE-IN ALLOWANCE IS DEDUCTED FROM THE SALES PRICE OF THE NEW MERCHANDISE BEFORE COMPLETION OF THE SALE.

“GROSS PROCEEDS OF SALES” MEANS THE VALUE PROCEEDING OR ACCRUING FROM THE SALE OF TANGIBLE PERSONAL PROPERTY WITHOUT ANY DEDUCTION ON ACCOUNT OF THE COST OF PROPERTY SOLD, EXPENSE OF ANY KIND OR LOSSES, BUT CASH DISCOUNTS ALLOWED AND TAKEN ON SALES ARE NOT INCLUDED AS GROSS INCOME. “GROSS PROCEEDS OF SALES” DO NOT INCLUDE GOODS, WARES, OR MERCHANDISE, OR VALUE THEREOF, RETURNED BY CUSTOMERS IF THE SALE PRICE IS REFUNDED EITHER IN CASH OR BY CREDIT, NOR THE VALUE OF MERCHANDISE TRADED IN ON THE PURCHASE OF NEW MERCHANDISE WHEN THE TRADE-IN ALLOWANCE IS DEDUCTED FROM THE SALES PRICE OF THE NEW MERCHANDISE BEFORE COMPLETION OF THE SALE.

“GROSS RECEIPTS” MEANS THE TOTAL AMOUNT OF THE SALE, LEASE, OR RENTAL PRICE, AS THE CASE MAY BE, OF THE RETAIL SALES OF RETAILERS, INCLUDING ANY SERVICES THAT ARE A PART OF THE SALES, VALUED IN MONEY, WHETHER RECEIVED IN MONEY OR OTHERWISE, INCLUDING ALL RECEIPTS, CASH, CREDITS, AND PROPERTY OF EVERY KIND OR NATURE, AND ANY AMOUNT FOR WHICH CREDIT IS ALLOWED BY THE SELLER TO THE PURCHASER WITHOUT ANY DEDUCTION FROM THE AMOUNT ON ACCOUNT OF THE COST OF THE PROPERTY SOLD, MATERIALS USED, LABOR OR SERVICE PERFORMED, INTEREST PAID, LOSSES, OR ANY OTHER EXPENSE. GROSS RECEIPTS DO NOT INCLUDE CASH DISCOUNTS ALLOWED AND TAKEN NOR THE SALE PRICE OF PROPERTY RETURNED BY CUSTOMERS IF THE FULL SALE PRICE IS REFUNDED EITHER IN CASH OR BY CREDIT.

"Hotel" means any public or private hotel, inn, hostelry, tourist home, house, motel, rooming house, apartment house, trailer, or other lodging place within the City offering lodging, wherein the owner thereof, for compensation, furnishes lodging to any transient, except foster homes, rest homes, sheltered care homes, nursing homes, or primary health care facilities.

“JET FUEL” MEANS JET FUEL AS DEFINED IN A.R.S. SECTION 42-5351.

"Job Printing" means the activity of copying or reproducing an article by any means, process, or method. "Job printing" includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

"Lessee" includes the equivalent person in a rental or licensing agreement for all purposes of this Chapter.

"Lessor" includes the equivalent person in a rental or licensing agreement for all purposes of this Chapter.

"Licensing (for Use)" means any agreement between the user ("licensee") and the owner or the owner's agent ("licensor") for the use of the licensor's property whereby the licensor receives consideration, where such agreement does not qualify as a "sale" or "lease" or "rental" agreement.

"Lodging (Lodging Space)" means any room or apartment in a hotel or any other provider of rooms, trailer spaces, or other residential dwelling spaces; or the furnishings or services and accommodations accompanying the use and possession of said dwelling space, including storage or parking space for the property of said tenant.

"Manufactured Buildings" means a manufactured home, mobile home or factory built building, as defined in A.R.S. Section 41-2142.

"Manufacturer" means a person WHO IS PRINCIPALLY engaged ~~or continuing in the business of fabricating, producing, or manufacturing~~ IN THE FABRICATION, PRODUCTION, OR MANUFACTURE OF products, wares, or articles for use from ~~other forms of tangible personal property~~ RAW OR PREPARED MATERIALS, imparting to ~~such~~ THOSE MATERIALS new forms, qualities, properties, and combinations.

"Medical marijuana" means "marijuana" used for a "medical use" as those terms are defined in A.R.S. ~~s~~Section 36-2801. (Ord. 2011-21, Amended, 10/18/2011)

"Mining and Metallurgical Supplies" means all tangible personal property acquired by persons engaged in activities defined in Section 3-05-004-0432 for such use. This definition shall not include:

- (1) janitorial equipment and supplies.
- (2) office equipment, office furniture, and office supplies.
- (3) motor vehicles licensed for use upon the highways of the State.

"Modifier" means a person who reworks, changes, or adds to products, wares, or articles of manufacture.

"Nonprofit Entity" means any entity organized and operated exclusively for charitable purposes, or operated by the Federal Government, the State, or any political subdivision of the State.

"Occupancy (of Real Property)" means any occupancy or use, or any right to occupy or use, real property including any improvements, rights, or interests in such property.

"Out-of-City Sale" means the sale of tangible personal property and job printing if all of the following occur:

- (1) transference of title and possession occur without the City; and
- (2) the stock from which such personal property was taken was not within the corporate limits of the City; and
- (3) the order is received at a permanent business location of the seller located outside the City; which location is used for the substantial and regular conduct of such business sales activity. In no event shall the place of business of the buyer be determinative of the situs of the receipt of the order.

For the purpose of this definition it does not matter that all other indicia of business occur within the City, including, but not limited to, accounting, invoicing, payments, centralized purchasing, and supply to out-of-City storehouses and out-of-City retail branch outlets from a primary storehouse within the City.

"Out-of-State Sale" means the sale of tangible personal property and job printing if all of the following occur:

- (1) The order is placed from without the State of Arizona; and
- (2) the property is delivered to the buyer at a location outside the State; and
- (3) the property is purchased for use outside the State.

(Ord. No. 2009-16, Amended, 06/19/2009)

"Owner-Builder" means an owner or lessor of real property who, by himself or by or through others, constructs or has constructed or reconstructs or has reconstructed any improvement to real property.

"Person" means an individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, the Federal Government, this State, or any political subdivision or agency of this State. For the purposes of this Chapter, a person shall be considered a distinct and separate person from any general or limited partnership or joint venture or other association with which such person is affiliated. A subsidiary

corporation shall be considered a separate person from its parent corporation for purposes of taxation of transactions with its parent corporation.

"Prosthetic" means any of the following tangible personal property ~~if such items are prescribed or recommended by a licensed podiatrist, chiropractor, dentist, physician or surgeon, naturopath, optometrist, osteopathic physician or surgeon, psychologist, hearing aid dispenser, physician assistant, nurse practitioner or veterinarian:~~

~~(1) any man-made device for support or replacement of a part of the body, or to increase acuity of one of the senses. Such items include: prescription eyeglasses; contact lenses; hearing aids; artificial limbs or teeth; neck, back, arm, leg, or similar braces.~~

(1) DRUGS AND MEDICAL OXYGEN, INCLUDING DELIVERY HOSE, MASK OR TENT, REGULATOR AND TANK, ON THE PRESCRIPTION OF A MEMBER OF THE MEDICAL, DENTAL, OR VETERINARIAN PROFESSION WHO IS LICENSED BY LAW TO ADMINISTER SUCH SUBSTANCES.

(2) PROSTHETIC APPLIANCES AS DEFINED IN A.R.S. SECTION 23-501 AND AS PRESCRIBED OR RECOMMENDED BY A HEALTH PROFESSIONAL WHO IS LICENSED PURSUANT TO A.R.S., TITLE 32, CHAPTER 7, 8, 11, 13, 14, 15, 16, 17, OR 29.

~~(23) insulin, insulin syringes, and glucose test strips sold with or without a prescription.~~

~~(3) hospital beds, crutches, wheelchairs, similar home health aids, or corrective shoes.~~

~~(4) drugs or medicine, including oxygen.~~

~~(5) equipment used to generate, monitor, or provide health support systems, such as respiratory equipment, oxygen concentrator, dialysis machine.~~

(4) PRESCRIPTION EYEGLASSES OR CONTACT LENSES.

(5) HEARING AIDS AS DEFINED IN A.R.S. SECTION 36-1901.

(6) durable medical equipment ~~which has a federal health care financing administration~~ THAT HAS A CENTERS FOR MEDICARE AND MEDICAID SERVICES common procedure code, is designated reimbursable by Medicare, IS PRESCRIBED BY A PERSON WHO IS LICENSED UNDER A.R.S.

[TITLE 32, CHAPTER 7, 8, 13, 14, 15, 17, OR 29](#), can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

(7) orthodontic devices dispensed by a dental professional who is licensed under A.R.S. Title [32](#), Chapter 11, to a patient as part of the practice of dentistry.

(8) under no circumstances shall "prosthetic" include medical marijuana regardless of whether it is sold or dispensed pursuant to a prescription, recommendation, or written certification by any authorized person.

"Qualifying Community Health Center":

(1) means an entity that is recognized as nonprofit under Section 501(c)(3) of the United States Internal Revenue Code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:

(a) the sole provider of primary care in the community.

(b) a nonhospital affiliated clinic that is located in a federally designated medically underserved area in this State.

(2) includes clinics that are being constructed as qualifying community health centers.

"Qualifying Health Care Organization" means an entity that is recognized as nonprofit under Section 501(c) of the United States Internal Revenue Code and that uses, saves, or invests at least eighty per cent of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted accounting standards and filed annually with the Arizona Department of Revenue. Monies that are used, saved, or invested to lease, purchase or construct a facility for health and medical related education and charitable services are included in the eighty percent (80%) requirement.

["QUALIFYING HEALTH SCIENCES EDUCATIONAL INSTITUTION" MEANS AN ENTITY THAT IS RECOGNIZED AS NONPROFIT UNDER SECTION 501\(C\) OF THE UNITED STATES INTERNAL REVENUE CODE AND THAT SOLELY PROVIDES GRADUATE AND POSTGRADUATE EDUCATION IN THE HEALTH SCIENCES. FOR THE PURPOSES OF THIS PARAGRAPH, "HEALTH SCIENCES" INCLUDES MEDICINE,](#)

NURSING, PHYSICIAN'S ASSISTANT STUDIES, PHARMACY, PHYSICAL THERAPY, OCCUPATIONAL THERAPY, BIOMEDICAL SCIENCES, PODIATRY, CLINICAL PSYCHOLOGY, CARDIOVASCULAR SCIENCE, NURSE ANESTHESIA, DENTISTRY, OPTOMETRY, AND VETERINARY MEDICINE.

"Qualifying Hospital" means any of the following:

- (1) a licensed hospital which is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- (2) a licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.
- (3) a hospital, nursing care institution or residential care institution which is operated by the federal government, this State or a political subdivision of this State.
- (4) a facility that is under construction and that on completion will be a facility under Subdivision (1), (2) or (3) of this paragraph.

"Receipt (of Notice) by the Taxpayer" means the earlier of actual receipt or the first attempted delivery by certified United States mail to the taxpayer's address of record with the Tax Collector.

"Remediation" means those actions that are reasonable, necessary, cost-effective and technically feasible in the event of the release or threat of release of hazardous substances into the environment such that the waters of the State are or may be affected, such actions as may be necessary to monitor, assess and evaluate such release or threat of release, actions of remediation, removal or disposal of hazardous substances or taking such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare or to the waters of the State which may otherwise result from a release or threat of release of a hazardous substance that will or may affect the waters of the State. Remediation activities include the use of biostimulation with indigenous microbes and bioaugmentation using microbes that are nonpathogenic, nonopportunistic and that are naturally occurring. Remediation activities may include community information and participation costs and providing an alternative drinking water supply.

"Rental Equipment" means tangible personal property sold, rented, leased, or licensed to customers to the extent that the item is actually used by the customer for rental, lease, or license to others; provided that:

(1) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and

(2) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

(Ord. 2011-21, Amended, 10/18/2011)

"Rental Supply" means an expendable or nonexpendable repair or replacement part sold to become part of "rental equipment"; provided, that:

(1) the documentation relating to each purchased item so claimed specifically itemizes to the vendor the actual item of "rental equipment" to which the purchased item is intended to be attached as a repair or replacement part; and

(2) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and

(3) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

"Repairer" means a person who restores or renews products, wares, or articles of manufacture.

"Resides within the City" means in cases other than individuals, whose legal addresses are determinative of residence, the engaging, continuing, or conducting of regular business activity within the City.

"Restaurant" means any business activity where articles of food, drink, or condiment are customarily prepared or served to patrons for consumption on or off the premises, also including bars, cocktail lounges, the dining rooms of hotels, and all caterers. For the purposes of this Chapter, a "fast food" business, which includes street vendors and mobile vendors selling in public areas or at entertainment or sports or similar events, who prepares or sells food or drink for consumption on or off the premises is considered a "restaurant," and not a "retailer."

"Retail Sale (Sale at Retail)" means the sale of tangible personal property, except the sale of tangible personal property to a person regularly engaged in the business of selling such property.

"Retailer" means any person engaged or continuing in the business of sales of tangible personal property at retail.

"Sale" means any transfer of title or possession, or both, exchange, barter, LEASE, RENTAL, OR LICENSE FOR USE, conditional or otherwise, in any manner or by any means whatsoever, including consignment transactions and auctions, of TANGIBLE PERSONAL property OR OTHER ACTIVITIES TAXABLE UNDER THIS CHAPTER, for a consideration. "Sale" includes any transaction whereby WHICH the possession of ~~such~~ property is transferred but the seller retains the title as security for the payment of the price. "Sale" also includes ~~the fabrication of~~ FABRICATING tangible personal property for consumers who, ~~in whole or in part,~~ furnish either directly or indirectly the materials used in such fabrication work. "SALE" ALSO INCLUDES FURNISHING, PREPARING, OR SERVING FOR A CONSIDERATION ANY TANGIBLE PERSONAL PROPERTY CONSUMED ON THE PREMISES OF THE PERSON FURNISHING, PREPARING, OR SERVING THE TANGIBLE PERSONAL PROPERTY.

"Solar Daylighting" means a device that is specifically designed to capture and redirect the visible portion of the solar beam, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

"Solar Energy Device" means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means, including wind generator systems that produce electricity. Solar energy systems may also have the capability of storing solar energy for future use. Passive systems shall clearly be designed as a solar energy device, such as a ~~t~~Trombe wall, and not merely as a part of a normal structure, such as a window.

"Speculative Builder" means either:

- (1) an owner-builder who sells or contracts to sell, at any time, improved real property (as provided in Section 3-05-004-0416) consisting of:
 - (a) custom, model, or inventory homes, regardless of the stage of completion of such homes; or
 - (b) improved residential or commercial lots without a structure; or

(2) an owner-builder who sells or contracts to sell improved real property, other than improved real property specified in subsection (1) above:

(a) prior to completion; or

(b) before the expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete.

"Substantially Complete" means the construction contracting or reconstruction contracting:

(1) has passed final inspection or its equivalent; or

(2) certificate of occupancy or its equivalent has been issued; or

(3) is ready for immediate occupancy or use.

"Supplier" means any person who rents, leases, licenses, or makes sales of tangible personal property within the City, either directly to the consumer or customer or to wholesalers, jobbers, fabricators, manufacturers, modifiers, assemblers, repairers, or those engaged in the business of providing services which involve the use, sale, rental, lease, or license of tangible personal property.

["TANGIBLE PERSONAL PROPERTY" MEANS PERSONAL PROPERTY WHICH MAY BE SEEN, WEIGHED, MEASURED, FELT, OR TOUCHED OR IS IN ANY OTHER MANNER PERCEPTIBLE TO THE SENSES.](#)

"Tax Collector" means the city manager or his designee or agent for all purposes under this chapter.

"Taxpayer" means any person liable for any tax under this chapter.

"Taxpayer Problem Resolution Officer" means the individual designated by the City to perform the duties identified in Sections [3-05-005-0515](#) and [3-05-005-0516](#). In cities with a population of 50,000 or more, the Taxpayer Problem Resolution Officer shall be an employee of the City. In cities with a population of less than 50,000, the Taxpayer Problem Resolution Officer need not be an employee of the City. Regardless of whether the Taxpayer Problem Resolution Officer is or is not an employee of the City, the Taxpayer Problem Resolution Officer shall have substantive knowledge of taxation. The identity of and telephone number for the Taxpayer Problem Resolution Officer can be obtained from the Tax Collector.

"Telecommunication Service" means any service or activity connected with the transmission or relay of sound, visual image, data, information, images, or material over a communications channel or any combination of communications channels.

"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 (30) consecutive days.

"Utility Service" means the producing, providing, or furnishing of electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.

(Ord. 1924, 01/07/1997; Ord. 1979, Amended, 10/06/1998; Ord. 2004-25, Amended, 01/10/2005; Ord. 2007-28, Amended, 05/01/2007; Ord. 2009-16, Amended, 06/19/2009; Ord. 2011-21, Amended, 10/18/2011; Ord. 2013-26, Amended, 01/07/2014)

3-05-001-0100.1 BROKERS

A. FOR THE PURPOSES OF PROPER ADMINISTRATION OF THIS CHAPTER AND TO PREVENT EVASION OF TAXES IMPOSED, BROKERS SHALL BE WHEREVER NECESSARY TREATED AS TAXPAYERS FOR ALL PURPOSES, AND SHALL FILE A RETURN AND REMIT THE TAX IMPOSED ON THE ACTIVITY ON BEHALF OF THE PRINCIPAL. NO DEDUCTION SHALL BE ALLOWED FOR ANY COMMISSIONS OR FEES RETAINED BY SUCH BROKER, EXCEPT AS PROVIDED IN SECTION 3-05-001-0405, RELATING TO ADVERTISING COMMISSIONS.

B. BROKERS FOR VENDORS. A BROKER ACTING FOR A SELLER, LESSOR, OR OTHER SIMILAR PERSON DERIVING GROSS INCOME IN A CATEGORY UPON WHICH THIS CHAPTER IMPOSES A TAX SHALL BE LIABLE FOR SUCH TAX, EVEN IF HIS PRINCIPAL WOULD NOT BE SUBJECT TO THE TAX IF HE CONDUCTED SUCH ACTIVITY IN HIS OWN BEHALF, BY REASON OF THE ACTIVITY BEING DEEMED A "CASUAL" ONE. FOR EXAMPLE:

1. AN AUCTIONEER OR OTHER SALES AGENT OF TANGIBLE PERSONAL PROPERTY IS SUBJECT TO THE TAX IMPOSED UPON RETAIL SALES, EVEN IF SUCH SALES WOULD BE DEEMED "CASUAL" IF HIS PRINCIPAL HAD SOLD SUCH ITEMS HIMSELF.

2. A PROPERTY MANAGER IS SUBJECT TO THE TAX IMPOSED UPON RENTAL, LEASING, OR LICENSING OF REAL PROPERTY, EVEN IF SUCH RENTAL, LEASING, OR LICENSING WOULD BE DEEMED "CASUAL" IF HIS PRINCIPAL MANAGED SUCH REAL PROPERTY HIMSELF.

C. BROKERS FOR VENDEES. A BROKER ACTING SOLELY FOR A BUYER, LESSEE, TENANT, OR OTHER SIMILAR PERSON WHO IS A PARTY TO A TRANSACTION WHICH MAY BE SUBJECT TO THE TAX, SHALL BE LIABLE FOR SUCH TAX AND FOR FILING A RETURN IN CONNECTION WITH SUCH TAX ONLY TO THE EXTENT HIS PRINCIPAL IS SUBJECT TO THE TAX.

D. THE LIABILITY OF A BROKER DOES NOT RELIEVE THE PRINCIPAL OF LIABILITY EXCEPT UPON PRESENTATION TO THE TAX COLLECTOR OF PROOF OF PAYMENT OF THE TAX, AND ONLY TO THE EXTENT OF THE CORRECT PAYMENT. THE BROKER SHALL BE RELIEVED OF THE RESPONSIBILITY TO FILE AND PAY TAXES UPON THE FILING AND CORRECT PAYMENT OF SUCH TAXES BY THE PRINCIPAL.

E. LOCATION OF BUSINESS. RETAIL SALES BY BROKERS ACTING FOR ANOTHER PERSON SHALL BE DEEMED TO HAVE OCCURRED AT THE REGULAR BUSINESS LOCATION OF THE BROKER, IN A MANNER SIMILAR TO THAT USED TO DETERMINE "OUT-OF-CITY SALES"; PROVIDED, HOWEVER, THAN AN AUCTIONEER IS DEEMED TO BE ENGAGED IN BUSINESS AT THE SITE OF EACH AUCTION.

3-01-001-0100.2 DELIVERY, INSTALLATION, OR OTHER DIRECT CUSTOMER SERVICES

A. "DELIVERY CHARGES" EXIST ONLY WHEN THE TOTAL CHARGES TO THE ULTIMATE CUSTOMER OR CONSUMER INCLUDE, AS SEPARATELY CHARGED TO THE ULTIMATE CUSTOMER, CHARGES FOR DELIVERY TO THE ULTIMATE CONSUMER, WHETHER THE PLACE OF DELIVERY IS WITHIN OR WITHOUT THE CITY, AND WHEN THE TAXPAYER'S BOOKS AND RECORDS SHOW THE SEPARATE DELIVERY CHARGES.

1. IDENTIFICATION TO THE CUSTOMER OR CONSUMER THAT THE LISTED PRICE HAS "DELIVERY INCLUDED" OR OTHER SIMILAR EXPRESSION IS INSUFFICIENT TO SHOW THE DELIVERY AS A SEPARATE CHARGE. ONLY THE SEPARATELY STATED CHARGE FOR THE DELIVERY SHALL BE DEEMED A "DELIVERY CHARGE."

2. FREIGHT IN. CHARGES FOR DELIVERY FROM PLACE OF PRODUCTION OR THE MANUFACTURER TO THE VENDOR EITHER DIRECTLY OR THROUGH A CHAIN OF

WHOLESALERS OR JOBBERS OR OTHER MIDDLEMEN ARE DEEMED "FREIGHT-IN" AND ARE NOT CONSIDERED DELIVERY.

B. "INSTALLATION" AS USED IN THIS DEFINITION RELATES ONLY TO ATTACHMENT TO TANGIBLE PERSONAL PROPERTY. INSTALLATION TO REAL PROPERTY IS DEEMED CONSTRUCTION CONTRACTING IN THIS CHAPTER. EXAMPLES OF INSTALLATION RELATING TO TANGIBLE PERSONAL PROPERTY INCLUDE INSTALLING A RADIO IN AN AUTOMOBILE; APPLYING SUN SCREENS ON THE WINDOWS OF A BOAT; INSTALLING CABINETS, CARPETING, OR "BUILT-IN APPLIANCES" TO A CAMPER OR MOTORIZED RECREATIONAL VEHICLE, OR SIMILAR ACTIVITIES.

C. REPAIR OF TANGIBLE PERSONAL PROPERTY IS NOT INCLUDED IN THIS DEFINITION.

D. "DIRECT CUSTOMER SERVICES" MEANS SERVICES OTHER THAN REPAIR RENDERED DIRECTLY TO THE CUSTOMER. SERVICES OR LABOR PROVIDED BY ANY PERSON PRIOR TO THE TRANSFER OF TANGIBLE PERSONAL PROPERTY TO THE CUSTOMER OR CONSUMER ARE NOT INCLUDED IN THIS DEFINITION. IN THE FOLLOWING EXAMPLES, THE REQUIREMENTS OF SUBSECTION E BELOW ARE REFERRED TO BY THE WORDS "IDENTIFY" OR "IDENTIFICATION."

1. A RETAILER SELLS A CUSTOMER A \$100 "PLUG-IN" APPLIANCE, WITH A \$25 DELIVERY AND INSTALLATION CHARGE. IF THE RETAILER IDENTIFIES THE \$25 DELIVERY AND INSTALLATION CHARGE, IT IS A CHARGE FOR DIRECT CUSTOMER SERVICES.

2. A CATERER CHARGES HIS CUSTOMER \$1,000 FOR THE FOOD AND DRINK SERVED, \$300 FOR SETUP AND SITE CLEANUP, AND \$500 FOR BARTENDER AND WAITERS. IF ALL CHARGES ARE PROPERLY IDENTIFIED, ONLY THE \$300 FOR SET UP AND CLEANUP IS A CHARGE FOR DIRECT CUSTOMER SERVICES, AND THE \$1,500 FOR FOOD AND SERVICE IS CONSIDERED RESTAURANT GROSS INCOME.

3. PERSONS ENGAGED IN ENGRAVING ON WOOD, METAL, STONE, ETC., OR PERSONS ENGAGED IN RETOUCHING PHOTOGRAPHS OR PAINTINGS MAY CONSIDER SUCH CHARGES FOR LABOR AS DIRECT CUSTOMER SERVICES.

4. ALL CHARGES BY A PHOTOGRAPHER RESULTING IN THE SALE OF A PHOTOGRAPH (SITTING FEES, DEVELOPING, MAKING ENLARGEMENTS, RETOUCHING, ETC.) FOR SERVICES THAT OCCUR PRIOR TO TRANSFER OF TANGIBLE PERSONAL PROPERTY ARE NOT DIRECT CUSTOMER SERVICES.

5. AN EQUIPMENT RENTAL COMPANY CHARGING \$25 FOR DELIVERY MAY CONSIDER SUCH DELIVERY CHARGE AS A CHARGE FOR DIRECT CUSTOMER SERVICE ONLY IF SUCH CHARGE IS PROPERLY IDENTIFIED.

6. EVEN IF IDENTIFIED, CHARGES FOR LABOR INCURRED IN THE PRODUCTION OF ANY MANUFACTURED ARTICLE OR OF A CUSTOM-MADE ARTICLE (JEWELRY, ARTWORK, TAILORING, DRAPERIES, ETC.) ARE NOT INCLUDED IN THIS DEFINITION, AS SUCH LABOR OCCURS PRIOR TO THE TRANSFER OF PROPERTY.

E. RECORDKEEPING REQUIREMENTS.

1. ANY PERSON WHO ENGAGES IN TRANSACTIONS INVOLVING THESE SERVICES MUST:

(A) SEPARATELY BILL, INVOICE, OR CHARGE THE CUSTOMER FOR SUCH SERVICES IN A MANNER BY WHICH THE CUSTOMER OR CONSUMER MAY READILY IDENTIFY THE SPECIFIC DOLLAR AMOUNT OF THE SERVICE CHARGE; AND

(B) MAINTAIN BUSINESS BOOKS AND RECORDS IN A MANNER IN WHICH THE SEPARATE CHARGE FOR SUCH SERVICES CAN BE CLEARLY IDENTIFIED, TO THE SATISFACTION OF THE TAX COLLECTOR.

2. RENDERING A STATEMENT TO A CUSTOMER FOR A TRANSACTION INVOLVING SUCH SERVICES AND THE TRANSFER OF TANGIBLE PERSONAL PROPERTY WHICH ONLY INDICATES THE TOTAL AMOUNT OF THE CHARGES WITH WORDS SUCH AS "SERVICES INCLUDED" OR "CHARGE INCLUDES LABOR AND PARTS" OR A SIMILAR EXPRESSION DOES NOT SATISFY THE REQUIREMENTS OF THIS SUBSECTION.

3-05-001-0100.3 RETAILERS

WHEN IN THE OPINION OF THE TAX COLLECTOR IT IS NECESSARY FOR EFFICIENT ADMINISTRATION OF THIS CHAPTER, HE MAY REGARD ANY SALES PERSON, REPRESENTATIVE, PEDDLER, CANVASSER, OR AGENT OF ANY DEALER, DISTRIBUTOR, SUPERVISOR, OR EMPLOYER UNDER WHOM HE OPERATES OR FROM WHOM HE OBTAINS TANGIBLE PERSONAL PROPERTY FOR SALE, RENTAL, LEASE, OR LICENSE AS A RETAILER FOR THE PURPOSES OF THIS CHAPTER, IRRESPECTIVE OF WHETHER HE IS MAKING SALES, RENTALS, LEASES, OR LICENSES ON HIS OWN BEHALF OR ON BEHALF OF OTHERS. THE TAX COLLECTOR MAY ALSO REGARD SUCH DEALER,

DISTRIBUTOR, SUPERVISOR, OR EMPLOYER AS A RETAILER FOR THE PURPOSES OF THIS CHAPTER.

3-05-001-0100.4 OUT-OF-CITY/OUT-OF-STATE SALES: SALES TO NATIVE AMERICANS

SALES TO NATIVE AMERICANS OR TRIBAL COUNCILS BY VENDORS LOCATED WITHIN THE CITY SHALL BE DEEMED SALES WITHIN THE CITY, UNLESS ALL OF THE FOLLOWING CONDITIONS EXIST:

(A) THE VENDOR HAS PROPERLY ACCOUNTED FOR SUCH SALES IN A MANNER SIMILAR TO THE RECORDKEEPING REQUIREMENTS FOR OUT-OF-CITY SALES; AND

(B) ALL OF THE FOLLOWING ELEMENTS OF THE SALE EXIST:

(1) SOLICITATION AND PLACEMENT OF THE ORDER OCCURS ON THE RESERVATION; AND

(2) DELIVERY IS MADE TO THE RESERVATION; AND

(3) PAYMENT ORIGINATES FROM THE RESERVATION.

3-05-001-0100.5 REMEDIATION CONTRACTING

THE FOLLOWING ACTIVITIES ARE CONSIDERED REMEDIATION CONTRACTING AND ARE EXEMPT:

(A) EXCAVATION, TRANSPORTATION, TREATMENT, AND/OR DISPOSAL OF CONTAMINATED SOIL FOR PURPOSES OF SITE REMEDIATION (RATHER THAN CHARACTERIZATION);

(B) INSTALLATION OF GROUNDWATER EXTRACTION AND/OR INJECTION WELLS FOR PURPOSES OF GROUNDWATER REMEDIATION;

(C) INSTALLATION OF PUMPS AND PIPING INTO GROUNDWATER EXTRACTION WELLS FOR REMEDIATION PURPOSES;

(D) INSTALLATION OF VAPOR EXTRACTION WELLS FOR THE PURPOSE OF SOIL OR GROUNDWATER REMEDIATION;

(E) CONSTRUCTION OF REMEDIATION SYSTEMS, SUCH AS GROUNDWATER TREATMENT PLANTS, VAPOR EXTRACTION SYSTEMS, OR AIR INJECTION SYSTEMS;

(F) CONNECTION OF REMEDIATION SYSTEMS TO UTILITIES;

(G) ABANDONMENT OF GROUNDWATER OR VAPOR EXTRACTION WELLS;

(H) REMOVAL/DEMOLITION OF REMEDIATION SYSTEMS;

(I) CAPPING/CLOSURE CONSTRUCTION ACTIVITIES;

(J) SERVICE OR HANDLING CHARGES FOR SUBCONTRACTED REMEDIATION CONTRACTING ACTIVITIES.

3-05-001-0110 DEFINITIONS: INCOME-PRODUCING CAPITAL EQUIPMENT:

A. The following tangible personal property, other than items excluded in subsection ~~(d)~~ D below, shall be deemed "income-producing capital equipment" for the purposes of this Chapter:

1. machinery or equipment used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing," "processing," "fabricating," "job printing," "refining," and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.
2. mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.
3. tangible personal property, sold to persons engaged in business classified under the telecommunications classification, INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN SECTION 3-05-001-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O, consisting of central office switching equipment; switchboards; private branch exchange equipment; microwave radio equipment, and carrier equipment including optical fiber, coaxial cable, and other transmission media which are components of carrier systems.

4. machinery, equipment, or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.
5. pipes or valves four inches (4") in diameter or larger ~~and related equipment~~, used to transport oil, natural gas, artificial gas, water, or coal slurry. ~~For the purpose of this section, related equipment includes:~~ INCLUDING compressor units, regulators, machinery and equipment, fittings, seals, and any other parts that are used in operating the pipes or valves.
6. aircraft, navigational and communication instruments, and other accessories and related equipment sold to:

(a) a person:

(I) holding, OR EXEMPTED BY FEDERAL LAW FROM OBTAINING, a federal certificate of public convenience and necessity ~~or foreign air carrier permit for air transportation~~ for use as, ~~or~~ in conjunction with or becoming a part of AN aircraft to be used to transport persons, ~~property or United States mail~~ FOR HIRE in intrastate, interstate or foreign commerce.

(II) THAT IS CERTIFICATED OR LICENSED UNDER FEDERAL AVIATION ADMINISTRATION REGULATIONS (14 CODE OF FEDERAL REGULATIONS PART 121 OR 135) AS SCHEDULED OR UNSCHEDULED CARRIER OF PERSONS FOR HIRE FOR USE AS OR IN CONJUNCTION WITH OR BECOMING PART OF AN AIRCRAFT TO BE USED TO TRANSPORT PERSONS FOR HIRE IN INTRASTATE, INTERSTATE, OR FOREIGN COMMERCE.

(III) HOLDING A FOREIGN AIR CARRIER PERMIT FOR AIR TRANSPORTATION FOR USE AS OR IN CONJUNCTION WITH OR BECOMING A PART OF AIRCRAFT TO BE USED TO TRANSPORT PERONS, PROPERTY, OR UNITED STATES MAIL IN INTRASTATE, INTERSTATE, OR FOREIGN COMMERCE.

(IV) OPERATING AN AIRCRAFT TO TRANSPORT PERSONS IN ANY MANNER FOR COMPENSATION OR HIRE, OR FOR USE IN A FRACTIONAL OWNERSHIP PROGRAM THAT MEETS THE REQUIREMENTS OF FEDERAL AVIATION ADMINISTRATION REGULATIONS (14 CODE OF FEDERAL REGULATIONS PART

19, SUBPART K), INCLUDING AS AN AIR CARRIER, A FOREIGN AIR CARRIER, OR A COMMERCIAL OPERATOR OR UNDER A RESTRICTED CATEGORY, WITHIN THE MEANING OF 14 CODE OF FEDERAL REGULATIONS, REGARDLESS OF WHETHER THE OPERATION OR AIRCRAFT IS REGULATED OR CERTIFIED UNDER PART 91, 119, 121, 133, 135, 136, OR 137, OR ANOTHER PART OF 14 CODE OF FEDERAL REGULATIONS.

(V) THAT WILL LEASE OR OTHERWISE TRANSFER OPERATIONAL CONTROL, WITHIN THE MEANING OF FEDERAL AVIATION ADMINISTRATION OPERATIONS SPECIFICATION A008, OR ITS SUCCESSOR, OF THE AIRCRAFT, INSTRUMENTS OR ACCESSORIES TO ONE OR MORE PERSONS DESCRIBED IN ITEM (I), (II), (III), OR (IV) OF THIS SUBDIVISION, SUBJECT TO A.R.S. SECTION 42-5009, SUBSECTION Q.

(b) any foreign government ~~for use by such government outside of this State.~~

(c) persons who are not residents of this State and who will not use such property in this State other than in removing such property from this State. This subdivision also applies to corporations that are not incorporated in this State, regardless of maintaining a place of business in this State, if the principal corporate office is located outside this State and the property will not be used in this State other than in removing the property from this State.

7. machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

8. railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

9. machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

10. buses or other urban mass transit vehicles ~~which~~ THAT are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and ~~which~~ THAT are sold to bus companies holding a federal certificate of convenience and necessity or operated by a NY city, town or other governmental entity or by any person contracting with

such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

11. metering, monitoring, receiving, and transmitting equipment acquired by persons engaged in the business of providing utility services or telecommunications services; but only to the extent that such equipment is to be used by the customers of such persons and such persons separately charge or bill their customers for use of such equipment.

12. groundwater measuring devices required under A.R.S. § 45-604.

13. machinery or equipment used in research and development. ~~In~~ FOR THE PURPOSES OF this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

14. ~~(Reserved)~~ NEW MACHINERY AND EQUIPMENT CONSISTING OF AGRICULTURAL AIRCRAFT, TRACTORS, TRACTOR-DRAWN IMPLEMENTS, SELF-POWERED IMPLEMENTS, MACHINERY AND EQUIPMENT NECESSARY FOR EXTRACTING MILK, AND MACHINERY AND EQUIPMENT NECESSARY FOR COOLING MILK AND LIVESTOCK, AND DRIP IRRIGATION LINES NOT ALREADY EXEMPT UNDER PARAGRAPH 5 OF THIS SUBSECTION AND THAT ARE USED FOR COMMERCIAL PRODUCTION OF AGRICULTURAL, HORTICULTURAL, VITICULTURAL, OR FLORICULTURAL CROPS IN THIS STATE. FOR THE PURPOSES OF THIS PARAGRAPH:

(A) "NEW MACHINERY AND EQUIPMENT" MEANS MACHINERY AND EQUIPMENT THAT HAVE NEVER BEEN SOLD AT RETAIL EXCEPT PURSUANT TO LEASES OR RENTALS WHICH DO NOT TOTAL TWO YEARS OR MORE.

(B) "AGRICULTURAL AIRCRAFT" MEANS AN AIRCRAFT THAT IS BUILT FOR AGRICULTURAL USE FOR THE AERIAL APPLICATION OF PESTICIDES OR FERTILIZER OR FOR AERIAL SEEDING.

(C) "SELF-POWERED IMPLEMENTS" INCLUDES MACHINERY AND EQUIPMENT THAT ARE ELECTRIC-POWERED.

15. included in income producing capital equipment are liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, ~~or~~ research and development or job printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involving direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This subsection does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this code. Chemicals meeting the requirements of this subsection are deemed not to be expendable under subsection (d) of this Section.

16. cleanrooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph ~~(13)~~ of this subsection, of semiconductor products. For purposes of this paragraph, "cleanroom" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Cleanroom:

(a) includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the cleanroom environment.

(b) does not include the building or other permanent, nonremovable component of the building that houses the cleanroom environment.

~~17.—machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For purposes of this paragraph:~~

~~(a) "motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, cd-rom, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.~~

~~(b) "soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.~~

17. MACHINERY AND EQUIPMENT THAT ARE SOLD TO A PERSON ENGAGED IN THE COMMERCIAL PRODUCTION OF LIVESTOCK, LIVESTOCK PRODUCTS, OR AGRICULTURAL, HORTICULTURAL, VITICULTURAL, OR FLORICULTURAL CROPS OR PRODUCTS IN THIS STATE, INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN A.R.S. SECTION 42-5075, SUBSECTION O, IF THE MACHINERY AND EQUIPMENT ARE USED DIRECTLY AND PRIMARILY TO PREVENT, MONITOR, CONTROL, OR REDUCE AIR, WATER, OR LAND POLLUTION.

18. tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations parts ~~25 and 100~~.

(b) any satellite television or data transmission facility, if both of the following conditions are met:

(1) over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations parts ~~25 and 100~~.

(2) over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For purposes of subdivision (B) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

19. Machinery and equipment that is used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

20. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development that is used directly to meet or exceed rules or regulations adopted by the Federal Energy Regulatory Commission, the United States Environmental Protection Agency, the United States Nuclear Regulatory Commission, the Arizona Department of Environmental Quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the Telecommunications Act of 1996 (PL 104-104; 110 Stat. 56; 47 United States Code Section 336) and the Federal Communications Commission order issued April 21, 1997, 47 Code of Federal Regulations Part 73. This paragraph does not exempt any of the following:

- (a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.
- (b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.
- (c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

[22. QUALIFYING EQUIPMENT THAT IS PURCHASED FROM AND AFTER JUNE 30, 2004, THROUGH JUNE 30, 2024, BY A QUALIFIED BUSINESS UNDER A.R.S. SECTION 41-1516 FOR HARVESTING OR PROCESSING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN A.R.S. SECTION 41-1516. TO QUALIFY FOR THIS](#)

DEDUCTION, THE QUALIFIED BUSINESS AT THE TIME OF PURCHASE MUST PRESENT ITS CERTIFICATION APPROVED BY THE DEPARTMENT OF REVENUE.

B. The term "income-producing capital equipment" shall further include ancillary machinery and equipment used for the treatment of waste products created by the business activities which are allowed to purchase "income-producing capital equipment" defined in subsection ~~(A)~~ above.

C. The term "income-producing capital equipment" shall further include repair and replacement parts, other than the items in subsection ~~(d)~~D below, where the property is acquired to become an integral part of another item itemized in subsections ~~(a)~~A or ~~(b)~~B above.

D. The tangible personal property defined as income-producing capital equipment in this Section shall not include:

1. expendable materials. For purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsections ~~(a)~~A, ~~(b)~~B, or ~~(c)~~C of this section regardless of the cost or useful life of that property.

2. janitorial equipment and hand tools.

3. office equipment, furniture, and supplies.

4. tangible personal property used in selling or distributing activities, OTHER THAN THE TELECOMMUNICATIONS TRANSMISSIONS DESCRIBED IN SUBSECTION A.18. OF THIS SECTION.

5. motor vehicles required to be licensed by the State of Arizona, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection ~~(a)(10)~~ A.10. above without regard to the use of such motor vehicles.

6. shops, buildings, docks, depots, and all other materials of whatever kind or character not specifically included as exempt.

7. motors and pumps used in drip irrigation systems.

8. MACHINERY AND EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY USED BY A CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.

E. For the purposes of this Section:

1. "aircraft" includes:

(a) an airplane flight simulator that is approved by the Federal Aviation Administration for use as a Phase II or higher flight simulator under Appendix H, 14 Code of Federal Regulations Part 121.

(b) tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

(Ord. 1851, 01/03/95, Ord. 1979, 10/06/98) (Ord. No. 1979, Enacted, 10/06/98; Ord. No. 1979, Amended, 10/06/98) (Ord. 2008, Amended, 11/02/1999)

3-05-001-0115 DEFINITIONS: COMPUTER SOFTWARE; CUSTOM COMPUTER PROGRAMMING:

A. ~~COMPUTER SOFTWARE: Any~~ "COMPUTER SOFTWARE" MEANS ANY computer program, part of such a program, or any sequence of instructions for automatic data processing equipment. Computer software which is not "custom computer programming" is deemed to be tangible personal property for the purposes of this Chapter, regardless of the method by which title, possession, or right to use the software is transferred to the user.

B. ~~CUSTOM COMPUTER PROGRAMMING: Any~~ "CUSTOM COMPUTER PROGRAMMING" MEANS ANY computer software which is written or prepared exclusively for a customer and includes those services represented by separately stated charges for the modification of existing prewritten programs when the modifications are written or prepared exclusively for a customer.

1. The term does not include a prewritten program which is held or existing for general or repeated sale, lease, or license, even if the program was initially developed on a custom basis for in-house, or for a single customer's, use.

2. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification, and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements, and other billing documents supplied to the customer.

3-05-001-0120 REPEALED:

(Ord. 2013-26, Repealed, 01/07/2014)

DIVISION 3-05-002
DETERMINATION OF GROSS INCOME

SECTIONS:

- 3-05-002-0200 DETERMINATION OF GROSS INCOME; IN GENERAL;
- 3-05-002-0210 DETERMINATION OF GROSS INCOME; TRANSACTIONS BETWEEN AFFILIATED COMPANIES OR PERSONS;
- 3-05-002-0220 DETERMINATION OF GROSS INCOME; ARTIFICIALLY CONTRIVED TRANSACTIONS;
- 3-05-002-0230 DETERMINATION OF GROSS INCOME BASED UPON METHOD OF REPORTING;
- 3-05-002-0240 EXCLUSION OF CASH DISCOUNTS, RETURNS, REFUNDS, TRADE-IN VALUES, VENDOR-ISSUED COUPONS, AND REBATES FROM GROSS INCOME;
- 3-05-002-0250 EXCLUSION OF COMBINED TAXES FROM GROSS INCOME; ITEMIZATION; NOTICE; LIMITATIONS;
- 3-05-002-0260 EXCLUSION OF FEES AND TAXES FROM GROSS INCOME; LIMITATIONS;
- 3-05-002-0265 RESERVED;
- 3-05-002-0266 EXCLUSION OF MOTOR CARRIER REVENUES FROM GROSS INCOME;
- 3-05-002-0270 EXCLUSION OF GROSS INCOME OF PERSONS DEEMED NOT ENGAGED IN BUSINESS;
- 3-05-002-0280 ~~EXCLUSION OF TRANSACTIONS WITH SPECIFIED GOVERNMENTAL AGENCIES;~~ RESERVED
- 3-05-002-0285 RESERVED;
- 3-05-002-0290 RESERVED;

3-05-002-0200 DETERMINATION OF GROSS INCOME; IN GENERAL;

A. Gross income includes:

1. The value proceeding or accruing from the sale of property, the providing of service, or both.
2. The total amount of the sale, lease, license for use, or rental price at the time of such sale, rental, lease, or license.
3. All receipts, cash, credits, barter, exchange, reduction of ~~f~~ or forgiveness of indebtedness, and property of every kind or nature derived from a sale, lease, license for use, rental, or other taxable activity.

4. All other receipts whether payment is advanced prior to, contemporaneous with, or deferred in whole or in part subsequent to the activity or transaction.

B. Barter, exchange, trade-outs, or similar transactions are includable in gross income at the fair market value of the service rendered or property transferred, whichever is higher, as they represent consideration given for consideration received.

C. No deduction or exclusion is allowed from gross income on account of the cost of the property sold, the time value of money, expense of any kind or nature, losses, materials used, labor or service performed, interest paid, or credits granted.

D. For the purposes of this chapter the total amount of gross income, gross receipts or gross proceeds of sales for nuclear fuel shall be deemed to be the value of the purchase price of uranium oxide used in producing the fuel. The tax imposed by this chapter may be imposed only once for any one quantity or batch of nuclear fuel regardless of the number of transactions or financing arrangements which may occur with respect to that nuclear fuel. (Ord. 2013-26, Amended, 01/07/2014)

3-05-002-0210 DETERMINATION OF GROSS INCOME: TRANSACTIONS BETWEEN AFFILIATED COMPANIES OR PERSONS:

In transactions between affiliated companies or persons, or in other circumstances where the relationship between the parties is such that the gross income from the transaction is not indicative of the market value of the subject matter of the transaction, the Tax Collector shall determine the "market value" upon which the City privilege and use taxes shall be levied. "Market value" shall correspond as nearly as possible to the gross income from similar transactions of like quality or character by other taxpayers where no common interest exists between the parties, but otherwise under similar circumstances and conditions.

3-05-002-0220 DETERMINATION OF GROSS INCOME: ARTIFICIALLY CONTRIVED TRANSACTIONS:

The Tax Collector may examine any transaction, reported or unreported, if, in his opinion, there has been or may be an evasion of the taxes imposed by this Chapter and to estimate the amount subject to tax in cases where such evasion has occurred. The Tax Collector shall disregard any transaction which has been undertaken in an artificial manner in order to evade the taxes imposed by this Chapter.

3-05-002-0230 DETERMINATION OF GROSS INCOME BASED UPON METHOD OF REPORTING:

The method of reporting chosen by a taxpayer, as provided in Section 3-05-005-0520, necessitates the following adjustments to gross income for all purposes under this Chapter:

(a) Cash Basis: When a person elects to report and pay taxes on a cash basis, gross income for the reporting period shall include:

(1) The total amounts received on "paid in full" transactions, against which are allowed all applicable deductions and exclusions; and

(2) All amounts received on accounts receivable, conditional sales contract, or other similar transactions, against which no deductions and no exclusions from gross income are allowed. Interest on finance contracts may be deducted if separately itemized on all books and records.

(b) Accrual Basis: When a person elects to report and pay taxes on an accrual basis, gross income shall include all gross income for the applicable period regardless of whether receipts are for cash, credit, conditional, or partially deferred transactions, and regardless of whether or not any security document or instrument is sold, assigned, or otherwise transferred to another. Persons reporting on the accrual basis may deduct bad debts, provided that:

(1) The amount deducted for the bad debt must be deducted from gross income of the month in which the actual charge-off was made, and only to the extent that such amount was actually charged off, and also only to the extent that such amount is or was included as taxable gross income; and

(2) If any amount is subsequently collected on such charged-off account, it shall be included in gross income for the month in which it was collected, without deduction for expense of collection. (Ord. 1924, 01/07/97)

3-05-002-0240 EXCLUSION OF CASH DISCOUNTS, RETURNS, REFUNDS, TRADE-IN VALUES, VENDOR-ISSUED COUPONS, AND REBATES FROM GROSS INCOME

(a) The following items are not included in gross income:

(1) Cash discounts allowed by the vendor for timely payment, but only discounts allowed against taxable gross income.

(2) The value of property returned by customers to the extent of the amount actually refunded either in cash or by credit and the amount refunded was included in taxable gross income.

(3) The trade-in allowance for tangible personal property accepted as payment, not to exceed the full sales price for any tangible personal property sold, when the full sales price is included in taxable gross income. Trade-in allowances are not allowed for manufactured buildings taxable under Section 3-05-004-0427.

(4) When coupons issued by a vendor are later accepted by the vendor as a discount against the transaction, the discount may be excluded from gross income as a cash discount. Amounts credited or refunded by a vendor for redemption of coupons issued by any person other than the vendor may not be excluded from gross income.

(5) Rebates issued by the vendor to a customer as a discount against the transaction may be excluded from gross income as cash discount. Rebates issued by a person other than the vendor may not be excluded from gross income, even when the vendee assigns his right to the rebate to the vendor.

(6) In computing the tax base, gross proceeds of sales or gross income does not include a manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

(b) If the amount specified in subsection A. above is credited by a vendor subsequent to the reporting period in which the original transaction occurs, such amount may be excluded from the taxable gross income of that subsequent reporting period, but only to the extent that the excludable amount was reported as taxable gross income in that prior reporting period. (Ord. 1924, 01/07/97)

**3-05-002-0250 EXCLUSION OF COMBINED TAXES FROM GROSS INCOME; ITEMIZATION;
NOTICE; LIMITATIONS;**

A. When Tax is Separately Charged and/or Collected: The total amount of gross income shall be exclusive of combined taxes only when the person upon whom the tax is imposed shall establish to the satisfaction of the Tax Collector that such tax has been added to the total price of the transaction. The taxpayer must provide to his customer and also keep a reliable record of the actual tax charged or collected, shown by cash register tapes, sales tickets, or other accurate record, separating net transaction price and combined tax. If at any time the Tax Collector cannot ascertain from the records kept by the taxpayer the total or amounts billed or collected on account of combined taxes, the claimed taxes collected may not be excluded from gross income, unless such records are completed and/or clarified to the satisfaction of the Tax Collector.

1. Remittance of all tax charged and/or collected. When an added charge is made to cover City (or combined) privilege and use taxes, the person upon whom the tax is imposed shall pay the full amount of the City taxes due, whether collected by him or not, and in the event he collects more than the amount due he shall remit the excess to the Tax Collector. In the event the Tax Collector cannot ascertain from the records kept by the taxpayer the total or amounts of taxes collected by him, and the Tax Collector is satisfied that the taxpayer has collected taxes in an amount in excess of the tax assessed under this chapter, the Tax Collector may determine the amount collected and collect the tax so determined in the manner provided in this chapter.

2. Itemization. A taxpayer, in order to be entitled to exclude from his gross income any amounts paid to him by customers for combined taxes passed on to the customer, must prove that he has provided his customer with a written record of the transaction showing at a minimum the price before the tax, the combined taxes, and the total cost. This shall be additional to the record required to be kept under subsection (A) of this section.

B. When Tax Has Been Neither Separately Charged Nor Separately Collected: When the person upon whom the tax is imposed shall establish by means of invoices, sales tickets, or other reliable evidence, that no added charge was made to cover combined taxes, the taxpayer may exclude tax collected from such income by dividing such taxable gross income by ~~one (1.00)~~ plus a decimal figure representing the effective combined tax rate expressed as a fraction of ~~one (1.00)~~.

3-05-002-0260 EXCLUSION OF FEES AND TAXES FROM GROSS INCOME; LIMITATIONS

A. There shall be excluded from gross income of vendors of motor vehicles those motor vehicle registration fees, license fees and taxes, and lieu taxes imposed pursuant to A.R.S. Title 28 in connection with the initial purchase of a motor vehicle, but only to the extent that such taxes or fees or both have been separately itemized and collected from the purchaser of the motor vehicle by the vendor, actually remitted to the proper registering, licensing, and taxing authorities, and the provisions of Division 3-05-003, regarding recordkeeping, are met. For the purpose of the exclusion provided by this subsection only, the terms vendor and vendee shall also apply to a lessor and lessee respectively, of a motor vehicle if, in addition to all other requirements of this subsection, the lease agreement specifically requires the lessee to pay such fees or taxes, and such amounts are separately itemized in the documentation provided to the lessee.

B. There shall be excluded from gross income of vendors at retail of heavy trucks and trailers, the amount attributable to Federal excise taxes imposed by 26 U.S.C. Section 4051, but only to the extent that the provisions of Division 3-05-003, relating to recordkeeping, have been met.

C. There shall be excluded from gross income the following fees, taxes, and lieu taxes, but only to the extent that such taxes or fees or both have been separately itemized and collected from the purchaser by the vendor, actually remitted to the proper registering, licensing, and taxing authorities, and the provisions of Division 3-05-003, regarding recordkeeping, are met:

1. Emergency telecommunication services excise tax imposed pursuant to A.R.S. Section 42-5252. "Emergency telecommunication services" means telecommunication services or systems that use number 911 or a similarly designated telephone number for emergency calls;
2. The telecommunication devices for the deaf and the severely hearing and speech impaired excise tax imposed pursuant to A.R.S. Section 42-5252;
3. Federal excise taxes on communications services as imposed by 26 U.S.C. Section 4251;
4. Car rental surcharge imposed pursuant to A.R.S. Section 48-4234;
5. Federal excise taxes on passenger vehicles as imposed by 26 U.S.C. Section 4001(.01);
6. Waste tire disposal fees, imposed pursuant to A.R.S. Section 44-1302.

D. There shall be excluded from gross income of vendors of motor vehicles dealer documentation fees, but only to the extent that such fees have been separately itemized and collected from the purchaser of the motor vehicle by the vendor. (Ord. 1924, 01/07/97; Ord. 2004-25, Amended, 01/10/05; Ord. 2007-28, Amended, 05/01/2007)

~~3-05-002-0265 RESERVED:~~

3-05-002-0266 EXCLUSION OF MOTOR CARRIER REVENUES FROM GROSS INCOME:

There shall be excluded from gross income the gross proceeds of sale or gross income derived from any of the following:

- A. A motor carrier's use on the public highways in this State if the motor carrier is subject to a fee prescribed in A.R.S. Title 28, Chapter 15, Article 4, or A.R.S. Title 28, Chapter 16, ~~Article 4~~.
- B. Leasing, renting or licensing a motor vehicle subject to and upon which the fee has been paid under A.R.S. Title 28, Chapter 16.

C. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle, to a motor carrier who is subject to a fee prescribed in A.R.S. Title 28, Chapter 16 and who is engaged in the business of leasing, renting or licensing such property.

D. For the purposes of these exclusions, "motor carrier" includes a motor vehicle weighing 26,000 pounds or more, a lightweight motor vehicle which weighs 12,001 pounds to 26,000 pounds and a light motor vehicle weighing 12,000 pounds or less, which pay the fee prescribed in A.R.S. Title 28, Chapter 15 or A.R.S. Title 28, Chapter 16. (Ord. 1979, Amended, 10/06/98; Ord. 2007-28, Amended, 05/01/2007)

3-05-002-0270 EXCLUSION OF GROSS INCOME OF PERSONS DEEMED NOT ENGAGED IN BUSINESS:

A. For the purposes of this section, the following definitions shall apply:

1. "Federally exempt organization" means an organization which has received a determination of exemption, or qualifies for such exemption, under 26 U.S.C. Section 501(c) and rules and regulations of the Commissioner of Internal Revenue pertaining to same, but not including a "governmental entity," "non-licensed business," or "public educational entity."
2. "Governmental entity" means the Federal government, the State of Arizona, any other state, or any political subdivision, department, or agency of any of the foregoing; provided further, that persons contracting with such a governmental entity to operate any part of a governmentally adopted and controlled program to provide urban mass transportation shall be deemed a governmental entity in all activities such person performs when engaged in said contract.
3. "Non-licensed business" means any person conducting any business activity for gain or profit, whether or not actually realized, which person is not required to be licensed for the conduct or transaction of activities subject to the tax imposed under this chapter.
4. "Proprietary club" means any club which has qualified or would otherwise qualify as an exempt club under the provisions of 26 U.S.C. Section 502(c)(7), (8), and (9), notwithstanding the fact that some or all of the members may own a proprietary interest in the property and assets of the club.
5. "Public educational entity" means any educational entity operated pursuant to any provisions of A.R.S. Title 15.

B. Transactions which, if conducted by any other person, would produce gross income subject to tax under this chapter shall not be subject to the imposition of such tax if conducted entirely by a public educational entity; governmental entity, except "proprietary activities" of municipalities as provided by regulation; or non-licensed business.

C. Transactions which, if conducted by any other person, would produce gross income subject to the tax under this chapter shall not be subject to the [IMPOSITION OF SUCH](#) tax if conducted entirely by a federally exempt organization or proprietary club with the following exceptions:

1. Transactions involving proprietary clubs and organizations exempt under [26](#) U.S.C. Section [501\(c\)\(7\)](#), (8), and (9), where the gross revenue of the activity received from persons other than members and bona fide guests of members is in an amount in excess of fifteen percent (15%) of total gross revenue, as prescribed by regulation. In the event this fifteen percent (15%) limit is exceeded, the entire gross income of such entity shall be subject to the applicable tax.

2. Gross income from unrelated business income as that term is defined in [26](#) U.S.C. Section [512](#), including all statutory definitions and determinations, the rules and regulations of the Commissioner of Internal Revenue, and the administrative interpretations and guidelines.

3. Reserved.

D. Except as may be provided elsewhere in this chapter, transactions where customers are exempt organizations, proprietary clubs, public educational entities, governmental entities, or non-licensed businesses shall be deemed taxable transactions for the purpose of the imposition of taxes under this chapter, notwithstanding that property so acquired may in fact be resold or leased by the acquiring person to others. In the case of sales, rentals, leases, or licenses to proprietary clubs or exempt organizations, the vendor may be relieved from the responsibility for reporting and paying tax on such income only by obtaining from its vendee a verified statement that includes:

1. A statement that when the property so acquired is resold, rented, leased, or licensed, that the otherwise exempt vendee chooses, or is required, to pay City privilege tax or an equivalent excise tax on its gross income from such transactions and does in fact file returns on same; and

2. The privilege license number of the otherwise exempt vendee; and

3. Such other information as the Tax Collector may require.

E. Franchisees or concessionaires operating businesses for or on behalf of any exempt organization, governmental entity, public educational entity, proprietary club, or non-licensed business shall not be considered to be such an exempt organization, club, entity, or non-licensed business, but shall be deemed to be a taxpayer subject to the provisions of this chapter, except as provided in the definition of governmental entity, regarding urban mass transit.

F. In any case, if a federally exempt organization, proprietary club, or non-licensed business rents, leases, licenses, or purchases any tangible personal property for its own storage or use, and no City privilege or use tax or equivalent excise tax has been paid on such transaction, said organization, club, or business shall be liable for the use tax upon such acquisitions or use of such property. (Ord. 2014-16, Amended, 07/15/2014)

3-05-002-0280 ~~EXCLUSION OF TRANSACTIONS WITH SPECIFIED GOVERNMENTAL AGENCIES:~~ RESERVED

~~Notwithstanding provisions contained elsewhere in this Chapter, "gross income" derived from transactions that would be deemed taxable, if conducted with or for other customers or consumers, shall be deemed exempt from the taxes imposed by this Chapter when the customer or consumer is (effective 07/01/01, Ordinance No. 2001-04):~~

~~A.—Reserved.~~

~~B.—Reserved.~~

~~C.—Reserved.~~

~~D.—Reserved.~~

~~E.—Reserved.~~

~~(Ord. 2001-04, Amended, 01/16/2001; Ord. 2000-29, Amended, 11/21/2000)~~

3-05-002-0285 RESERVED:

3-05-002-0290 RESERVED:

**DIVISION 3-05-003
LICENSING AND RECORDKEEPING**

SECTIONS:

- 3-05-003-0300 LICENSING REQUIREMENTS
- 3-05-003-0310 LICENSING: SPECIAL REQUIREMENTS
- 3-05-003-0320 LICENSE FEES; ANNUAL RENEWAL; RENEWAL FEES
- 3-05-003-0330 LICENSING: DURATION; TRANSFERABILITY; DISPLAY; PENALTIES; PENALTY
WAIVER; RELICENSING; FEES COLLECTIBLE AS IF TAXES
- 3-05-003-0340 LICENSING: CANCELLATION; REVOCATION
- 3-05-003-0350 OPERATING WITHOUT A LICENSE
- 3-05-003-0360 RECORDKEEPING REQUIREMENTS
- 3-05-003-0362 RECORDKEEPING: INCOME
- 3-05-003-0364 RECORDKEEPING: EXPENDITURES
- 3-05-003-0366 RECORDKEEPING: OUT-OF-CITY AND OUT-OF-STATE SALES
- 3-05-003-0370 RECORDKEEPING: CLAIM OF EXCLUSION, EXEMPTION, DEDUCTION, OR
CREDIT; DOCUMENTATION; LIABILITY
- 3-05-003-0372 PROOF OF EXEMPTION: SALE FOR RESALE; ~~SALE~~, RENTAL, LEASE, OR
LICENSE OF RENTAL EQUIPMENT
- 3-05-003-0380 INADEQUATE OR UNSUITABLE RECORDS

3-05-003-0300 LICENSING REQUIREMENTS

A. The following persons shall make application to the Tax Collector for a transaction privilege and use tax license and no person shall engage or continue in business or engage in such activities until he shall have such a license:

1. Every person engaging or continuing in business activities within the City or Town upon which a transaction privilege tax is imposed by this chapter.
2. Every person engaging or continuing in business within the City or Town and storing or using tangible personal property in this municipality upon which a use tax is imposed by this chapter.
3. (Reserved)

B. For the purpose of determining whether a transaction privilege and use tax license is required, a person shall be deemed to be "engaging or continuing in business" within the City or Town if:

1. Engaging in any activity as a principal or broker, the gross receipts of which may be subject to transaction privilege tax under Division 3-05-004; or
2. Maintaining within the City or Town directly, or if a corporation by a subsidiary, an office, distribution house, sales house, warehouse or other place of business; maintaining within the City or Town directly, or if a corporation by a subsidiary, any real or tangible personal property; or having any agent or other representative operating within the City or Town under the authority of such person, or if a corporation by a subsidiary, irrespective of whether such place of business, property, or agent or other representative is located here permanently or temporarily; or
3. Soliciting sales, orders, contracts, leases, and other similar forms of business relationships, within the City or Town from customers, consumers, or users located within the City or Town, by means of salesmen, solicitors, agents, representatives, brokers, and other similar agents or by means of catalogs or other advertising, whether such orders are received or accepted within or without this City or Town.
4. A person shall also be deemed to be "engaging or continuing in business" if engaging in any activity subject to use tax under Division 3-05-006 for business purposes. Individuals who acquire items subject to use tax for their own personal use or their family's personal use are not required to obtain a license.
5. (Reserved)

C. A person engaging in more than one (1) activity subject to transaction privilege tax at any one (1) business location is not required to obtain a separate license for each activity; provided, that at the time such person makes application for a license, he shall list on such application each category of activity in which he is engaged.

D. The licensee shall inform the Tax Collector of any changes in his business activities, location, or mailing address within thirty (30) days.

E. Limitation. The issuance of a transaction privilege and use tax license by the Tax Collector shall in no way be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.

F. Casual Activity. For the purposes of this chapter, individuals engaging in a "casual activity or sale" are not subject to the license requirements imposed under this division; provided, that they are only engaged in private sales activities, such as the sale of a personal automobile or garage sale, on no more than three (3) separate occasions during any calendar year. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0310 LICENSING: SPECIAL REQUIREMENTS

A. Partnerships. Application for a transaction privilege and use tax license for a partnership engaging or continuing in business shall provide, as a minimum, the names and addresses of all general partners. Licenses issued to persons engaging in business as partners, limited or general, shall be in the name of the partnership.

B. Limited Liability Companies. Application for a transaction privilege and use tax license for a limited liability company (LLC) engaging or continuing in business shall provide, as a minimum, the names and addresses of all members and the manager. Licenses issued to persons engaging in business as limited liability companies shall be in the name of the LLC.

C. Corporations. Application for a transaction privilege and use tax license for a corporation engaging or continuing in business shall provide, as a minimum, the names and addresses of both the chief executive officer and chief financial officer of the corporation. Licenses issued to persons engaging in business as corporations shall be in the name of the corporation.

D. Multiple Locations or Multiple Business Names. A person engaging or continuing in one (1) or more businesses at two (2) or more locations or under two (2) or more business names shall procure a license for each such location or business name. A "location" is a place of a separate business establishment.

E. Real Property Rental, Leasing, and Licensing for Use. In all cases the transaction privilege and use tax license shall be issued only to the owner of the real property regardless of the owner engaging a property manager or other broker to oversee the owner's business activity including filing tax returns on behalf of the owner. Each rental property that can be independently sold or transferred is deemed to be a separate business establishment. Each platted parcel of real property subject to the tax imposed by this chapter is deemed to be a separate business establishment and requires a separate license, regardless of the number of rental units located on that platted parcel. If one (1) structure is located on multiple parcels in a manner such that ownership of an individual parcel cannot be sold or transferred without requiring alteration to divide the structure, one (1) license shall be required for all affected parcels. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0320 LICENSE FEES; ANNUAL RENEWAL; RENEWAL FEES

A. The transaction privilege and use tax license shall be valid upon receipt of a nonrefundable license fee of twenty dollars (\$20.00), except for a license to engage in the business activity of residential or commercial real property rental, leasing, and licensing for use as separately identified in this section. The transaction privilege and use tax license shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual license renewal fee of twenty dollars (\$20.00) for each license, subject to the limitations in A.R.S. Section 42-5005. Such annual renewal fee shall be due and payable on January 1st of each year and shall be considered delinquent if not paid and received on or before the last business day of January.

B. The transaction privilege and use tax license to engage in the business activity of residential real property rental, leasing, and licensing for use shall be valid only upon receipt of a nonrefundable license fee of twenty dollars (\$20.00). The transaction privilege and use tax license shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual license renewal fee of twenty dollars (\$20.00) for each license, subject to the limitations in A.R.S. Section 42-5005. Such fee shall be due and payable on January 1st of each year and shall be considered delinquent if not paid and received on or before the last business day of January.

C. The transaction privilege and use tax license to engage in the business activity of commercial real property rental, leasing, and licensing for use shall be valid only upon receipt of a non-refundable license fee of twenty dollars (\$20.00). The transaction privilege and use tax license shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual license renewal fee of twenty dollars (\$20.00) for each license, subject to the limitations in A.R.S. Section 42-5005. Such fee shall be due and payable on January 1st of each year and shall be considered delinquent if not paid and received on or before the last business day of January. (Ord. 2015-05, Enacted, 05/19/2015; Ord. 2018-22, Amended, 06/19/2018)

**3-05-003-0330 LICENSING: DURATION; TRANSFERABILITY; DISPLAY; PENALTIES;
PENALTY WAIVER; RELICENSING; FEES COLLECTIBLE AS IF TAXES**

A. The transaction privilege and use tax license shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying the applicable license renewal fee for each license, subject to the limitations in A.R.S. Section 42-5005. Such fee shall be due and payable on January 1st of each year and shall be considered delinquent if not paid and received on or before the last business day of January. Application and payment of the annual fee must be received in the Tax Collector's office to be deemed paid and received.

B. The transaction privilege and use tax license shall be nontransferable between owners or locations, and shall be on display to the public in the licensee's place of business.

C. Any person required to be licensed under this chapter who fails to obtain a license on or before conducting any business activity requiring such license shall be subject to the license fees due for each year in business plus a penalty in the amount of fifty percent (50%) of the applicable fee for each period of time for which such fee would have been imposed, from and after the date on which such activity commenced until paid. This penalty shall be in addition to any other penalty imposed under this chapter and must be paid prior to the issuance of any license. License fee penalties may be waived by the Tax Collector subject to the same terms as the waiver of tax penalties as provided for in Section 3-05-005-0540.

D. Any licensee who fails to renew his license on or before the due date shall be deemed to be operating without a license following such due date, and shall be subject to all penalties imposed under this chapter against persons required to be licensed and operating without a license. The non-licensed status may be removed by payment of the annual license fee for each year or portion of a year he operated without a license, plus a license fee penalty of fifty percent (50%) of the license fee due for each year. License fee penalties may be waived by the Tax Collector subject to the same terms as the waiver of tax penalties as provided for in Section 3-05-005-0540.

E. Any licensee who permits his license to expire through cancellation as provided in Section 3-05-003-0340, by his request for cancellation, by surrender of the license, or by the cessation of the business activity for which the license was issued, and who thereafter applies for a license, shall be granted a new license as a new applicant and shall pay the current license fee imposed under Section 3-05-003-0320.

F. Any licensee who needs a copy of his transaction privilege and use tax license which is still in effect shall be charged the current license fee for each reissuance of a license.

G. Any person conducting a business activity subject to licensing without obtaining a transaction privilege and use tax license shall be liable to the City for all applicable fees and penalties and shall be subject to the provisions of Sections 3-05-005-0580 and 3-05-005-0590, to the same extent as if such fees and penalties were taxes and penalties under such sections. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0340 LICENSING: CANCELLATION; REVOCATION

A. Cancellation. The Tax Collector may cancel the transaction privilege and use tax license of any licensee as "inactive" if the taxpayer, required to report monthly, has neither filed any return nor remitted any taxes imposed

by this chapter for a period of six (6) consecutive months; or, if required to report quarterly, has neither filed any return nor remitted any taxes imposed by this chapter for two (2) consecutive quarters; or, if required to report annually, has neither filed any return nor remitted any taxes imposed by this chapter when such annual report and tax are due to be filed with and remitted to the Tax Collector.

B. Revocation. If any licensee fails to pay any tax, interest, penalty, fee, or sum required to be paid under this chapter, or if such licensee fails to comply with any other provisions of this chapter, the Tax Collector may revoke the transaction privilege and use tax license of said licensee.

C. Notice and Hearing. The Tax Collector shall deliver notice to such licensee of cancellation or revocation of the transaction privilege and use tax license. If the licensee requests a hearing within twenty (20) days of receipt of such notice, he shall be granted a hearing before the Tax Collector.

D. After cancellation or revocation of a taxpayer's license, the taxpayer shall not be issued a new license until all reports have been filed; all fees, taxes, interest, and penalties due have been paid; and he is in compliance with all provisions of this chapter. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0350 OPERATING WITHOUT A LICENSE

It shall be unlawful for any person who is required by this chapter to obtain a transaction privilege and use tax license to engage in or continue in business without a license. The Tax Collector shall assess any delinquencies in tax, interest, and penalties which may apply against such person upon any transactions subject to the taxes imposed by this chapter. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0360 RECORDKEEPING REQUIREMENTS

A. It shall be the duty of every person subject to the tax imposed by this chapter to keep and preserve suitable records and such other books and accounts as may be necessary to determine the amount of tax for which he is liable under this chapter. The books and records must contain, at a minimum, such detail and summary information as may be required by this division; or when records are maintained within an electronic data processing (EDP) system, the requirements established by the Arizona Department of Revenue for privilege tax filings will be accepted. It shall be the duty of every person to keep and preserve such books and records for a period equal to the applicable limitation period for assessment of tax, and all such books and records shall be open for inspection by the Tax Collector during any business day.

B. The Tax Collector may direct, by letter, a specific taxpayer to keep specific other books, records, and documents. Such letter directive shall apply:

1. Only for future reporting periods; and
2. Only by express determination of the Tax Collector that such specific recordkeeping is necessary due to the inability of the taxing jurisdiction to conduct an adequate examination of the past activities of the taxpayer, which inability resulted from inaccurate or inadequate books, records, or documentation maintained by the taxpayer. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0362 RECORDKEEPING: INCOME

The minimum records required for persons having gross income subject to, or exempt or excluded from, tax by this chapter must show:

- A. The gross income of the taxpayer attributable to any activity occurring in whole or in part in the City.
- B. The gross income taxable under this chapter, divided into categories as stated in the official City tax return.
- C. The gross income subject to Arizona transaction privilege taxes, divided into categories as stated in the official State tax return.
- D. The gross income claimed to be exempt, and with respect to each activity or transaction so claimed:
 1. If the transaction is claimed to be exempt as a sale for resale or as a sale, rental, lease, or license for use of rental equipment:
 - a. The City privilege license number and State transaction privilege tax license number of the customer (or the equivalent city, if applicable, and state tax numbers of the city and state where the customer resides); and
 - b. The name, business address, and business activity of the customer; and
 - c. Evidence sufficient to persuade a reasonably prudent businessman that the transaction is believed to be in good faith a purchase for resale, or a purchase, rental, lease, or license for use of rental equipment, by the vendee in the ordinary and regular course of his business activity, as provided by regulation.
 2. If the transaction is claimed to be exempt for any other reason:
 - a. The name, business address, and business activity of the customer; and

b. Evidence which would establish the applicability of the exemption to a reasonably prudent businessman acting in good faith. Ordinary business documentation which would reasonably indicate the applicability of an exemption shall be sufficient to relieve the person on whom the tax would otherwise be imposed from liability therein, if he acts in good faith as provided by regulation.

E. With respect to those allowed deductions or exclusions for tax collected or charges for delivery or other direct customer services, where applicable, evidence that the deductible income has been separately stated and shown on the records of the taxpayer and on invoices or receipts provided to the customer. All other deductions, exemptions, and exclusions shall be separately shown and substantiated.

F. With respect to special classes and activities, such other books, records, and documentation as the Tax Collector, by regulation, shall deem necessary for specific classes of taxpayer by reason of the specialized business activity of any such class.

G. In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded income defined by this chapter. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0364 RECORDKEEPING: EXPENDITURES

The minimum records required for persons having expenditures, costs, purchases and rental or lease or license expenses subject to, or exempt or excluded from, tax by this chapter are:

- A. The total price of all goods acquired for use or storage in the City.
- B. The date of acquisition and the name and business address of the seller or lessor of all goods acquired for use or storage in the City.
- C. Documentation of taxes, freight, and direct customer service labor separately charged and paid for each purchase, rental, lease, or license.
- D. The gross price of each acquisition claimed as exempt from tax, and with respect to each transaction so claimed, sufficient evidence to satisfy the Tax Collector that the exemption claimed is applicable.
- E. As applicable to each taxpayer, documentation sufficient to the Tax Collector, so that he may ascertain:

1. All construction expenditures and all privilege and use taxes claimed paid, relating to owner-builders and speculative builders.
2. Disbursement of collected gratuities and related payroll information required of restaurants.
3. (Reserved)
 - a. Reserved
 - b. Reserved
4. The validity of any claims of proof of exemption.
5. A claimed alternative prior value for reconstruction.
6. All claimed exemptions to the use tax imposed by Division 3-05-006.
7. Costs used to compute the "computed charge" claimed for retail service and repair.
8. Payments of tax to the Arizona Department of Transportation and computations therefor, when a motor-vehicle transporter claims such the exemption.
9. (Reserved)

F. Any additional documentation as the Tax Collector, by regulation, shall deem necessary for any specific class of taxpayer by reason of the specialized business activity of specific exemptions afforded to that class of taxpayer.

G. In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded expenditures as defined by this chapter. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0366 RECORDKEEPING: OUT-OF-CITY AND OUT-OF-STATE SALES

A. Out-of-City Sales. Any person engaging or continuing in a business who claims out-of-City sales shall maintain and keep accounting records or books indicating separately the gross income from the sales of tangible personal property from such out-of-City branches or locations.

B. Out-of-State Sales. Persons engaged in a business claiming out-of-State sales shall maintain accounting records or books indicating for each out-of-State sale the following documentation:

1. Documentation of location of the buyer at the time of order placement; and
2. Shipping, delivery, or freight documents showing where the buyer took delivery; and
3. Documentation of intended location of use or storage of the tangible personal property sold to such buyer. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0370 RECORDKEEPING: CLAIM OF EXCLUSION, EXEMPTION, DEDUCTION, OR CREDIT; DOCUMENTATION; LIABILITY

A. All deductions, exclusions, exemptions, and credits provided in this chapter are conditional upon adequate proof and documentation of such as may be required either by this chapter or regulation.

B. Any person who claims and receives an exemption, deduction, exclusion, or credit to which he is not entitled under this chapter, shall be subject to, liable for, and pay the tax on the transaction as if the vendor subject to the tax had passed the burden of the payment of the tax to the person wrongfully claiming the exemption. A person who wrongfully claimed such exemption shall be treated as if he is delinquent in the payment of the tax and shall be subject to interest and penalties upon such delinquency. However, if the tax is collected from the vendor on such transaction it shall not again be collected from the person claiming the exemption, or if collected from the person claiming the exemption it shall not also be collected from the vendor. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0372 PROOF OF EXEMPTION: SALE FOR RESALE; ~~SALE~~, RENTAL, LEASE, OR LICENSE OF RENTAL EQUIPMENT

A claim of purchase for resale or of purchase, rental, lease, or license for rent, lease, or license is valid only if the evidence is sufficient to persuade a reasonably prudent businessman that the particular item is being acquired for resale or for rental, lease, or license in the ordinary course of business. The fact that the acquiring person possesses a privilege license number, and makes a verbal claim of "sale for resale or lease" or "lease for re-lease" does not meet this burden and is insufficient to justify an exemption. The "reasonable evidence" must be evidence which exists objectively, and not merely in the mind of the vendor, that the property being acquired is normally sold, rented, leased, or licensed by the acquiring person in the ordinary course of business. Failure to obtain such reasonable evidence at the time of the transaction will be a basis for

disallowance of any claimed deduction on returns filed for such transactions. (Ord. 2015-05, Enacted, 05/19/2015)

3-05-003-0380 INADEQUATE OR UNSUITABLE RECORDS

In the event the records provided by the taxpayer are considered by the Tax Collector to be inadequate or unsuitable to determine the amount of the tax for which such taxpayer is liable under the provisions of this chapter, it is the responsibility of the taxpayer either:

- A. To provide such other records required by this chapter or regulation; or
- B. To correct or to reconstruct his records, to the satisfaction of the Tax Collector.

(Ord. 2015-05, Enacted, 05/19/2015)

Division 3-05-004
PRIVILEGE TAXES

SECTIONS:

- 3-05-004-0400 IMPOSITION OF PRIVILEGE TAXES; PRESUMPTION:
- 3-05-004-0405 ADVERTISING:
- 3-05-004-0407 RESERVED
- 3-05-004-0410 AMUSEMENTS, EXHIBITIONS, AND SIMILAR ACTIVITIES:
- 3-05-004-0415 CONSTRUCTION CONTRACTING; CONSTRUCTION CONTRACTORS:
- 3-05-004-0415.1 LIABILITY FOR MRRA AMOUNTS EQUAL TO RETAIL TRANSACTION PRIVILEGE TAX DUE
- 3-05-004-0416 CONSTRUCTION CONTRACTING; SPECULATIVE BUILDERS:
- 3-05-004-0416.1 SPECULATIVE BUILDERS: HOMEOWNER'S BONA FIDE NON-BUSINESS SALE OF A FAMILY RESIDENCE
- 3-05-004-0416.2 RECONSTRUCTION CONTRACTING
- 3-05-004-0417 CONSTRUCTION CONTRACTING; OWNER-BUILDERS WHO ARE NOT SPECULATIVE BUILDERS:
- 3-05-004-0418 (RESERVED)
- 3-05-004-0420 FEED AT WHOLESALE:
- 3-05-004-0422 RESERVED
- 3-05-004-0425 JOB PRINTING (REG. 425.1):
- 3-05-004-0427 MANUFACTURED BUILDINGS:
- 3-05-004-0430 TIMBERING AND OTHER EXTRACTION:
- 3-05-004-0432 MINING:
- 3-05-004-0435 PUBLISHING AND PERIODICALS DISTRIBUTION (REG. 435.1):
- 3-05-004-0440 RESERVED:
- 3-05-004-0444 HOTELS:
- 3-05-004-0445 RENTAL, LEASING, AND LICENSING FOR USE OF REAL PROPERTY (REG. 445.1, REG. 445.3):
- 3-05-004-0446 RESERVED:
- 3-05-004-0447 RESERVED:
- 3-05-004-0450 RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY (REG 450.1, REG. 450.2, REG 450.3):
- 3-05-004-0452 RESERVED:

- 3-05-004-0455 RESTAURANTS AND BARS:
- 3-05-004-0460 RETAIL SALES; MEASURE OF TAX; BURDEN OF PROOF; EXCLUSIONS:
- 3-05-004-0462 RETAIL SALES; FOOD FOR HOME CONSUMPTION:
- 3-05-004-0465 RETAIL SALES; EXEMPTIONS:
- 3-05-004-0470 TELECOMMUNICATION SERVICES ([REG. 475.1](#)):
- 3-05-004-0475 TRANSPORTING FOR HIRE ([REG. 475.1](#)):
- 3-05-004-0480 UTILITY SERVICES:
- 3-05-004-0485 WASTEWATER REMOVAL SERVICES:
- ~~3-05-004-0490 RESERVED:~~

3-05-004-0400 IMPOSITION OF PRIVILEGE TAXES; PRESUMPTION:

A. There are hereby levied and imposed, subject to all other provisions of this chapter, the following privilege taxes for the purpose of raising revenue to be used in defraying the necessary expenses of the City, such taxes to be collected by the Tax Collector:

1. A privilege tax upon persons on account of their business activities, to the extent provided elsewhere in this ~~Article~~[DIVISION](#), to be measured by the gross income of persons, whether derived from residents of the City or not, or whether derived from within the City or from without.

~~2. A privilege tax upon certain persons for the privilege of occupancy of real property, in accordance with the provisions of Section 3-05-004-0413.~~

2. RESERVED.

3. RESERVED.

B. Taxes Imposed by this Chapter are in Addition to Others: Except as specifically designated elsewhere in this Chapter, each of the taxes imposed by this chapter shall be in addition to all other licenses, fees, and taxes levied by law, including other taxes imposed by this chapter.

C. Presumption: For the purpose of proper administration of this chapter and to prevent evasion of the taxes imposed by this chapter, it shall be presumed that all gross income is subject to the tax until the contrary is established by the taxpayer.

D. Limitation of Exemptions, Deductions, and Credits Allowed Against the Measure of Taxes Imposed by this Chapter: All exemptions, deductions, and credits set forth in this chapter shall be limited to the specific activity or transaction described and not extended to include any other activity or transaction subject to the tax.

3-05-004-0405 ADVERTISING:

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of "local advertising" by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from "local advertising." All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered "local advertising," except the following:

1. The advertising of a product or service which is sold or provided both within and without the State by more than one "commonly designated business entity" within the State, and in which the advertisement names either no "commonly designated business entity" within the State or more than one "commonly designated business entity". "Commonly designated business entity" means any person selling or providing any product or service to its customers under a common business name or style, even though there may be more than one legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement.
2. The advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the State.
3. The advertising of a product which may only be purchased from an out-of-State supplier.
4. Political advertising for United States presidential and vice presidential candidates only.
5. Advertising by means of product purchase coupons redeemable at any retail establishment carrying such product but not product coupons redeemable only at a single commonly designated business entity.
6. Advertising transportation services where a substantial portion of the transportation activity of the business entity advertised involves interstate or foreign carriage.

B. Reserved.

(Ord. 2000-14, Amended, 06/06/2000; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0407 RESERVED

3-05-004-0410 AMUSEMENTS, EXHIBITIONS, AND SIMILAR ACTIVITIES:

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of providing amusement that begins in the city or takes place entirely within the city, which includes the following type or nature of businesses:

1. Operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, skating rinks, tennis courts, golf courses, video games, pinball machines, public dances, dance halls, sports events, jukeboxes, batting and driving ranges, animal rides, or any other business charging admission for exhibition, amusement, or entertainment.

2. Reserved.

B. Deductions or Exemptions. The gross proceeds or sales or gross income derived from the following sources are exempt from the tax imposed by this section:

1. Reserved.

2. Amounts retained by the Arizona Exposition and State Fair Board from ride ticket sales at the annual Arizona State Fair.

3. Income received from a hotel business subject to tax under Section 3-05-005-0444, if all of the following apply:

- a. The hotel business receives gross income from a customer for the specific business activity otherwise subject to amusement tax.

b. The consideration received by the hotel business is equal to or greater than the amount to be deducted under this subsection.

c. The hotel business has provided an exemption certificate to the person engaging in business under this section.

4. Income that is specifically included as the gross income of a business activity upon which another section of this ~~article~~[DIVISION](#) imposed a tax, that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.

5. Income from arranging transportation connected to amusement activity that is separately stated to the customer, not to exceed consideration paid to the transportation business.

[6. RESERVED.](#)

[7. RESERVED.](#)

[8. RESERVED.](#)

[9. RESERVED.](#)

C. The tax imposed by this section shall not include arranging an amusement activity as a service to a person's customers if that person is not otherwise engaged in the business of operating or conducting an amusement themselves or through others. This exception does not apply to businesses that operate or conduct amusements pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the amusement is performed by third party independent contractors. For the purposes of this subsection, "arranging" includes billing for or collecting amusement charges from a person's customers on behalf of the persons providing the amusement.

(Ord. 1851, 01/03/1995; Ord. 2000-14, Amended, 06/06/2000; Ord. 2007-28, Amended, 05/01/2007; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0415 CONSTRUCTION CONTRACTING; CONSTRUCTION CONTRACTORS;

A. The tax rate shall be at an amount equal to [TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT \(2.486%\)](#) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from

the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the City.

1. However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.
2. Reserved.
3. Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 3-05-004-0427.
4. For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

5. HANDYMAN EXCLUSION. THIS CLASSIFICATION DOES NOT INCLUDE GROSS INCOME FROM ANY WORK OR OPERATION PERFORMED BY A PERSON THAT IS NOT REQUIRED TO BE LICENSED BY THE REGISTRAR OF CONTRACTORS PURSUANT TO A.R.S. SECTION 32-1121.

B. Deductions and Exemptions.

1. Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this section.
2. All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).
3. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
 - a. Sections 3-05-004-0465(G) and (P);
 - b. Sections 3-05-006-0660(G) and (P);

shall be exempt or deductible, respectively, from the tax imposed by this section.

4. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 3-05-001-0110, that is deducted from the retail classification pursuant to Section 3-05-004-0465(G) that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this **subsection** **PARAGRAPH** does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this subsection, "permanent attachment" means at least one (1) of the following:

- a. To be incorporated into real property.
- b. To become so affixed to real property that it becomes part of the real property.
- c. To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

5. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

6. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 3-05-004-0465(G) shall be exempt from the tax imposed under this section.

7. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or

improvement used directly and primarily to prevent, monitor, control or reduce air, water, or land pollution shall be exempt from the tax imposed under this section.

8. The gross proceeds of sales or gross income received from a post-construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this section.

9. Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. Section 9-499.08 if the contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the City:

a. The certificate of qualification of the lake facility development issued by the City pursuant to A.R.S. Section 9-499.08(D).

b. All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.

c. Any other information considered to be necessary.

10. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this **subsection**

PARAGRAPH:

a. The attributable amount shall not exceed the value of the development fees actually imposed.

b. The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

c. "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, ~~or~~ A.R.S. SECTION 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

11. For taxable periods beginning from and after July 1, 2008, and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the Department of Revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and the City, as applicable, for examination.

12. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT WITH THE OWNER OF REAL PROPERTY OR IMPROVEMENTS TO REAL PROPERTY FOR THE MAINTENANCE, REPAIR, REPLACEMENT, OR ALTERATION OF EXISTING PROPERTY IS NOT SUBJECT TO TAX UNDER THIS SECTION IF THE CONTRACT DOES NOT INCLUDE MODIFICATION ACTIVITIES, EXCEPT AS SPECIFIED IN THIS PARAGRAPH. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A DE MINIMIS AMOUNT OF MODIFICATION ACTIVITY DOES NOT SUBJECT THE CONTRACT OR ANY PART OF THE CONTRACT TO TAX UNDER THIS SECTION. FOR PURPOSES OF THIS PARAGRAPH:

A. ANY TERM NOT DEFINED IN THIS PARAGRAPH THAT IS DEFINED IN A.R.S. SECTION 42-5075 HAS THE SAME MEANING PRESCRIBED IN A.R.S. SECTION 42-5075.

B. TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN THIS SUBSECTION MAY BE SUBJECT TO THE AMOUNT PRESCRIBED IN SECTION 3-05-004-0415.1.

C. EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS CHAPTER, REGARDLESS OF THE AMOUNT OF MODIFICATION ACTIVITIES INCLUDED IN THE CHANGE ORDER. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW CONTRACT, WITH THE TAX

TREATMENT OF ANY SUBSEQUENT CHANGE ORDER TO FOLLOW THE TAX TREATMENT OF THE CONTRACT TO WHICH THE SCOPE OF WORK OF THE SUBSEQUENT CHANGE ORDER DIRECTLY RELATES.

D. THIS PARAGRAPH DOES NOT APPLY TO A CONTRACT THAT PRIMARILY INVOLVES SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND AND THAT IS SUBJECT TO A.R.S. TITLE 28, CHAPTER 19, 20, OR 22 OR A.R.S. TITLE 34, CHAPTER 2 OR 6, EVEN IF THE CONTRACT ALSO INCLUDES VERTICAL IMPROVEMENTS. IF A CITY OR TOWN IMPOSES A TAX ON CONTRACTS THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER THOSE PROVISIONS, THE CITY OR TOWN SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A NOTICE TO BIDDERS WHEN THOSE PROJECTS ARE SUBJECT TO THE TAX. THIS SUBDIVISION DOES NOT APPLY TO CONTRACTS WITH:

I. COMMUNITY FACILITIES DISTRICTS, FIRE DISTRICTS, COUNTY TELEVISION IMPROVEMENT DISTRICTS, COMMUNITY PARK MAINTENANCE DISTRICTS, COTTON PEST CONTROL DISTRICTS, HOSPITAL DISTRICTS, PEST ABATEMENT DISTRICTS, HEALTH SERVICE DISTRICTS, AGRICULTURAL IMPROVEMENT DISTRICTS, COUNTY FREE LIBRARY DISTRICTS, COUNTY JAIL DISTRICTS, COUNTY STADIUM DISTRICTS, REGIONAL ATTRACTION DISTRICTS, OR REVITALIZATION DISTRICTS.

II. ANY SPECIAL TAXING DISTRICT NOT SPECIFIED IN ITEM I OF THIS SUBDIVISION IF THE DISTRICT DOES NOT SUBSTANTIALLY ENGAGE IN THE MODIFICATION, MAINTENANCE, REPAIR, REPLACEMENT, OR ALTERATION OF SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND.

13. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT ENTERED INTO FOR THE CONSTRUCTION OF A MIXED WASTE PROCESSING FACILITY THAT IS LOCATED ON A MUNICIPAL SOLID WASTE LANDFILL AND THAT IS CONSTRUCTED FOR THE PURPOSE OF RECYCLING SOLID WASTE OR PRODUCING RENEWABLE ENERGY FROM LANDFILL WASTE. FOR THE PURPOSES OF THIS PARAGRAPH:

A. "MIXED WASTE PROCESSING FACILITY" MEANS A SOLID WASTE FACILITY THAT IS OWNED, OPERATED, OR USED FOR THE TREATMENT, PROCESSING, OR DISPOSAL

OF SOLID WASTE, RECYCLABLE SOLID WASTE, CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR WASTE, OR HOUSEHOLD HAZARDOUS WASTE. FOR THE PURPOSES OF THIS SUBDIVISION, "CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR WASTE," "HOUSEHOLD HAZARDOUS WASTE," AND "SOLID WASTE FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN A.R.S. SECTION 49-701, EXCEPT THAT SOLID WASTE FACILITY DOES INCLUDE A SITE THAT STORES, TREATS, OR PROCESSES PAPER, GLASS, WOOD, CARDBOARD, HOUSEHOLD TEXTILES, SCRAP METAL, PLASTIC, VEGETATIVE WASTE, ALUMINUM, STEEL, OR OTHER RECYCLABLE MATERIAL.

B. "MUNICIPAL SOLID WASTE LANDFILL" HAS THE SAME MEANING PRESCRIBED IN A.R.S. SECTION 49-701.

C. "RECYCLING" MEANS COLLECTING, SEPARATING, CLEANSING, TREATING, AND RECONSTITUTING RECYCLABLE SOLID WASTE THAT WOULD OTHERWISE BECOME SOLID WASTE, BUT DOES NOT INCLUDE INCINERATION OR OTHER SIMILAR PROCESSES.

D. "RENEWABLE ENERGY" HAS THE SAME MEANING PRESCRIBED IN A.R.S. SECTION 41-1511.

C. "Subcontractor" means a construction contractor performing work for either:

1. A construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his City privilege license number.
2. An owner-builder who has provided the subcontractor with a written declaration that:
 - a. The owner-builder is improving the property for sale; and
 - b. The owner-builder is liable for the tax for such construction contracting activity; and
 - c. The owner-builder has provided the contractor his City privilege license number.
3. A person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and setup; and provided the subcontractor his City privilege license number.

Subcontractor also includes a construction contractor performing work for another subcontractor as defined above.

(Ord. 2008, Amended, 11/02/1999; Ord. 2000-14, Amended, 06/06/2000; Ord. 2004-25, Amended, 01/10/2005; Ord. 2007-28, Amended, 05/01/2007; Ord. 2009-16, Amended, 06/19/2009; Ord. 2011-21, Amended, 10/18/2011; Ord. 2014-16, Amended, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0415.1 LIABILITY FOR MRRA AMOUNTS EQUAL TO RETAIL TRANSACTION PRIVILEGE TAX DUE

A. A PERSON THAT IS EITHER A PRIME CONTRACTOR SUBJECT TO TAX UNDER SECTION 3-05-004-0415 OR A SUBCONTRACTOR WORKING UNDER THE CONTROL OF SUCH A PRIME CONTRACTOR, THAT PURCHASES TANGIBLE PERSONAL PROPERTY, THE PURCHASE PRICE OF WHICH WAS EXCLUDED FROM THE TAX BASE UNDER THE RETAIL CLASSIFICATION UNDER SECTION 3-05-004-0465(K) OR WAS EXCLUDED FROM THE USE TAX UNDER SECTION 3-05-006-0660(K) AT THE TIME OF PURCHASE, AND THAT INCORPORATES OR FABRICATES THE TANGIBLE PERSONAL PROPERTY INTO A PROJECT DESCRIBED IN SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O, IS LIABLE FOR AN AMOUNT EQUAL TO ANY TAX THAT A SELLER WOULD HAVE BEEN REQUIRED TO PAY UNDER SECTION 3-05-004-0460 AND A.R.S. TITLE 42, CHAPTER 5, AS FOLLOWS:

1. THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND REPORTED BASED ON THE LOCATION OF THE PROJECT AND THE TAXES IMPOSED UNDER SECTION 3-05-004-0460 AND A.R.S. TITLE 42, CHAPTER 5.
2. ALL DEDUCTIONS, EXEMPTIONS, AND EXCLUSIONS FOR THE COST OF TANGIBLE PERSONAL PROPERTY PROVIDED IN SECTION 3-05-004-0415 APPLY TO THE TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO THE PROJECT.
3. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 3-05-004-0415, WITHOUT REGARD TO SECTION 3-05-004-0415(B)(12).

4. THE AMOUNT OF LIABILITY SHALL BE REPORTED WITHIN THE REPORTING PERIOD THAT INCLUDES THE MONTH IN WHICH THE PERSON INCORPORATES OR FABRICATES THE TANGIBLE PERSONAL PROPERTY INTO THE PROJECT.

5. THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR WHO HIRED THE PERSON EXECUTES AND PROVIDES TO THE PERSON A CERTIFICATE STATING THAT THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS SUBSECTION. THE DEPARTMENT OF REVENUE SHALL PRESCRIBE THE FORM OF THE CERTIFICATE. IF THE PERSON HAS REASON TO BELIEVE THAT THE INFORMATION CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE CITY MAY DISREGARD THE CERTIFICATE. THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR THE AMOUNT THAT OTHERWISE WOULD BE DUE FROM THE PERSON UNDER THIS SUBSECTION.

B. A PERSON THAT PURCHASED TANGIBLE PERSONAL PROPERTY, THE PURCHASE PRICE OF WHICH WAS EXCLUDED FROM THE TAX BASE UNDER SECTION 3-05-004-0465(K) OR WAS EXCLUDED FROM THE USE TAX UNDER SECTION 3-05-006-0660(K) AT THE TIME OF PURCHASE, WHOSE TRANSACTION PRIVILEGE TAX LICENSE HAS BEEN CANCELED AND THAT SUBSEQUENTLY USES, CONSUMES, SELLS, OR DISCARDS THE TANGIBLE PERSONAL PROPERTY IS LIABLE FOR AN AMOUNT OF TAX DETERMINED UNDER THIS SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION:

1. IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O, OR OTHERWISE USED OR CONSUMED BY THE PERSON, THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND REPORTED BASED ON THE PERSON'S PURCHASE PRICE OF THE TANGIBLE PERSONAL PROPERTY, THE LOCATION OF THE PROJECT, USE, OR CONSUMPTION AND THE TAXES IMPOSED UNDER SECTION 3-05-004-0460 AND A.R.S. TITLE 42, CHAPTER 5.

2. IF THE TANGIBLE PERSONAL PROPERTY IS SOLD IN A MANNER THAT IS NOT SUBJECT TO TAX UNDER THIS CHAPTER OR IS DISCARDED, THE AMOUNT SHALL BE CALCULATED AND REPORTED BASED ON THE PAYMENT RECEIVED BY THE PERSON, THE LOCATION OF THE PERSON'S PRINCIPAL PLACE OF BUSINESS IN THIS STATE, AND THE TAXES IMPOSED UNDER SECTION 3-05-004-0460 AND A.R.S. TITLE 42, CHAPTER 5.

3. THE PERSON IS NOT LIABLE UNDER THIS SUBSECTION FOR ANY AMOUNT IF THE PERSON DISCARDS THE TANGIBLE PERSONAL PROPERTY AND DOES NOT RECEIVE PAYMENT OF ANY KIND.

4. THE AMOUNT OF LIABILITY SHALL BE REPORTED ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE PERSON USES THE TANGIBLE PERSONAL PROPERTY IN A MANNER DESCRIBED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION. NO AMOUNT IS DUE UNDER THIS SUBSECTION AT ANY TIME THAT THE PERSON STORES THE TANGIBLE PERSONAL PROPERTY WITHOUT USING IT IN A MANNER DESCRIBED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION.

5. ALL DEDUCTIONS, EXEMPTIONS, AND EXCLUSIONS FOR THE COST OF TANGIBLE PERSONAL PROPERTY PROVIDED IN SECTION 3-05-004-0415 APPLY TO THE TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O.

6. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 3-05-004-0415 AND A.R.S. SECTION 42-5075, WITHOUT REGARD TO SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O.

7. THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR WHO HIRED THE PERSON EXECUTES AND PROVIDES TO THE PERSON A CERTIFICATE STATING THAT THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS SUBSECTION FOR TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN A.R.S. SECTION 42-5075, SUBSECTION O. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF THE CERTIFICATE. IF THE PERSON HAS REASON TO BELIEVE THAT THE INFORMATION CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY DISREGARD THE CERTIFICATE. THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR THE AMOUNT THAT OTHERWISE WOULD BE DUE FROM THE PERSON UNDER THIS SUBSECTION.

C. A PERSON THAT FAILS TO REPORT OR PAY ANY AMOUNT DUE UNDER SUBSECTION A OR B OF THIS SECTION IS LIABLE FOR INTEREST IN A MANNER CONSISTENT WITH A.R.S. SECTION 42-1123 AND PENALTIES IN A MANNER CONSISTENT WITH A.R.S. SECTION 42-1125.

D. IF A PERSON HAS PAID AN AMOUNT DESCRIBED IN THIS SECTION ON TANGIBLE PERSONAL PROPERTY THAT THE PERSON REASONABLY BELIEVED TO BE DESCRIBED UNDER SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O, AND A FINAL DETERMINATION IS MADE THAT SECTION 3-05-004-0415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O, DOES NOT APPLY, THE PERSON IS ENTITLED TO AN OFFSET FOR THE AMOUNT PAID UNDER THIS SECTION AGAINST THE AMOUNT OF TAX LIABILITY ASSESSED UNDER THIS CHAPTER.

3-05-004-0416 CONSTRUCTION CONTRACTING~~;~~ SPECULATIVE BUILDERS~~;~~

A. The tax shall be equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the City.

1. The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.
2. "Improved real property" means any real property:
 - a. Upon which a structure has been ~~constructed~~ SUBSTANTIALLY COMPLETED; or
 - b. Where improvements have been made to land containing no structure (such as paving or landscaping); or
 - c. Which has been reconstructed as provided by ~~regulation~~ SECTION 3-05-004-0416.2; or
 - d. Where water, power, and streets have been constructed to the property line.
3. "Sale of improved real property" includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.

4. "Partially improved residential real property," as used in this section, means any improved real property, as defined in subsection ~~(A)(2) of this section~~ [A.2. ABOVE](#), being developed for sale ~~to individual homeowners~~, where the ~~construction of the residence upon~~ [IMPROVEMENT TO](#) such property is not substantially complete at the time of the sale.

B. Exclusions:

1. In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by ~~regulation~~ [SECTION 3-05-004-0416.2](#).

2. Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this section.

3. Reserved.

4. A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in ~~subsection (A)(4) of this section~~ [A.4. ABOVE](#) to another speculative builder only if all of the following conditions are satisfied:

a. The speculative builder purchasing the partially improved residential real property has a valid ~~city~~ [MUNICIPAL](#) privilege [TAX](#) license for construction contracting as a speculative builder; and

b. At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the City at the time of sale of the partially improved residential real property; and

c. The seller also:

(1) Maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and

(2) Retains a copy of the written declaration provided by the buyer for the transaction; and

(3) Is properly licensed with the City as a speculative builder ~~and provides the City with a written declaration attached to the City privilege tax return where he claims the exclusion.~~

5. For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

C. Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions, relating to EXEMPTIONS, deductions and tax credits:

1. Exemptions.

a. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(1) Sections 3-05-004-0465(G) and (P);

(2) Sections 3-05-006-0660(G) and (P);

shall be exempt or deductible, respectively, from the tax imposed by this section.

b. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

c. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 3-05-004-0465(G) shall be exempt from the tax imposed under this section.

d. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or

agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water, or land pollution shall be exempt from the tax imposed under this section.

e. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer ~~shall be exempt from the tax imposed under this section.~~ For the purposes of this subsection PARAGRAPH:

(1) The attributable amount shall not exceed the value of the development fees actually imposed.

(2) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(3) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, ~~or~~ A.R.S. SECTION 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

F. THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DERIVED FROM THE VALUE OF EXISTING TENANT LEASES IN PLACE AT THE TIME OF THE SALE SHALL BE EXEMPT FROM TAX IMPOSED UNDER THIS SECTION. THE VALUE OF THE IN-PLACE LEASES SHALL BE DETERMINED AS OF THE CLOSE OF ESCROW OR TRANSFER OF TITLE AS FOLLOWS:

(1) FOR A RESIDENTIAL LEASE THE VALUE OF THE IN-PLACE LEASE IS THE TOTAL VALUE OF ALL EXPECTED LEASE RECEIPTS THROUGH THE END OF THE CURRENT LEASE TERM MULTIPLIED BY A FACTOR OF 1.5. EXPECTED LEASE RECEIPTS INCLUDES NON-REFUNDABLE DEPOSITS AND EXCLUDES ALL REFUNDABLE DEPOSITS REGARDLESS OF WHETHER THE REFUNDABLE DEPOSIT MAY BE FORFEITED.

(2) FOR A COMMERCIAL LEASE THE VALUE OF THE IN-PLACE LEASE IS THE PRESENT VALUE OF THE EXPECTED LEASE RECEIPTS THROUGH THE END OF THE CURRENT LEASE TERM OR FIRST OPTION OF EITHER PARTY TO TERMINATE THE LEASE, WHICHEVER IS LESS. THE DISCOUNT RATE USED TO CALCULATE THE PRESENT VALUE SHALL BE THE 100% MID-TERM APPLICABLE FEDERAL RATE PUBLISHED BY THE INTERNAL REVENUE SERVICE ASSOCIATED WITH THE PAYMENT TERMS OF THE LEASE RELATED TO THE MONTH PRECEDING THE CLOSE OF ESCROW PLUS THREE (3) PERCENTAGE POINTS.

(3) A TRANSACTION, WHETHER CHARACTERIZED AS A LEASE OR OTHERWISE, WHICH IN SUBSTANCE IS A TRANSFER OF TITLE OF OR EQUITABLE OWNERSHIP IN IMPROVED REAL PROPERTY, INCLUDING ANY LEASE OF THE PROPERTY FOR A TERM OF THIRTY (30) YEARS OR MORE (WITH ALL OPTIONS FOR RENEWAL BEING INCLUDED AS A PART OF THE TERM) IS DEEMED TO BE A SALE OF IMPROVED REAL PROPERTY PURSUANT TO SUBSECTION A.3. OF THIS SECTION AND IS NOT CONSIDERED AN IN-PLACE LEASE.

2. "Deductions."

A. ALL STATE AND COUNTY TAXES ASSOCIATED WITH THE PROJECT AND REPORTED AND PAID TO THE DEPARTMENT OF REVENUE BY A CONTRACTOR CONSTRUCTING THE IMPROVEMENTS ON THE PROPERTY SHALL BE DEDUCTED FROM THE SELLING PRICE.

aB. All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

bC. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair, or maintenance of income-producing capital equipment, as defined in Section 3-05-001-0110, that is deducted from the retail classification pursuant to Section 3-05-004-0465(G), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this subsection PARAGRAPH does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this subsection PARAGRAPH, "permanent attachment" means at least one (1) of the following:

- (1) To be incorporated into real property.
- (2) To become so affixed to real property that it becomes part of the real property.
- (3) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

eD. For taxable periods beginning from and after July 1, 2008, and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the Department of Revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and the city, as applicable, for examination.

3. Tax Credits. The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the Tax Collector:

- a. A tax credit equal to the amount of City privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the

vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

b. A tax credit equal to the amount of privilege taxes paid to this city, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

C. A TAX CREDIT EQUAL TO THE AMOUNT OF PRIVILEGE TAXES PAID TO THIS CITY BY ANY SPECULATIVE BUILDER ON THE GROSS INCOME DERIVED BY SAID PERSON FROM THE SALE OF IMPROVED REAL PROPERTY PURSUANT TO SUBSECTIONS A.2.B. OR A.2.D. OF THIS SECTION AGAINST THE GROSS INCOME OF ANY SPECULATIVE BUILDER FROM THE SALE OF IMPROVED REAL PROPERTY PURSUANT TO SUBSECTION A.2.A.

eD. No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

3-05-004-0416.1. SPECULATIVE BUILDERS: HOMEOWNER'S BONA FIDE NON-BUSINESS SALE OF A FAMILY RESIDENCE

A. A SALE OF A HOME, REGARDLESS OF THE STAGE OF COMPLETION OF SUCH HOME, SHALL BE CONSIDERED A "HOMEOWNER'S BONA FIDE NON-BUSINESS SALE" AND NOT SUBJECT TO THE TAX ON SPECULATIVE BUILDERS IF:

1. THE PROPERTY WAS ACTUALLY USED AS THE PRINCIPAL PLACE OF FAMILY RESIDENCE OR VACATION RESIDENCE BY THE IMMEDIATE FAMILY OF THE SELLER FOR THE SIX (6) MONTHS NEXT PRIOR TO THE OFFER FOR SALE; AND

2. THE SELLER HAS NOT SOLD MORE THAN TWO (2) SUCH RESIDENCES (OR, IF THE RESIDENCE IS A VACATION RESIDENCE, TWO (2) SUCH VACATION RESIDENCES) WITHIN THE THIRTY-SIX (36) MONTHS IMMEDIATELY PRIOR TO THE OFFER FOR SALE; AND

3. THE SELLER HAS NOT LICENSED, LEASED, OR RENTED THE SOLD PREMISES FOR ANY PERIOD WITHIN TWENTY-FOUR (24) MONTHS PRIOR TO THE OFFER FOR SALE.

B. IN THE EVENT THAT A HOMEOWNER OF A FAMILY RESIDENCE CONTRACTS WITH A LICENSED CONSTRUCTION CONTRACTOR FOR IMPROVEMENTS TO A RESIDENCE, THE CONSTRUCTION

CONTRACTING ON A FAMILY RESIDENCE SHALL BE PRESUMED TO BE FOR AN OWNER'S BONA FIDE NON-BUSINESS PURPOSE AND ALL CONSTRUCTION CONTRACTORS SHALL BE REQUIRED TO REPORT AND PAY THE TAX IMPOSED ON ALL SUCH IMPROVEMENTS.

C. PURCHASES BY A HOMEOWNER OF TANGIBLE PERSONAL PROPERTY FOR INCLUSION IN ANY CONSTRUCTION, ALTERATION, OR REPAIR OF HIS RESIDENCE SHALL BE SUBJECT TO TAX AS RETAIL SALES TO THE ULTIMATE CONSUMER.

D. "OWNER," "HOMEOWNER," AND "SELLER" AS USED IN THIS SECTION SHALL ONLY MEAN AN INDIVIDUAL OR QUALIFIED TRUST, AND NO OTHER ENTITY, ASSOCIATION, OR REPRESENTATIVE SHALL QUALIFY; EXCEPT THAT AN ADMINISTRATOR, EXECUTOR, PERSONAL REPRESENTATIVE, OR GUARDIAN IN GUARDIANSHIP OR PROBATE PROCEEDINGS, FOR THE ESTATE OF A DECEASED OR INCOMPETENT PERSON OR A MINOR, MAY CLAIM "HOMEOWNER" STATUS FOR SUCH PERSON IF SUCH PERSON WOULD HAVE OTHERWISE QUALIFIED WITH RESPECT TO THE SPECIFIC PROPERTY INVOLVED.

E. "QUALIFIED TRUST" AS USED IN THIS SECTION MEANS ANY LEGAL TRUST WHERE A BENEFICIARY OF THE TRUST IS AN INDIVIDUAL THAT HAS BEEN THE RESIDENT OF THE PROPERTY AND THAT INDIVIDUAL MEETS THE CRITERIA LISTED IN SUBSECTION A OF THIS SECTION.

3-05-004-0416.2. RECONSTRUCTION CONTRACTING

A. "RECONSTRUCTION (OF REAL PROPERTY)" SHALL MEAN THE SUBDIVIDING OF REAL PROPERTY AND, IN ADDITION, ALL CONSTRUCTION CONTRACTING ACTIVITIES PERFORMED UPON SAID REAL PROPERTY; PROVIDED, HOWEVER, THAT EACH OF THE FOLLOWING CONDITIONS ARE MET:

1. A STRUCTURE EXISTED ON SAID REAL PROPERTY PRIOR TO THE RECONSTRUCTION ACTIVITY; AND
2. THE "PRIOR VALUE" OF SAID STRUCTURE EXCEEDS FIFTEEN PERCENT (15%) OF THE "PRIOR VALUE" OF THE INTEGRATED PROPERTY (LAND, IMPROVEMENTS, AND STRUCTURE); AND
3. THE TOTAL COST OF ALL CONSTRUCTION CONTRACTING ACTIVITIES PERFORMED ON SAID REAL PROPERTY IN THE TWENTY-FOUR (24) MONTH PERIOD PRIOR TO THE SALE OF

ANY PART OF THE REAL PROPERTY EXCEEDS FIFTEEN PERCENT (15%) OF THE "PRIOR VALUE" OF THE REAL PROPERTY; AND

4. THE STRUCTURE WHICH EXISTED ON THE REAL PROPERTY PRIOR TO THE RECONSTRUCTION ACTIVITY STILL EXISTS IN SOME FORM UPON THE PROPERTY, AND IS INCLUDED, IN WHOLE OR IN PART, IN THE PROPERTY SOLD.

B. EXCEPT AS PROVIDED IN SUBSECTION C BELOW, "PRIOR VALUE" MEANS THE VALUE OF THE TOTAL INTEGRATED PROPERTY, WITH IMPROVEMENTS, AS EXISTING IMMEDIATELY PRIOR TO ANY RECONSTRUCTION ACTIVITY. WHERE, ACCORDING TO TITLE 42 OF THE ARIZONA REVISED STATUTES, A PROPERTY'S FULL CASH VALUE FOR SECONDARY TAX PURPOSES IS INTENDED TO REPRESENT THE PROPERTY'S FAIR MARKET VALUE, "PRIOR VALUE" SHALL BE THE PROPERTY'S FULL CASH VALUE FOR SECONDARY PROPERTY TAX PURPOSES AS DETERMINED BY THE COUNTY ASSESSOR IN THE YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE RECONSTRUCTION IMPROVEMENT(S) ARE OR COULD HAVE BEEN INCLUDED IN THE COUNTY ASSESSOR'S VALUATION. IF THE COUNTY ASSESSOR'S VALUATION IS CONTESTED OR APPEALED, THE FINAL DETERMINATION AT EITHER THE ADMINISTRATIVE OR JUDICIAL LEVEL SHALL APPLY. WHERE, ACCORDING TO TITLE 42 OF THE ARIZONA REVISED STATUTES, A PROPERTY'S FULL CASH VALUE FOR SECONDARY PROPERTY TAX PURPOSES IS NOT INTENDED TO REPRESENT THE PROPERTY'S FAIR MARKET VALUE, "PRIOR VALUE" SHALL BE THE PROPERTY'S FAIR MARKET VALUE PRIOR TO THE RECONSTRUCTION IMPROVEMENT(S).

C. "ALTERNATIVE PRIOR VALUE" SHALL MEAN THAT AS AN ALTERNATIVE TO THE "PRIOR VALUE" DEFINED ABOVE, THE TAXPAYER MAY USE HIS ACTUAL COST OF THE RECONSTRUCTED PROPERTY PRIOR TO RECONSTRUCTION, PROVIDED THAT EVIDENCE OF SUCH COST IS PRESENTED TO THE TAX COLLECTOR AND IS DETERMINED BY THE TAX COLLECTOR, IN HIS SOLE DISCRETION, TO BE SATISFACTORY. SUCH EVIDENCE SHALL CONSIST, AT A MINIMUM, OF PROOF OF THE ACTUAL, ARMS-LENGTH ACQUISITION PRICE, ACCOMPANIED BY A FULL APPRAISAL OF ALL PROPERTY INVOLVED WHICH APPRAISAL SHALL HAVE BEEN PERFORMED BY A REAL ESTATE BROKER OR MAI APPRAISER SPECIFICALLY FOR THE PURPOSE OF ASSISTING IN THE ACQUISITION AND FURTHER SHALL HAVE BEEN PERFORMED ON BEHALF OF THE SELLER OR A LENDING INSTITUTION WHICH HAS LENT AT LEAST SIXTY-FIVE PERCENT (65%) OF THE ACQUISITION PRICE. (ONLY LONG-TERM LENDING - NOT INTERIM OR CONSTRUCTION FINANCING WILL BE CONSIDERED.) THIS ALTERNATIVE VALUE SHALL

BE USED ONLY IF THE PROPERTY WAS ACQUIRED BY THE RECONSTRUCTION TAXPAYER NOT MORE THAN THIRTY-SIX (36) MONTHS PRIOR TO A "SALE" AS DEFINED BELOW.

D. A "SALE" FOR THE PURPOSE OF DETERMINING "ALTERNATIVE PRIOR VALUE" OR "RECONSTRUCTION" ONLY SHALL BE DEEMED TO HAVE OCCURRED AS OF THE DATE OF THE EXECUTION OF A CONTRACT OF SALE OR A DEED (JOINT TENANCY OR WARRANTY) WHICHEVER IS EARLIER, TO A PURCHASER OR GRANTEE OF ANY SINGLE RESIDENTIAL OR OTHER OCCUPANCY UNIT. IN ADDITION TO THE FOREGOING, A LEASE WITH OPTION TO PURCHASE A SINGLE RESIDENTIAL UNIT SHALL BE CONSIDERED A "SALE" AT THE DATE OF EXECUTION OF SUCH LEASE IF SAID OPTION IS EXERCISABLE BY THE LESSEE IN NOT LATER THAN NINE (9) MONTHS. FURTHER IN THE CASE OF COOPERATIVE APARTMENTS, THE SALE DATE SHALL BE THE DATE OF EXECUTION OF THE CONTRACT SELLING (SUBJECT OR NOT TO ENCUMBRANCES, LIENS, OR SECURITY INTERESTS) OF A SHARE, OR A SUFFICIENT NUMBER OF SHARES WHICH ENTITLE THE PURCHASER TO THE OCCUPANCY OF A RESIDENTIAL UNIT. IN ALL CASES A PERSON SHALL INCLUDE A HUSBAND AND WIFE AS A COMMUNITY, OR ANY CO-OCCUPANTS OF A SINGLE UNIT AS JOINT TENANTS.

(Ord. 1669, 07/17/1990; Ord. 2000-14, Amended, 06/06/2000; Ord. 2008, Amended, 11/02/1999; Ord. 2004-25, Amended, 01/10/2005; Ord. 2006-16, Amended 06/06/2006; Ord. 2007-28, Amended, 05/01/2007; Ord. No. 2009-16, Amended, 06/19/2009; Ord. 2011-21, Amended, 10/18/2011; Ord. 2014-16, Amended, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0417 CONSTRUCTION CONTRACTING; OWNER-BUILDERS WHO ARE NOT SPECULATIVE BUILDERS:

A. At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of:

1. The gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in Section 3-05-004-0415(C)(2); and
2. The purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

B. For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

C. The tax liability of this section is subject to the following provisions, relating to exemptions, deductions and tax credits:

1. Exemptions.

a. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(1) Sections 3-05-004-0465(G) and (P);

(2) Sections 3-05-006-0660(G) and (P);

shall be exempt or deductible, respectively, from the tax imposed by this section.

b. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

c. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 3-05-004-0465(G) shall be exempt from the tax imposed under this section.

d. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent,

monitor, control or reduce air, water, or land pollution shall be exempt from the tax imposed under this section.

e. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this ~~subsection~~ PARAGRAPH:

(1) The attributable amount shall not exceed the value of the development fees actually imposed.

(2) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(3) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, ~~or~~ A.R.S. SECTION 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

2. Deductions.

a. All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

b. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair, or maintenance of income-producing capital equipment, as defined in Section 3-05-001-0110, that is deducted from the retail classification pursuant to Section 3-05-004-0465(G), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital

equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this ~~subsection~~ [PARAGRAPH](#) does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this ~~subsection~~ [PARAGRAPH](#), "permanent attachment" means at least one of the following:

- (1) To be incorporated into real property.
- (2) To become so affixed to real property that it becomes part of the real property.
- (3) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

c. For taxable periods beginning from and after July 1, 2008, and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the Department of Revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and the City, as applicable, for examination.

3. Tax Credits. The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the Tax Collector:

a. A tax credit equal to the amount of City privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

b. A tax credit equal to the amount of privilege taxes paid to this City, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

c. No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

D. The limitation period for the assessment of taxes imposed by this section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25TH) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 3-05-005-0540, will be based on reportable date.

E. Reserved.

(Ord. 2000-14, Amended, 06/06/2000; Ord. 2008, Amended, 11/02/1999; Ord. 2004-25, Amended, 01/10/2005; Ord. 2007-28, Amended, 05/01/2007; Ord. 2009-16, Amended, 06/19/2009; Ord. 2011-21, Amended, 10/18/2011; Ord. 2014-16, Amended, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0418 (RESERVED)

3-05-004-0420 FEED AT WHOLESALE:

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of the sale of feed, salt, vitamins, and other additives to feed, to persons engaged in the raising or feeding of livestock or poultry purchased or raised for slaughter, with no deduction for the income derived from the “resale” of such feed.

B. The tax imposed by this section shall not apply to:

1. Out-of-City sales.
2. Out-of-State sales.

(Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0422 RESERVED.

3-05-004-0425 JOB PRINTING (REG. 425.1):

SEE ALSO REGULATION 3-5-425.1.

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of job printing, which includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

B. The tax imposed by this section shall not apply to:

1. Job printing purchased for the purpose of resale by the purchaser in the form supplied by the job printer.
2. Out-of-City sales.
3. Out-of-State sales.
4. Job printing of newspapers, magazines, or other periodicals or publications for a person who is subject to the tax imposed by Section 3-05-004-0435(A) or an equivalent excise tax; provided further that said person is properly licensed by the taxing jurisdiction at the location of publication.
5. Sales of job printing to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
6. (Reserved)
7. Sales of postage and freight except that the amount deducted shall not exceed the actual postage and freight expense that is paid to the United States Postal Service or a commercial delivery service and that is separately itemized by the taxpayer on the customer's invoice and in the taxpayer's records.

(Ord. 1851, 01/03/1995; Ord. 1979, Amended, 10/06/1998; Ord. 2000-14, Amended, 06/06/2000; Ord. 2013-26, Amended, 01/07/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0427 MANUFACTURED BUILDINGS:

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income, including site preparation, moving to the site, and/or setup, upon every person engaging or continuing in the

business activity of selling manufactured buildings within the City. Such business activity is deemed to occur at the business location of the seller where the purchaser first entered into the contract to purchase the manufactured building.

B. The sale of used manufactured buildings are not taxable.

C. The sales price of furniture, furnishings, fixtures, appliances, and attachments that are not incorporated as component parts of or attached to a manufactured building are exempt from the tax imposed by this Section.

~~The sale~~ SALES of such items are subject to the tax under Section 3-05-004-0460.

D. Under this Section, a trade-in will not be allowed for the purpose of reducing the tax liability.

(Ord. 1851, 01/03/95; Ord. 2000-14, Amended, 06/06/2000; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0430 TIMBERING AND OTHER EXTRACTION:

A. The tax rate shall be an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the following businesses:

1. Felling, producing, or preparing timber or any product of the forest for sale, profit, or commercial use.

2. Extracting, refining, or producing any oil or natural gas for sale, profit, or commercial use.

B. The rate specified in subsection ~~(A) of this section~~ A ABOVE shall be applied to the value of the entire product extracted, refined, produced, or prepared for sale, profit, or commercial use, when such activity occurs within the City, regardless of the place of sale of the product or the fact that delivery may be made to a point without the City or without the State.

C. If any person engaging in any business classified in this section ships or transports product, or any part thereof, out of the State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out of State and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this section.

D. RESERVED.

(Ord. 1851, 01/03/1995; Ord. 2000-14, Amended, 06/06/2000; Ord. 2013-02, Amended, 04/02/2013; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0432 MINING:

- A. The tax rate shall be at an amount equal to one tenth of one percent (0.1%), not to exceed one tenth of one percent, of the gross income from the business activity upon every person engaging or continuing in the business of mining, smelting, or producing for sale, profit or commercial use any copper, gold, silver, or other mineral product, compound, or combination of mineral products; but not including the extraction, removal, or production of sand, gravel, or rock from the ground for sale, profit, or commercial use.
- B. The rate specified in subsection ~~(A) of this section~~ A ABOVE shall be applied to the value of the entire product mined, smelted or produced for sale, profit, or commercial use, when such activity occurs within the City, regardless of the place of sale of the product or the fact that delivery may be made to a point without the City or without the State.
- C. If any person engaging in any business classified in this Section ships or transports products, or any part thereof, out of THE State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out-of-State and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this section.

(Ord. 1851, 01/03/1995)

3-05-004-0435 PUBLISHING AND PERIODICALS DISTRIBUTION:

- A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business activity of:
1. Publication of newspapers, magazines, or other periodicals when published within the City, measured by the gross income derived from notices, subscriptions, and local advertising as defined in Section 3-05-004-0405. In cases where the location of publication is both within and without this State, gross income subject to the tax shall refer only to gross income derived from residents of this State or generated by permanent business locations within this State.

2. Distribution or delivery within the City of newspapers, magazines, or other periodicals not published within the City, measured by the gross income derived from subscriptions.

B. "Location of publication" is determined by:

1. Location of the editorial offices of the publisher, when the physical printing is not performed by the publisher; or

2. Location of either the editorial offices or the printing facilities, if the publisher performs his own physical printing.

C. "Subscription income" shall include all circulation revenue of the publisher except amounts retained by or credited to carriers or other vendors as compensation for delivery within the State by such carriers or vendors, and further except sales of published items, directly or through distributors, for the purpose of resale, to retailers subject to the privilege tax on such resale.

D. "Circulation," for the purpose of measurement of gross income subject to the tax, shall be considered to occur at the place of delivery of the published items to the subscriber or intended reader irrespective of the location of the physical facilities or personnel of the publisher. However, delivery by the United States mails shall be considered to have occurred at the location of publication.

E. Allocation of taxes between cities and towns. In cases where publication or distribution occurs in more than one city or town, the measurement of gross income subject to tax by the City shall include:

1. That portion of the gross income from publication which reflects the ratio of circulation within this City to circulation in all incorporated cities and towns in this State having substantially similar provisions; plus

2. Only when publication occurs within the City, that portion of the remaining gross income from publication which reflects the ratio of circulation within this City to the total circulation of all incorporated cities or towns in this State within which cities the taxpayer maintains a location of publication.

F. The tax imposed by this section shall not apply to sales of newspapers, magazines or other periodicals to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(Ord. 1593, 12/06/1988; Ord. 1979, 10/06/1998; Ord. 2000-14, Amended, 06/06/2000; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0440 RESERVED:

3-05-004-0444 HOTELS:

The tax rate shall be at an amount equal to FOUR AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (4.486%) ~~four and two hundred eighty-one thousandths percent (4.281%)~~ 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 space furnished to any:

A. Transient.

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 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~~ DIVISION 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~~ DIVISION.
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 3-05-004-0410 or 3-05-004-0475 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 3-05-004-0445 or 3-05-004-0450 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 gross proceeds of sales or gross income may be subject to tax under Section 3-05-004-0470 as telecommunication services.

(Ord. 1669, 07/17/1990; Ord. 1979, Amended, 10/06/1998; Ord. 2008, Amended, 11/02/1999; Ord. 2000-14, Amended, 06/06/2000; Ord. 2007-28, Amended, 05/01/2007; Ord. 2014-15, Amended, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0445 RENTAL, LEASING, AND LICENSING FOR USE OF REAL PROPERTY:
(REG. 445.1, REG. 445.3)

SEE ALSO REGULATION 3-5-445.1 AND REGULATION 3-5-445.3.

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ 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 3-05-004-0470.

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 [OR THAT IS A CABLE OPERATOR, OR CHARGES FOR JOINT POLE USAGE](#) to another person engaged in the business of providing or furnishing utility or telecommunication services [OR THAT IS A CABLE OPERATOR](#) are exempt from the tax imposed by this section. [“CABLE OPERATOR” HAS THE SAME MEANING AS PRESCRIBED BY A.R.S. SECTION 9-505.](#)

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. 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.

I. (Reserved)

J. Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section [3-05-004-0444 OF THIS CODE](#).

K. (Reserved)

L. (Reserved)

M. (Reserved)

N. Notwithstanding the provisions of Section [3-05-002-0200\(B\)](#), 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 any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this section.

P. Charges by a hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or any 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.

R. ~~(Reserved)~~ 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 ~~subsection~~ 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.

(Ord. 1851, 01/03/1995; Ord. 1979, 10/06/1998; Ord. 1989, Amended, 10/06/1998; Ord. 2008, Amended, 11/02/1999; Ord. 2000-14, Amended, 06/06/2000; Ord. 2004-25, Amended, 01/10/2005; Ord. 2006-16, Amended, 06/06/2006; Ord. 2011-21, Amended, 10/18/2011; Ord. 2013-26, Amended, 01/07/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0446 RESERVED;

3-05-004-0447 RESERVED;

3-05-004-0450 RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY;(REG. 450.1, REG. 450.2, REG 450.3)

SEE ALSO REGULATION 3-5-450.1, REGULATION 3-5-450.2, AND REGULATION 3-5-450.3.

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of leasing, licensing for use, or renting tangible personal property for a consideration, including that which is semi-permanently or permanently installed within the City as provided by regulation.

B. Special provisions relating to long-term motor vehicle leases. A lease transaction involving a motor vehicle for a minimum period of twenty-four (24) months shall be considered to have occurred at the location of the motor vehicle dealership, rather than the location of the place of business of the lessor, even if the lessor's interest in the lease and its proceeds are sold, transferred, or otherwise assigned to a lease financing institution; provided further that the city or town where such motor vehicle dealership is located levies a privilege tax or an equivalent excise tax upon the transaction.

C. Gross income derived from the following transactions shall be exempt from privilege taxes imposed by this section:

1. Rental, leasing, or licensing for use of tangible personal property to persons engaged or continuing in the business of leasing, licensing for use, or rental of such property.
2. Rental, leasing, or licensing for use of tangible personal property that is semi-permanently or permanently installed within another city or town that levies an equivalent excise tax on the transaction.
3. Rental, leasing, or licensing for use of film, tape, or slides to a theater or other person taxed under Section 3-05-004-0410, or to a radio station, television station, or subscription television system.
4. Rental, leasing, or licensing for use of the following:
 - a. Prosthetics.
 - b. Income-producing capital equipment.
 - c. Mining and metallurgical supplies.

These exemptions include the rental, leasing, or licensing for use of tangible personal property which, if it had been purchased instead of leased, rented, or licensed by the lessee or licensee, would qualify as income-producing capital equipment or mining and metallurgical supplies.

5. Rental, leasing, or licensing for use of tangible personal 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. Section 512 or rental, leasing, or licensing for use of tangible personal property in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.
6. Separately billed charges for delivery, installation, repair, and/or maintenance as provided by regulation.
7. Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services OR THAT IS A CABLE OPERATOR, OR CHARGES FOR JOINT POLE USAGE to ~~another~~ person engaged in the business of providing or furnishing utility or

telecommunication services OR THAT IS A CABLE OPERATOR "CABLE OPERATOR" HAS THE SAME MEANING AS PRESCRIBED BY A.R.S. SECTION 9-505.

8. The gross income from coin-operated washing, drying, and dry cleaning machines, or from coin-operated car washing machines. This exemption shall not apply to suppliers or distributors renting, leasing, or licensing for use of such equipment to persons engaged in the operation of coin-operated washing, drying, dry cleaning, or car washing establishments.

9. Rental, leasing, or licensing of aircraft that would qualify as aircraft acquired for use outside the State, as prescribed by regulation, if such rental, leasing, or licensing had been a sale.

10. Rental, leasing and licensing for use of an alternative fuel vehicle if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

11. Rental, leasing, and licensing for use of solar energy devices, for taxable periods beginning from and after July 1, 2008. The lessor shall register with the Department of Revenue as a solar energy retailer. By registering, the lessor acknowledges that it will make its books and records relating to leases of solar energy devices available to the Department of Revenue and City, as applicable, for examination.

12. Leasing or renting certified ignition interlock devices installed pursuant to the requirements prescribed by A.R.S. Section 28-1461. For the purposes of this ~~subsection~~ PARAGRAPH, "certified ignition interlock device" has the same meaning prescribed in A.R.S. Section 28-1301.

(Ord. 1851, 01/03/1995; Ord. 1979, Amended, 10/06/1998; Ord. 2008, Amended, 11/02/1999; Ord. 2000-14, Amended, 06/06/2000; Ord. 2004-25, Amended, 01/10/2005; Ord. 2007-28, Amended, 05/01/2007; Ord. 2009-16, Amended 06/16/2009; Ord. 2013-26, Amended, 01/07/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0452 RESERVED:

3-05-004-0455 RESTAURANTS AND BARS:

A. The tax rate shall be at an amount equal to FOUR AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (4.486%) ~~four and two hundred eighty-one thousandths percent (4.281%)~~ of the gross income from

the business activity upon every person engaging or continuing in the business of preparing or serving food or beverages in a bar, cocktail lounge, restaurant, or similar establishment where articles of food or drink are prepared or served for consumption on or off the premises, including also the activity of catering. Cover charges and minimum charges must be included in the gross income of this business activity.

B. Caterers and other taxpayers subject to the tax who deliver food and/or serve such food off premises shall also be allowed to exclude separately charged delivery, setup, and cleanup charges, provided that the charges are also maintained separately in the books and records. When a taxpayer delivers food and/or serves such food off premises, his regular business location shall still be deemed the location of the transaction for the purposes of the tax imposed by this section.

C. The tax imposed by this section shall not apply to sales to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

D. The tax imposed by this section shall not apply to sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. Section 42-5061(a)(49), that serves the food and beverages to its passengers, without additional charge, for consumption in flight.

E. The tax imposed by this section shall not apply to sales of prepared food, beverages, condiments or accessories to a public educational entity, pursuant to any of the provisions of A.R.S. Title 15 to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours.

F. THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO SALES OF LOW OR REDUCED COST ARTICLES OF FOOD OR DRINK TO ELIGIBLE ELDERLY OR HOMELESS PERSONS OR PERSONS WITH A DISABILITY BY A BUSINESS SUBJECT TO TAX UNDER A.R.S. SECTION 42-5074 THAT CONTRACTS WITH THE DEPARTMENT OF ECONOMIC SECURITY AND THAT IS APPROVED BY THE FOOD AND NUTRITION SERVICE OF THE UNITED STATES DEPARTMENT OF AGRICULTURE PURSUANT TO THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ESTABLISHED BY THE FOOD AND NUTRITION ACT OF 2008 (P.L. 110-246; 122 STAT. 1651; 7 UNITED STATES CODE SECTIONS 2011 THROUGH 2036A), IF THE PURCHASES ARE MADE WITH THE BENEFITS ISSUED PURSUANT TO THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

G. THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO SALES BY A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER SECTION 501(C)(3), 501(C)(4), OR 501(C)(6) OF THE INTERNAL REVENUE CODE IF THE ORGANIZATION IS ASSOCIATED WITH A MAJOR LEAGUE BASEBALL TEAM OR A NATIONAL TOURING PROFESSIONAL GOLFING ASSOCIATION AND NO PART OF THE ORGANIZATION'S NET EARNINGS INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL. THIS PARAGRAPH DOES NOT APPLY TO AN ORGANIZATION THAT IS OWNED, MANAGED, OR CONTROLLED, IN WHOLE OR IN PART, BY A MAJOR LEAGUE BASEBALL TEAM, OR ITS OWNERS, OFFICERS, EMPLOYEES, OR AGENTS, OR BY A MAJOR LEAGUE BASEBALL ASSOCIATION OR PROFESSIONAL GOLFING ASSOCIATION, OR ITS OWNERS, OFFICERS, EMPLOYEES, OR AGENTS, UNLESS THE ORGANIZATION CONDUCTED OR OPERATED EXHIBITION EVENTS IN THIS STATE BEFORE JANUARY 1, 2018, THAT WERE EXEMPT FROM TAXATION UNDER A.R.S. SECTION 42-5073.

H. IF A CITY, TOWN, OR OTHER TAXING JURISDICTION IMPOSES A TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE, OR OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED, ON THE SALE OF FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR CONSUMPTION ON THE PREMISES, THE TAX MUST BE APPLIED UNIFORMLY WITH RESPECT TO ALL FOOD ITEMS, AND AN ADDITIONAL TAX OR FEE DIFFERENTIAL MAY NOT BE ASSESSED OR APPLIED WITH RESPECT TO ANY SPECIFIC FOOD ITEM.

F. For the purposes of this section, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(Ord. 1593, Amended, 11/15/1988; Ord. 1979, Amended, 10/06/1998; Ord. 2000-14, Amended, 06/06/2000; Ord. 2007-28, Amended, 05/01/2007; Ord. 2014-15, Amended, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0460 RETAIL SALES; MEASURE OF TAX; BURDEN OF PROOF; EXCLUSIONS;

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of selling tangible personal property at retail.

B. The burden of proving that a sale of tangible personal property is not a taxable retail sale shall be upon the person who made the sale.

C. Exclusions. For the purposes of this chapter, sales of tangible personal property shall not include:

1. Sales of stocks, bonds, options, or other similar materials.
2. Sales of lottery tickets or shares pursuant to Article I, Chapter 5, Title 5, Arizona Revised Statutes.
3. Sales of platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by regulation.
4. Gross income derived from the transfer of tangible personal property which is specifically included as the gross income of a business activity upon which another section of this ~~chapter~~ [DIVISION](#) imposes a tax shall be considered gross income of that business activity, and is not includable as gross income subject to the tax imposed by this section.
5. Sales by professional or personal service occupations where such sales are inconsequential elements of the service provided.
6. Sales of cash equivalents. The gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this chapter are subject to the tax. "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one (1) or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:
 - a. Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.
 - b. Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection ~~(G)~~ of this section.

D. Reserved.

E. When this City and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a retail sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence, and for the purposes of this chapter such city or town has sole and exclusive right to such tax.

F. The appropriate tax liability for any retail sale where the order is received at a permanent business location of the seller located in this City or in an Arizona city or town that levies an equivalent excise tax shall be at the tax rate of the city or town of such seller's location.

G. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

H. MEMBERSHIP, ADMISSION, OR OTHER FEES CHARGED BY LIMITED ACCESS RETAILERS ARE CONSIDERED PART OF TAXABLE GROSS INCOME OF THE BUSINESS ACTIVITY OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL.

I. SALES OF MERCHANDISE ACQUIRED ON CONSIGNMENT ARE TAXABLE AS RETAIL SALES. IN CASES WHERE THE MERCHANT IS ACTING AS AN AGENT ON BEHALF OF ANOTHER DEALER, SALES OF THE CONSIGNED MERCHANDISE ARE TAXABLE TO THE PRINCIPAL, PROVIDED THE MERCHANT MAKES FULL DISCLOSURE TO CUSTOMERS THAT HE IS ACTING ONLY AS AN AGENT FOR THE NAMED PRINCIPAL. HOWEVER, WHEN THE PRINCIPAL IS NOT DEEMED TO BE A DEALER, SUCH SALES ARE CONSIDERED TO BE THOSE OF THE MERCHANT AND ARE TAXABLE TO HIM.

J. A PERSON WHO ENGAGES IN MANUFACTURING, BALING, CRATING, BOXING, BARRELING, CANNING, BOTTLING, SACKING, PRESERVING, PROCESSING, OR OTHERWISE PREPARING FOR SALE OR COMMERCIAL USE ANY LIVESTOCK, AGRICULTURAL OR HORTICULTURAL PRODUCT, OR ANY OTHER PRODUCT, ARTICLE, SUBSTANCE, OR COMMODITY AND WHO SELLS THE PRODUCT OF SUCH BUSINESS AT RETAIL IN THIS STATE IS DEEMED, AS TO SUCH SALES, TO BE ENGAGED IN BUSINESS CLASSIFIED UNDER THE RETAIL CLASSIFICATION. THIS SUBSECTION DOES NOT APPLY TO:

1. AGRICULTURAL PRODUCERS WHO ARE OWNERS, PROPRIETORS, OR TENANTS OF AGRICULTURAL LANDS, ORCHARDS, FARMS, OR GARDENS WHERE AGRICULTURAL

PRODUCTS ARE GROWN, RAISED, OR PREPARED FOR MARKET AND WHO ARE MARKETING THEIR OWN AGRICULTURAL PRODUCTS.

2. BUSINESSES CLASSIFIED UNDER THE:

(A) ADVERTISING CLASSIFICATION.

(B) CONSTRUCTION CONTRACTING CLASSIFICATIONS.

(C) JOB PRINTING CLASSIFICATION.

(D) MANUFACTURED BUILDINGS CLASSIFICATION.

(E) PUBLISHING AND PERIODICAL DISTRIBUTION CLASSIFICATION.

(F) RESTAURANTS AND BARS CLASSIFICATION.

(G) TELECOMMUNICATIONS CLASSIFICATION.

(H) TRANSPORTING FOR HIRE CLASSIFICATION.

(I) UTILITY SERVICES CLASSIFICATION.

(J) WASTEWATER REMOVAL SERVICES CLASSIFICATION.

(Ord. 1924, 01/07/1997; Ord. 2008, Amended, 11/02/1999; Ord. 2000-14, Amended, 06/06/2000; Ord. 2013-26, Amended, 01/07/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0462 RETAIL SALES; FOOD FOR HOME CONSUMPTION;

A. The tax rate shall be at an amount equal to zero percent (0%) of the gross income from the business activity upon every person engaging or continuing in the business of selling food for home consumption at retail.

B. For the purposes of this section only, the following definitions shall be applicable:

1. "Eligible grocery business" means an establishment ~~whose sales of food are such that it~~ THAT is DEEMED eligible to participate in the ~~food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 9587 U.S.C. Section 2011 et seq.),~~ according to regulations in effect on January 1, 1979. ~~An establishment is deemed eligible to participate in the food stamp program if it is authorized~~

~~to participate in the program by the United States Department of Agriculture Food and Nutrition Service field office on the effective date of this section, or if, prior to a reporting period for which the return is filed, such retailer proves to the satisfaction of the tax collector that the establishment, based on the nature of the retailer's food sales, could be eligible to participate in the food stamp program established by the Food Stamp Act of 1977 according to regulations in effect on January 1, 1979~~

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ESTABLISHED BY THE FOOD AND NUTRITION ACT OF 2008 (P.L. 110-246; 122 STAT. 1651; 7 UNITED STATES CODE SECTIONS 2011 THROUGH 2036A) BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE OR AN ESTABLISHMENT THAT PROVES TO THE SATISFACTION OF THE DEPARTMENT OF REVENUE THAT, BASED ON THE NATURE OF THE ESTABLISHMENT'S FOOD SALES, COULD BE ELIGIBLE TO PARTICIPATE IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ESTABLISHED BY THE FOOD AND NUTRITION ACT OF 2008.

2. "Facilities for the consumption of food" means tables, chairs, benches, booths, stools, counters, and similar conveniences, trays, glasses, dishes, or other tableware and parking areas for the convenience of in-car consumption of food in or on the premises on which the retailer conducts business.

3. "Food for consumption on the premises" means any of the following:

- a. "Hot prepared food" as defined ~~in subsection (B)(4) of this section~~ BELOW.
- b. Hot or cold sandwiches.
- c. Food served by an attendant to be eaten at tables, chairs, benches, booths, stools, counters, and similar conveniences and within parking areas for the convenience of in-car consumption of food.
- d. Food served with trays, glasses, dishes, or other tableware.
- e. Beverages sold in cups, glasses, or open containers.
- f. Food sold by caterers.
- g. Food sold within the premises of theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, fairs, races, contests, games, athletic events, rodeos, billiard and pool parlors, bowling alleys, public dances, dance halls,

boxing, wrestling and other matches, and any business which charges admission, entrance, or cover fees for exhibition, amusement, entertainment, or instruction.

h. Any items contained in subsections (A)(3)(a) through (g) ~~of this section~~ [ABOVE](#) even though they are sold on a "take-out" or "to go" basis, and whether or not the item is packaged, wrapped, or is actually taken from the premises.

4. "Hot prepared food" means those products, items, or ingredients of food which are prepared and intended for consumption in a heated condition. "Hot prepared food" includes a combination of hot and cold food items or ingredients if a single price has been established.

5. "Premises" means the total space and facilities in or on which a vendor conducts business and which are owned or controlled, in whole or in part, by a vendor or which are made available for the use of customers of the vendor or group of vendors, including any building or part of a building, parking lot, or grounds.

6. "Food for home consumption" means all food, except food for consumption on the premises, if sold by any of the following:

a. An eligible grocery business.

b. A person who conducts a business whose primary business is not the sale of food but who sells food which is displayed, packaged, and sold in a similar manner as an eligible grocery business.

c. A person who sells food and does not provide or make available any facilities for the consumption of food on the premises.

d. A person who conducts a delicatessen business either from a counter which is separate from the place and cash register where taxable sales are made or from a counter which has two (2) cash registers and which are used to record taxable and tax exempt sales, or a retailer who conducts a delicatessen business who uses a cash register which has at least two (2) tax computing keys which are used to record taxable and tax exempt sales.

e. Vending machines and other types of automatic retailers.

f. A person's sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the State Department of Corrections, the Department of Public Safety, the Department of Juvenile Corrections or a County Sheriff.

C. Income derived from the following sources is exempt from the tax imposed by this section:

1. Sales of food for home consumption to a person regularly engaged in the business of selling such property.
2. Out-of-City sales or out-of-State sales.
3. Charges for delivery or other "direct customer services" as prescribed ~~by regulation~~ [IN SECTION 3-05-001-0100.2](#).
4. ~~Food purchased with food stamps provided through the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 9587 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302; 42 U.S.C. Section 1786) but only to the extent that food stamps or food instruments were actually used to purchase such food.~~ [ITEMS PURCHASED WITH UNITED STATES DEPARTMENT OF AGRICULTURE COUPONS ISSUED UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PURSUANT TO THE FOOD AND NUTRITION ACT OF 2008 \(P.L. 88-525; 78 STAT 703; 7 UNITED STATES CODE SECTIONS 2011 THROUGH 2036B\) BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE OR FOOD INSTRUMENTS ISSUED UNDER SECTION 17 OF THE CHILD NUTRITION ACT \(P.L. 95-627; 92 STAT. 3603; P.L. 99-661, SECTION 4302; P.L. 111-296; 42 UNITED STATES CODE SECTION 1786\).](#)
5. Sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.
6. Sales of food, beverages, condiments and accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, including a regularly organized private or parochial school that offers an educational program for grade twelve (12) or under which may be attended in substitution for a public school pursuant to A.R.S. [15-802](#); to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

7. Sales of food, beverages, condiments and accessories to a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C. Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

D. Reporting. Such persons who sell food for home consumption shall, in conjunction with the return required pursuant to Section 3-05-005-0520, report to the tax collector in a manner prescribed by the tax collector all sales of food for home consumption exempted from taxes imposed by this chapter.

E. Recordkeeping.

1. Retailers shall maintain accurate, verifiable, and complete records of all purchases and sales of tangible personal property in order to verify exemptions from taxes imposed by this chapter. A retailer may use any method of reporting that properly reflects all purchases and sales of food for home consumption, as well as all purchases and sales of items subject to taxes imposed by this chapter; provided, that such records are maintained in accordance with Article III, ~~Arizona Revised Statutes, and regulations of the tax collector.~~

2. Any person who fails to maintain records as provided herein shall be deemed to have had no sales of food for home consumption, and if upon request by the tax collector, a person cannot demonstrate to the tax collector that such records and reports do properly reflect all sales of food for home consumption, the tax collector may recompute the amount of tax to be paid as provided in Sections 3-05-003-0370 and 3-05-005-0545(B)(A)(1).

F. IF A CITY, TOWN, OR OTHER TAXING JURISDICTION IMPOSES A TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE, OR OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED, ON THE SALE OF FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR HOME CONSUMPTION, THE TAX MUST BE APPLIED UNIFORMLY WITH RESPECT TO ALL FOOD, AND AN ADDITIONAL TAX OR FEE DIFFERENTIAL MAY NOT BE ASSESSED OR APPLIED WITH RESPECT TO ANY SPECIFIC FOOD ITEM.

(Ord. 2013-26, Enacted, 01/07/2014)

3-05-004-0465 RETAIL SALES; EXEMPTIONS;

Income derived from the following sources is exempt from the tax imposed by Section 3-05-004-0460:

- A. Sales of tangible personal property to a person regularly engaged in the business of selling such property.
- B. Out-of-City sales or out-of-State sales, INCLUDING TANGIBLE PERSONAL PROPERTY SOLD IN INTERSTATE OR FOREIGN COMMERCE IF PROHIBITED FROM BEING SO TAXED BY THE CONSTITUTION OF THE UNITED STATES OR THE CONSTITUTION OF THIS STATE
- C. Charges for delivery, installation, or other direct customer services as prescribed by ~~regulation~~ SECTION 3-05-001-0100.2.
- D. Charges for repair services as prescribed by regulation, when separately charged and separately maintained in the books and records of the taxpayer.
- E. Sales of warranty, maintenance, and service contracts, when separately charged and separately maintained in the books and records of the taxpayer.
- F. Sales of prosthetics.
- G. Sales of income-producing capital equipment.
- H. ~~Sales of rental equipment and rental supplies~~ TANGIBLE PERSONAL PROPERTY SOLD TO A PERSON ENGAGED IN THE BUSINESS OF RENTING, LEASING, OR LICENSING FOR USE SUCH PROPERTY UNDER THE RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY CLASSIFICATION IF SUCH PROPERTY IS TO BE RENTED, LEASED, OR LICENSED FOR USE BY SUCH PERSON.
- I. Sales of mining and metallurgical supplies.
- J. Sales of:
 - 1. motor vehicle fuel and use fuel which are subject to a tax imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes, ~~or sales of~~
 - 2. use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. § 28-5739, ~~or sales of~~
 - 3. natural gas or liquefied petroleum gas used to propel a motor vehicle.

4. MOTOR VEHICLE FUEL AND USE FUEL TO A QUALIFIED BUSINESS UNDER A.R.S. SECTION 41-1516 FOR OFF-ROAD USE IN HARVESTING, PROCESSING, OR TRANSPORTING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN A.R.S. SECTION 41-1516.

5. REPAIR PARTS INSTALLED IN EQUIPMENT USED DIRECTLY BY A QUALIFIED BUSINESS UNDER A.R.S. SECTION 41-1516 IN HARVESTING, PROCESSING, OR TRANSPORTING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN A.R.S. SECTION 41-1516.

K. Sales of tangible personal property to:

1. a construction contractor who holds a valid privilege tax license for engaging or continuing in the business of construction contracting where the tangible personal property sold is incorporated into any structure or improvement to real property as part of construction contracting activity.

2. A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 3-05-004-0415(B)(12) AND THAT HAS BEEN PROVIDED A COPY OF A CERTIFICATE UNDER A.R.S. SECTION 42-5009, SUBSECTION L, IF THE PROPERTY SO SOLD IS INCORPORATED OR FABRICATED BY THE PERSON INTO THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT, OR IMPROVEMENT DESCRIBED IN THE CERTIFICATE.

L. Sales of motor vehicles to nonresidents of this State for use outside this State if the ~~vendor~~ MOTOR VEHICLE DEALER ships or delivers the motor vehicle to a destination outside this State.

M. Sales of tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines, or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.

N. ~~Sales made directly to the Federal government to the extent of~~ THE FOLLOWING SHALL BE DEDUCTED FROM THE TAX BASE FOR THE RETAIL CLASSIFICATION

~~1.—One hundred percent (100%) of the gross income derived from retail sales made by a manufacturer, modifier, assembler, or repairer.~~

~~2. Fifty percent (50%) of the gross income derived from retail sales made by any other person.~~

1. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES MADE DIRECTLY TO THE UNITED STATES GOVERNMENT OR ITS DEPARTMENTS OR AGENCIES BY A MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER.

2. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES MADE DIRECTLY TO A MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER IF SUCH SALES ARE OF ANY INGREDIENT OR COMPONENT PART OF PRODUCTS SOLD DIRECTLY TO THE UNITED STATES GOVERNMENT OR ITS DEPARTMENTS OR AGENCIES BY THE MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER.

3. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM OVERHEAD MATERIALS OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS USED IN PERFORMING A CONTRACT BETWEEN THE UNITED STATES GOVERNMENT AND A MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER, INCLUDING PROPERTY USED IN PERFORMING A SUBCONTRACT WITH A GOVERNMENT CONTRACTOR WHO IS A MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER, TO WHICH TITLE PASSES TO THE GOVERNMENT UNDER THE TERMS OF THE CONTRACT OR SUBCONTRACT.

4. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES OF OVERHEAD MATERIALS OR OTHER TANGIBLE PERSONAL PROPERTY TO A MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER IF THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE PROPERTY BY THE MANUFACTURER, MODIFIER, ASSEMBLER, OR REPAIRER WILL BE EXEMPT UNDER PARAGRAPH 3 OF THIS SUBSECTION.

5. FIFTY PERCENT OF THE GROSS PROCEEDS OR GROSS INCOME FROM ANY SALE OF TANGIBLE PERSONAL PROPERTY MADE DIRECTLY TO THE UNITED STATES GOVERNMENT OR ITS DEPARTMENTS OR AGENCIES THAT IS NOT DEDUCTED UNDER PARAGRAPHS 1 THROUGH 4 OF THIS SUBSECTION.

6. FOR THE PURPOSES OF THIS SUBSECTION:

(A) "OVERHEAD MATERIALS" MEANS TANGIBLE PERSONAL PROPERTY, THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THAT WOULD OTHERWISE BE INCLUDED IN THE RETAIL CLASSIFICATION, AND THAT ARE USED OR

CONSUMED IN THE PERFORMANCE OF A CONTRACT, THE COST OF WHICH IS CHARGED TO AN OVERHEAD EXPENSE ACCOUNT AND ALLOCATED TO VARIOUS CONTRACTS BASED ON GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND CONSISTENT WITH GOVERNMENT CONTRACT ACCOUNTING STANDARDS.

(B) "SUBCONTRACT" MEANS AN AGREEMENT BETWEEN A CONTRACTOR AND ANY PERSON WHO IS NOT AN EMPLOYEE OF THE CONTRACTOR FOR FURNISHING OF SUPPLIES OR SERVICES THAT, IN WHOLE OR IN PART, ARE NECESSARY TO THE PERFORMANCE OF ONE OR MORE GOVERNMENT CONTRACTS, OR UNDER WHICH ANY PORTION OF THE CONTRACTOR'S OBLIGATION UNDER ONE OR MORE GOVERNMENT CONTRACTS IS PERFORMED, UNDERTAKEN, OR ASSUMED AND THAT INCLUDES PROVISIONS CAUSING TITLE TO OVERHEAD MATERIALS OR OTHER TANGIBLE PERSONAL PROPERTY USED IN THE PERFORMANCE OF THE SUBCONTRACT TO PASS TO THE GOVERNMENT OR THAT INCLUDES PROVISIONS INCORPORATING SUCH TITLE PASSING CLAUSES IN A GOVERNMENT CONTRACT INTO THE SUBCONTRACT.

O. Sales to hotels, bars, restaurants, dining cars, lunchrooms, boarding houses, or similar establishments of articles consumed as food, drink, or condiment, whether simple, mixed, or compounded, where such articles are customarily prepared or served to patrons for consumption on or off the premises, where the purchaser is properly licensed and paying a tax under Section 3-05-004-0455 or the equivalent excise tax upon such income.

P. ~~Sales of tangible personal property to~~ TANGIBLE PERSONAL PROPERTY SOLD TO:

~~1. a qualifying hospital; a qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or sales of tangible personal property purchased in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.~~

2. A QUALIFYING HEALTH CARE ORGANIZATION IF THE TANGIBLE PERSONAL PROPERTY IS USED BY THE ORGANIZATION SOLELY TO PROVIDE HEALTH AND MEDICAL RELATED EDUCATIONAL AND CHARITABLE SERVICES;
3. A QUALIFYING HEALTH CARE ORGANIZATION IF THE ORGANIZATION IS DEDICATED TO PROVIDING EDUCATIONAL, THERAPEUTIC, REHABILITATIVE, AND FAMILY MEDICAL EDUCATION TRAINING FOR BLIND AND VISUALLY IMPAIRED CHILDREN AND CHILDREN WITH MULTIPLE DISABILITIES FROM THE TIME OF BIRTH TO AGE TWENTY-ONE;
4. A QUALIFYING COMMUNITY HEALTH CENTER;
5. A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED UNDERSECTION 6 501(C)(3) OF THE INTERNAL REVENUE CODE AND THAT REGULARLY SERVES MEALS TO THE NEEDY AND INDIGENT ON A CONTINUING BASIS AT NO COST;
6. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2001, A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED UNDERSECTION 501(C)(3) OF THE INTERNAL REVENUE CODE AND THAT PROVIDES RESIDENTIAL APARTMENT HOUSING FOR LOW INCOME PERSONS OVER SIXTY-TWO YEARS OF AGE IN A FACILITY THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY, IF THE TANGIBLE PERSONAL PROPERTY IS USED BY THE ORGANIZATION SOLELY TO PROVIDE RESIDENTIAL APARTMENT HOUSING FOR LOW INCOME PERSONS OVER SIXTY-TWO YEARS OF AGE IN A FACILITY THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY;
7. A QUALIFYING HEALTH SCIENCES EDUCATIONAL INSTITUTION;
8. ANY PERSON REPRESENTING OR WORKING ON BEHALF OF ANOTHER PERSON DESCRIBED IN SUBDIVISIONS 1 THROUGH 7 OF THIS PARAGRAPH IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN A.R.S. SECTION 42-5075, SUBSECTION O.

Q. (Reserved)

R. ~~(Reserved)~~ SALES OF:

1. ~~(Reserved)~~ LIVESTOCK AND POULTRY TO PERSONS ENGAGING IN THE BUSINESS OF FARMING, RANCHING, OR PRODUCING LIVESTOCK OR POULTRY.

2. ~~(Reserved)~~ LIVESTOCK AND POULTRY FEED, SALTS, VITAMINS, AND OTHER ADDITIVES FOR LIVESTOCK OR POULTRY CONSUMPTION THAT ARE SOLD TO PERSONS FOR USE OF CONSUMPTION BY THEIR OWN LIVESTOCK OR POULTRY, FOR USE OR CONSUMPTION IN THE BUSINESSES OF FARMING, RANCHING, AND PRODUCING OR FEEDING LIVESTOCK, POULTRY, OR LIVESTOCK OR POULTRY PRODUCTS OR FOR USE OR CONSUMPTION IN NONCOMMERCIAL BOARDING OF LIVESTOCK. FOR THE PURPOSES OF THIS PARAGRAPH, "POULTRY" INCLUDES RATITES.

3. ~~(Reserved)~~ IMPLANTS USED AS GROWTH PROMOTANTS AND INJECTABLE MEDICINES, NOT ALREADY EXEMPT UNDER THE DEFINITION OF "PROSTHETIC," FOR LIVESTOCK, POULTRY, OR LIVESTOCK OR POULTRY PRODUCTS OR WHO ARE ENGAGED IN FEEDING LIVESTOCK OR POULTRY COMMERCIALY. FOR THE PURPOSES OF THIS PARAGRAPH, "POULTRY" INCLUDES RATITES.

4. ~~(Reserved)~~ NEAT ANIMALS, HORSES, ASSES, SHEEP, RATITES, SWINE, OR GOATS USED OR TO BE USED AS BREEDING OR PRODUCTION STOCK, INCLUDING SALES OF BREEDINGS OR OWNERSHIP SHARES IN SUCH ANIMALS USED FOR BREEDING OR PRODUCTION.

S. Sales of groundwater measuring devices required by A.R.S. § 45-604.

T. (Reserved)

U. ~~Sales of aircraft acquired for use outside the State, as prescribed by regulation.~~ SEEDS, SEEDLINGS, ROOTS, BULBS, CUTTINGS, AND OTHER PROPAGATIVE MATERIAL TO PERSONS WHO USE THOSE ITEMS TO COMMERCIALY PRODUCE AGRICULTURAL, HORTICULTURAL, VITICULTURAL, OR FLORICULTURAL CROPS IN THIS STATE.

V. Sales of food products by producers as provided for by A.R.S. §§ 3-561, 3-562 and 3-563. THIS INCLUDES SALES MADE DIRECTLY BY OWNERS, PROPRIETORS, OR TENANTS OF AGRICULTURAL LANDS OR FARMS WHO SELL LIVESTOCK OR POULTRY FEED THAT IS GROWN OR RAISED ON THEIR LANDS TO ANY OF THE FOLLOWING:

1. PERSONS WHO FEED THEIR OWN LIVESTOCK OR POULTRY.

2. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF PRODUCING LIVESTOCK OR POULTRY COMMERCIALY.

3. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF FEEDING LIVESTOCK OR POULTRY COMMERCIALLY OR WHO BOARD LIVESTOCK NONCOMMERCIALY.

W. (Reserved)

X. Sales of food and drink to a person who is engaged in business that is classified under the restaurant classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during such employees' hours of employment.

Y. (Reserved)

Z. (Reserved)

AA. The sale of tangible personal property used in remediation contracting as defined in Section 3-05-001-0100 and ~~Regulation 3-5-100.5, Section 3-05-007-0001~~ SECTION 3-05-001-0100.5.

BB. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or Federal, State, County or municipal libraries for use by the public as follows:

1. Printed or photographic materials.
2. Electronic or digital media materials.

CC. ~~Sales~~ TANGIBLE PERSONAL PROPERTY SOLD TO A COMMERCIAL AIRLINE AND CONSISTING of food, beverages, AND condiments and accessories used for serving THE food and beverages, ~~to a commercial airline, as defined in A.R.S. § 42-5061(A)(49), that serves the food and beverages to its passengers, IF THOSE ITEMS ARE TO BE PROVIDED~~ without additional charge, TO PASSENGERS for consumption in flight. For the purposes of this ~~subsection~~ PARAGRAPH, ~~"accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food~~ "COMMERCIAL AIRLINE" MEANS A PERSON HOLDING A FEDERAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY OR FOREIGN AIR CARRIER PERMIT FOR AIR TRANSPORTATION TO TRANSPORT PERSONS, PROPERTY, OR UNITED STATES MAIL IN INTRASTATE, INTERSTATE, OR FOREIGN COMMERCE.

DD. In computing the tax base in the case of the sale or transfer of wireless telecommunication equipment as an inducement to a customer to enter into or continue a contract for telecommunication services that are

taxable under Section 3-05-004-0470, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

EE. For the purposes of this section, a sale of wireless telecommunication equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under Section 3-05-004-0470 is considered to be a sale for resale in the regular course of business.

FF. Sales of alternative fuel as defined in A.R.S. § 1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. § 49-426 or A.R.S. § 49-480.

GG. Sales of food, beverages, condiments and accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, including a regularly organized private or parochial school that offers an educational program for grade twelve (12) or under which may be attended in substitution for a public school pursuant to A.R.S. § 15-802; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

HH. Sales of personal hygiene items to a person engaged in the business of and subject to tax under Section 3-05-004-0444 if the tangible personal property is furnished without additional charge to and intended to be consumed by the person during his occupancy.

II. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. CONVERTING NATURAL GAS INTO LIQUEFIED NATURAL GAS, FOR THE SOLE PURPOSE OF FUELING COMPRESSOR EQUIPMENT USED IN THE CONVERSION PROCESS, IS NOT A SALE OF GAS TO THE OPERATOR OF THE COMPRESSOR EQUIPMENT.

JJ. Sales of food, beverages, condiments and accessories to a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

KK. Sales of ~~motor vehicles that use~~ alternative fuel [VEHICLES](#) if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and sales of equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. § [1-215](#).

LL. Sales of solar energy devices, ~~for taxable periods beginning from and after July 1, 2008~~. The retailer shall register with the department of revenue as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department ~~of Revenue and City, as applicable~~, for examination.

MM. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this ~~subsection~~ [PARAGRAPH](#), "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

NN. Sales of magazines or other periodicals or other publications by this state to encourage tourist travel.

OO. Sales of paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

~~PP.—Sales of overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.~~

~~QQ~~[PP](#). Sales of ~~coal~~, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in A.R.S. Section [41-1514.02](#) and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This ~~subsection~~ [PARAGRAPH](#)

shall apply for twenty (20) full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

RRQQ. Sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in A.R.S. Section 41-1514.02. This subsection applies for ten (10) full consecutive calendar or fiscal years after the start of initial construction.

RR. THE TRANSFER OF TITLE OR POSSESSION OF COAL BACK AND FORTH BETWEEN AN OWNER OR OPERATOR OF A POWER PLANT AND A PERSON WHO IS RESPONSIBLE FOR REFINING COAL IF BOTH OF THE FOLLOWING APPLY:

1. THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE OF REFINING THE COAL; AND
2. THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO THE OWNER OR OPERATOR OF THE POWER PLANT AFTER COMPLETION OF THE COAL REFINING PROCESS. FOR THE PURPOSES OF THIS SUBDIVISION, "COAL REFINING PROCESS" MEANS THE APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE REDUCTION OF POWER PLANT EMISSIONS DURING THE COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

SS. (RESERVED)

TT. COMPUTER DATA CENTER EQUIPMENT SOLD TO THE OWNER, OPERATOR, OR QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER A.R.S. SECTION 41-1519 OR AN AUTHORIZED AGENT OF THE OWNER, OPERATOR, OR QUALIFIED COLOCATION TENANT DURING THE QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA CENTER. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA CENTER," "COMPUTER DATA CENTER EQUIPMENT," "QUALIFICATION PERIOD," AND "QUALIFIED COLOCATION TENANT" HAVE THE SAME MEANINGS PRESCRIBED IN A.R.S. SECTION 41-1519.

UU. THE SALE, MANUFACTURE, WHOLESALE, OR DISTRIBUTION TO OR AMONG ANY WHOLESALERS, DISTRIBUTORS, OR RETAILERS, OF FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS

DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR HOME CONSUMPTION OR FOR CONSUMPTION ON THE PREMISES.

VV. THE SALE OF ANY CONTAINER OR PACKAGING USED EXCLUSIVELY FOR TRANSPORTING, PROTECTING, OR CONSUMING FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR HOME CONSUMPTION OR FOR CONSUMPTION ON THE PREMISES.

WW. MACHINERY, EQUIPMENT, TECHNOLOGY, OR RELATED SUPPLIES THAT ARE ONLY USEFUL TO ASSIST A PERSON WITH A PHYSICAL DISABILITY AS DEFINED IN A.R.S. SECTION 46-191 OR A PERSON WHO HAS A DEVELOPMENTAL DISABILITY AS DEFINED IN A.R.S. SECTION 36-551 OR HAS A HEAD INJURY AS DEFINED IN A.R.S. SECTION 41-3201 TO BE MORE INDEPENDENT AND FUNCTIONAL.

XX. APPLICATION SERVICES THAT ARE DESIGNED TO ASSESS OR TEST STUDENT LEARNING OR TO PROMOTE CURRICULUM DESIGN OR ENHANCEMENT PURCHASED BY OR FOR ANY SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE, OR STATE UNIVERSITY. FOR THE PURPOSES OF THIS PARAGRAPH:

1. "APPLICATION SERVICES" MEANS SOFTWARE APPLICATIONS PROVIDED REMOTELY USING HYPERTEXT TRANSFER PROTOCOL OR ANOTHER NETWORK PROTOCOL.
2. "CURRICULUM DESIGN OR ENHANCEMENT" MEANS PLANNING, IMPLEMENTING, OR REPORTING ON COURSES OF STUDY, LESSONS, ASSIGNMENTS, OR OTHER LEARNING ACTIVITIES.

YY. SALES OF COAL.

(Ord. 1924, 01/07/1997; Ord. 1979, Amended, 10/06/1998; Ord. 2008, Amended, 11/02/1999; Ord. 2000-29, Amended, 11/21/2000; Ord. 2001-04, Amended, 01/16/2001; Ord. 2004-25, Amended, 01/10/2005; Ord. 2007-28, Amended, 05/01/2007; Ord. 2009-16, Amended, 06/16/2009; Ord. 2013-26, Amended, 01/07/2014)

3-05-004-0470 TELECOMMUNICATION SERVICES (REG. 470.1):

SEE ALSO REGULATION 3-5-470.1.

A. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of providing telecommunication services to consumers within this City.

1. Telecommunication services shall include:
 - a. Two-way voice, sound and/or video communication over a communications channel.
 - b. One-way voice, sound, and/or video transmission or relay over a communications channel.
 - c. Facsimile transmissions.
 - d. Providing relay or repeater service.
 - e. Providing computer interface services over a communications channel.
 - f. Time-sharing activities with a computer accomplished through the use of a communications channel.
2. Gross income from the business activity of providing telecommunication services to consumers within this City shall include:
 - a. All fees for connection to a telecommunication system.
 - b. Toll charges, charges for transmissions, and charges for other telecommunications services; provided, that such charges relate to transmissions originating in the City and terminating in this State.
 - c. Fees charged for access to or subscription to or membership in a telecommunication system or network.
 - ~~d. Charges for monitoring services relating to a security or burglar alarm system located within the City where such system transmits or receives signals or data over a communications channel.~~

~~eD.~~ Charges for telephone, fax or Internet access services provided at an additional charge by a hotel business subject to taxation under Section 3-05-004-0444.

B. Resale Telecommunication Services. Gross income from sales of telecommunication services to another provider of telecommunication services for the purpose of providing the purchaser's customers with such service shall be exempt from the tax imposed by this section; provided, however, that such purchaser is properly licensed by the City to engage in such business.

C. Interstate Transmissions. Charges by a provider of telecommunication services for transmissions originating in the City and terminating outside the State are exempt from the tax imposed by this section.

~~D.—(Reserved)~~

D. TAX CREDIT OFFSET FOR FRANCHISE FEES. THERE SHALL BE ALLOWED AS AN OFFSET, UP TO THE AMOUNT OF TAX DUE, ANY AMOUNTS PAID TO THE CITY FOR LICENSE FEES OR FRANCHISE FEES, BUT SUCH OFFSET SHALL NOT BE ALLOWED AGAINST TAXES IMPOSED BY ANY OTHER SECTION OF THIS CHAPTER. SUCH OFFSET SHALL NOT BE DEEMED IN CONFLICT WITH OR VIOLATION OF SUBSECTION 3-05-004-0400(B).

E. However, gross income from the providing of telecommunication services by a cable television system, as such system is defined in A.R.S. Section 9-505, shall be exempt from the tax imposed by this section.

F. Prepaid Calling Cards. Telecommunications services purchased with a prepaid calling card that are taxable under Section 3-05-004-0460 are exempt from the tax imposed under this section.

G. Internet Access Services. The gross income subject to tax under this section shall not include sales of internet access services to the person's subscribers and customers. For the purposes of this subsection:

1. "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or Internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.
2. "Internet access" means a service that enables users to access content, information, electronic mail or other services over the Internet. Internet access does not include telecommunication services provided by a common carrier.

H. ALARM MONITORING SERVICES. THE GROSS INCOME SUBJECT TO TAX UNDER THIS SECTION SHALL NOT INCLUDE SALES OF MONITORING SERVICES RELATING TO AN ALARM SYSTEM AS DEFINED IN A.R.S. SECTION 32-101.

(Ord. 2000-14, Amended, 06/06/2000; Ord. 2008, Amended, 11/02/1999; Ord. 2004-25, Amended, 01/10/05; Ord. 2006-16, Amended 06/06/2006; Ord. 2007-28, Amended, 05/01/2007; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0475 TRANSPORTING FOR HIRE (REG. 475.1):

SEE ALSO REGULATION 3-5-475.1.

The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of providing the following forms of transportation for hire from this City to another point within the State:

A. Transporting of persons or property by railroad; provided, however, that the tax imposed by this subsection shall not apply to transporting freight or property for hire by a railroad operating exclusively in this State if the transportation comprises a portion of a single shipment of freight or property, involving more than one (1) railroad, either from a point in this State to a point outside this State or from a point outside this State to a point in this State. For purposes of this ~~subsection~~ PARAGRAPH, "a single shipment" means the transportation that begins at the point at which one (1) of the railroads first takes possession of the freight or property and continues until the point at which one (1) of the railroads relinquishes possession of the freight or property to a party other than one (1) of the railroads.

B. Transporting of oil or natural or artificial gas through pipe or conduit.

C. Transporting of property by aircraft.

D. Transporting of persons or property by motor vehicle, including towing and the operation of private car ~~lines~~ COMPANIES, as such are defined in ~~Article III, Chapter 4~~ ARTICLE VII, CHAPTER 14, Title 42, A.R.S.; provided, however, that the tax imposed by this subsection shall not apply to:

1. Gross income subject to the tax imposed by ~~Article VI, Chapter 9~~ ARTICLE IV, CHAPTER 16, Title 28, A.R.S.

2. Gross income derived from the operation of a governmentally adopted and controlled program to provide urban mass transportation.

3. Reserved

4. Reserved

E. Reserved

F. Deductions or Exemptions. The gross proceeds of sales or gross income derived from the following sources is exempt from the tax imposed by this section:

1. Income that is specifically included as the gross income of a business activity upon which another section of this division (~~Article IV of the City Tax Code~~) imposes a tax that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.

2. Income from arranging amusement or transportation when the amusement or transportation is conducted by another person not to exceed consideration paid to the amusement or transportation business.

[3. ANY AMOUNT ATTRIBUTABLE TO FEES COLLECTED BY TRANSPORTATION NETWORK COMPANIES ISSUED A PERMIT PURSUANT TO A.R.S. SECTION 28-9552.](#)

[4. TRANSPORTING FOR HIRE PERSONS BY TRANSPORTATION NETWORK COMPANY DRIVERS ON TRANSACTIONS INVOLVING TRANSPORTATION NETWORK SERVICES AS DEFINED IN A.R.S. SECTION 28-9551.](#)

[5. TRANSPORTING FOR HIRE PERSONS BY VEHICLE FOR HIRE COMPANIES ISSUED A PERMIT PURSUANT TO A.R.S. SECTION 28-9503.](#)

[6. TRANSPORTING FOR HIRE PERSONS BY VEHICLE FOR HIRE DRIVERS ON TRANSACTIONS INVOLVING VEHICLE FOR HIRE SERVICES AS DEFINED IN A.R.S. SECTION 28-9501.](#)

G. The tax imposed by this section shall not include arranging transportation as a convenience to a person's customers if that person is not otherwise engaged in the business of transporting persons, freight or property

for hire. This exception does not apply to businesses that dispatch vehicles pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the transportation is performed by third party independent contractors. For the purposes of this [subsection PARAGRAPH](#), "arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

(Ord. 2000-14, Amended, 06/06/2000; Ord. 2007-28, Amended, 05/01/2007; Ord. 2013-02, Amended, 04/02/2013; Ord. 2014-34, Amended, 01/06/2015; Ord. 2015-05, Amended, 05/19/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0480 UTILITY SERVICES:

A. The tax rate shall be at an amount equal to [TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT \(2.486%\)](#) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the gross income from the business activity upon every person engaging or continuing in the business of producing, providing, or furnishing utility services, including electricity, electric lights, current, power, gas (natural or artificial), or water to:

1. Consumers or ratepayers who reside within the City.
2. Consumers or ratepayers of this City, whether within the City or without, to the extent that this City provides such persons utility services, excluding consumers or ratepayers who are residents of another city or town which levies an equivalent excise tax upon this City for providing such utility services to such persons.

B. Exclusion of Certain Sales of Natural Gas to a Public Utility. Notwithstanding the provisions of subsection ~~(A) of this section~~ [A ABOVE](#), the gross income derived from the sale of natural gas to a public utility for the purpose of generation of power to be transferred by the utility to its ratepayers shall be considered a retail sale of tangible personal property subject to Sections 3-5-004-0460 and 3-5-004-0465, and not considered gross income taxable under this section.

C. Resale Utility Services. Sales of utility services to another provider of the same utility services for the purpose of providing such utility services either to another properly licensed utility provider or directly to such purchaser's customers or ratepayers shall be exempt and deductible from the gross income subject to the tax imposed by this section, provided that the purchaser is properly licensed by all applicable taxing jurisdictions to

engage or continue in the business of providing utility services, and further provided that the seller maintains proper documentation, in a manner similar to that for sales for resale, of such transactions.

D. (Reserved)

E. The tax imposed by this section shall not apply to sales of utility services to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

F. The tax imposed by this section shall not apply to sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

G. The tax imposed by this section shall not apply to:

1. Revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This exclusion shall not exceed the value of such property and equipment.

H. The tax imposed by this section shall not apply to sales of alternative fuel as defined in A.R.S. § 1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. § 49-426 or A.R.S. § 49-480.

I. The tax imposed by this section shall not apply to sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this **subsection** PARAGRAPH, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

J. The tax imposed by this section shall not apply to the portion of gross proceeds of sales or gross income attributable to transfers of electricity by any retail electric customer owning a solar photovoltaic energy

generating system to an electric distribution system, if the electricity transferred is generated by the customer's system.

K. RESERVED.

(Ord. 1924, 01/07/1997; Ord. 1979, Amended, 10/06/1998; Ord. 2000-14, Amended, 06/06/2000; Ord. 2006-16, Amended, 06/06/2006; Ord. 2013-26, Amended, 01/07/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019)

3-05-004-0485 WASTEWATER REMOVAL SERVICES

A. The tax rate shall be an amount equal to zero percent (0%) of the gross income from the business activity upon every person engaging or continuing in the business of providing wastewater removal services by means of sewer lines or similar pipelines to:

1. Consumers or ratepayers who reside within the City.
2. Consumers or ratepayers of this City, whether within the City or without, to the extent that this City provides such persons wastewater removal services, excluding consumers or ratepayers who are residents of another city or town which levies an equivalent excise tax upon this City for providing such wastewater removal services to such persons.

B. The tax imposed by this section shall not apply to gross income relating to the providing of wastewater removal services from a qualifying hospital, qualifying community health center or a qualifying health care organization.

(Ord. 2013-26, Enacted, 01/07/2014)

3-05-004-0490 RESERVED:

DIVISION 3-05-005

ADMINISTRATION

SECTIONS:

- 3-05-005-0500 ADMINISTRATION OF THIS CHAPTER; RULE MAKING;
- 3-05-005-0510 DIVULGING OF INFORMATION PROHIBITED; EXCEPTIONS ALLOWING DISCLOSURE;
- 3-05-005-0515 DUTIES OF THE TAXPAYER PROBLEM RESOLUTION OFFICER;
- 3-05-005-0516 TAXPAYER ASSISTANCE ORDERS
- 3-05-005-0517 BASIS FOR EVALUATING EMPLOYEE PERFORMANCE;
- 3-05-005-0520 REPORTING AND PAYMENT OF TAX;
- 3-05-005-0530 WHEN TAX DUE; WHEN DELINQUENT; VERIFICATION OF RETURN; EXTENSIONS;
- 3-05-005-0540 INTEREST AND CIVIL PENALTIES;
- 3-05-005-0541 ERRONEOUS ADVICE OR MISLEADING STATEMENTS BY THE TAX COLLECTOR; ABATEMENT OF PENALTIES AND INTEREST; DEFINITION;
- 3-05-005-0542 PROSPECTIVE APPLICATION OF NEW LAW OR INTERPRETATION OR APPLICATION OF LAW
- 3-05-005-0545 DEFICIENCIES; WHEN INACCURATE RETURN IS FILED; WHEN NO RETURN IS FILED; ESTIMATES;
- 3-05-005-0546 CLOSING AGREEMENTS IN CASES OF EXTENSIVE TAXPAYER MISUNDERSTANDING OR MISAPPLICATION; CITY ATTORNEY APPROVAL; RULES;
- 3-05-005-0550 LIMITATION PERIODS;
- 3-05-005-0553 [EXAMINATION OF TAXPAYER RECORDS; JOINT AUDITS](#)
- 3-05-005-0555 TAX COLLECTOR MAY EXAMINE BOOKS AND OTHER RECORDS; FAILURE TO PROVIDE RECORDS;
- 3-05-005-0556 NO ADDITIONAL AUDITS OR PROPOSED ASSESSMENTS; EXCEPTIONS;
- 3-05-005-0560 ERRONEOUS PAYMENT OF TAX; CREDITS AND REFUNDS; LIMITATIONS
- 3-05-005-0565 PAYMENT OF TAX BY THE INCORRECT TAXPAYER OR TO THE INCORRECT ARIZONA CITY OR TOWN;
- 3-05-005-0567 RESERVED;
- 3-05-005-0570 ADMINISTRATIVE REVIEW; PETITION FOR HEARING OR FOR REDETERMINATION; FINALITY OF ORDER;

- 3-05-005-0571 JEOPARDY ASSESSMENTS ([REG. 571.1](#)):
- 3-05-005-0572 EXPEDITED REVIEW OF JEOPARDY ASSESSMENTS:
- 3-05-005-0575 JUDICIAL REVIEW:
- 3-05-005-0577 REFUNDS OF TAXES PAID UNDER PROTEST:
- 3-05-005-0578 REIMBURSEMENT OF FEES AND OTHER COSTS; DEFINITIONS:
- 3-05-005-0580 CRIMINAL PENALTIES:
- 3-05-005-0590 CIVIL ACTIONS:
- 3-05-005-0595 COLLECTION OF TAXES WHEN THERE IS SUCCESSION IN AND/OR
CESSATION OF BUSINESS:
- 3-05-005-0596 AGREEMENT FOR INSTALLMENT PAYMENTS OF TAX
- 3-05-005-0597 PRIVATE TAXPAYER RULINGS; REQUEST; REVOCATION OR MODIFICATION;
DEFINITION:

3-05-005-0500 ADMINISTRATION OF THIS CHAPTER; RULE MAKING:

- A. The administration of this chapter is vested in the Tax Collector, except as otherwise specifically provided, and all payments shall be made to the Tax Collector.
- B. The Tax Collector shall prescribe the forms and procedures necessary for the administration of the taxes imposed by this chapter.
- C. Except as provided in this section, no rule or regulation shall be adopted until approved by formal action of the City Council.

~~D.—Reserved.~~

[D. TAXPAYERS SHALL BE SUBJECT TO THE STATE TAXPAYER BILL OF RIGHTS \(A.R.S. SECTION 42-2051 ET. SEQ\).](#)

- E. The Unified Audit Committee shall publish uniform guidelines that interpret the Model City Tax Code and that apply to all cities and towns that have adopted the Model City Tax Code as provided by A.R.S. Section 42-6005.

- (1) Prior to finalization of Uniform Guidelines that interpret the Model City Tax Code, the Unified Audit Committee shall disseminate draft guidelines for public comment.

(2) Pursuant to A.R.S. Section 42-6005(D), when the State statutes and Model City Tax Code are the same and where the Arizona Department of Revenue has ISSUED written guidance, the Department's interpretation is binding on cities and towns.

(Ord. 1924, 01/07/1997; Ord. No. 2004-25, Amended, 01/10/05)

3-05-005-0510 DIVULGING OF INFORMATION PROHIBITED; EXCEPTIONS ALLOWING DISCLOSURE:

A. Except as specifically provided, it shall be unlawful for any official or employee of the City to make known information obtained pursuant to this chapter concerning the business financial affairs or operations of any person.

B. The City Council may authorize an examination of any return or audit of a specific taxpayer made pursuant to this chapter by authorized agents of the Federal government, the State of Arizona, or any political subdivisions.

C. The Tax Collector may provide to an Arizona county, city, or town any information concerning any taxes imposed in this chapter relative to the taxing ordinances of that county, city, or town.

D. Successors, receivers, trustees, personal representatives, executors, guardians, administrators, and assignees, if directly interested, may be given information by the Tax Collector as to the items included in the measure and amounts of any unpaid tax, interest, and penalties required to be paid.

E. Upon a written direction by the City Attorney or other legal advisor to the City designated by the City Council, officials or employees of the City may divulge the amount and source of income, profits, leases, or expenditures disclosed in any return or report, and the amount of such delinquent and unpaid tax, penalty, or interest, to a private collection agency having a written collection agreement with the City.

F. The Tax Collector shall provide information to appropriate representatives of any Arizona city or town to comply with the provisions of Arizona Revised Statutes Section 42-6003, A.R.S. Section 42-6005 and A.R.S. Section 42-6056.

G. The Tax Collector may provide information to authorized agents of any other Arizona governmental agency involving the allocation of taxes imposed by Section 3-05-004-0435 upon publishing and distribution of periodicals.

H. The Tax Collector shall provide information regarding the enforcement and collection of taxes imposed by this Chapter to any governmental agency with which the City has an agreement.

(Ord. No. 2004-25, Amended, 01/10/05)

3-05-005-0515 DUTIES OF THE TAXPAYER PROBLEM RESOLUTION OFFICER

A. The Taxpayer Problem Resolution Officer shall assist taxpayers in:

1. Obtaining easily understandable tax information and information on audits, corrections and appeals procedures of the City.
2. Answering questions regarding preparing and filing the returns required under this Chapter.
3. Locating documents filed with or payments submitted to the Tax Collector by the taxpayer.

B. The Taxpayer Problem Resolution Officer shall also:

1. Receive and evaluate complaints of improper, abusive or inefficient service by the Tax Collector or any of his designees, employees, or agents and recommend to the City Manager or, for a city without a city manager, the chief administrative officer appropriate action to correct such service.
2. Identify policies and practices of the Tax Collector or any of his designees, employees, or agents that might be barriers to the equitable treatment of taxpayers and recommend alternatives to the City Manager or, for a city without a city manager, the chief administrative officer.
3. Provide expeditious service to taxpayers whose problems are not resolved through normal channels.
4. Negotiate with the Tax Collector, his designees, employees, or agents to resolve the most complex and sensitive taxpayer problems.
5. Take action to stop or prohibit the tax collector from taking an action against a taxpayer.
6. Participate and present taxpayers' interests and concerns in meetings formulating the City's policies and procedures under and interpretation of this Chapter.
7. Compile data each year on the number and type of taxpayer complaints and evaluate the actions taken to resolve those complaints.

8. Survey taxpayers each year to obtain their evaluation of the quality of service provided by the Tax Collector, his designees, employees, and agents.

9. Perform other functions which relate to taxpayer assistance as prescribed by the City Manager or, for a city without a city manager, the chief administrative officer.

C. Actions taken by the Taxpayer Problem Resolution Officer may be reviewed and/or modified only by the City Manager or, for a city without a city manager, the chief administrative officer upon request of the Tax Collector or a taxpayer.

D. The Mayor and Council of the City shall be provided with a report quarterly which identifies:

1. Any complaints of improper, abusive or inefficient service received by the Taxpayer Problem Resolution Officer since the date of the last report.

2. Any recommendations made, action taken or surveys obtained by the Taxpayer Problem Resolution Officer pursuant to subsection B.1.-9., above, since the date of the last report.

(Ord. 1924, 01/07/97)

3-05-005-0516 TAXPAYER ASSISTANCE ORDERS

A. The Taxpayer Problem Resolution Officer, with or without a formal written request from a taxpayer, may issue a taxpayer assistance order that suspends or stays an action or proposed action by the Tax Collector if, in the problem resolution officer's determination, a taxpayer is suffering or will suffer a significant hardship due to the manner in which the Tax Collector is administering the tax laws.

B. A taxpayer assistance order may require the Tax Collector to release any lien perfected under this Chapter, or cease any action or refrain from taking any action to enforce against the taxpayer any section of this Chapter pending resolution of the issue giving rise to the taxpayer assistance order.

C. The Taxpayer Problem Resolution Officer, City Manager or, for a city without a city manager, the chief administrative officer may modify, reverse or rescind a taxpayer assistance order. A taxpayer assistance order is binding on the Tax Collector until it is reversed or rescinded.

D. The running of the applicable statute of limitations for any action that is the subject of a taxpayer assistance order is suspended from the date the taxpayer applies for the order or the date the order is issued, whichever is earlier, until the order's expiration date, modification date or rescission date, if any. Interest that

would otherwise accrue on an outstanding tax obligation is not affected by the issuance of a taxpayer assistance order.

E. A taxpayer assistance order may not be used:

1. To contest the merits of a tax liability.
2. To substitute for informal protest procedures or administrative or judicial proceedings to review a deficiency assessment, collection action or denial of a refund claim.

(Ord. 1924, 01.07/97)

3-05-005-0517 BASIS FOR EVALUATING EMPLOYEE PERFORMANCE

A. The Tax Collector shall solicit evaluations from taxpayers and include such evaluations in the performance appraisals of his employees, where applicable.

B. The Tax Collector shall not evaluate an employee on the basis of taxes assessed or collected by that employee.

(Ord. 1924, 01/07/97)

3-05-005-0520 REPORTING AND PAYMENT OF TAX

A. Returns: The returns required under this Chapter shall be made upon forms prescribed or approved by the Tax Collector, and shall be considered filed only when the accuracy of the return has been attested to, by signature upon the form, by an authorized agent of the taxpayer, and when such form has been received by the Tax Collector.

B. Payment: If payment is made in any form other than United States legal tender, the tax obligation shall not be satisfied until the payment has been honored in funds.

C. Requirement of Security: If a taxpayer has remitted payment in the form of a check or other form of draw upon a bank or third party and such remittance has not been honored in funds, the Tax Collector may demand security for future payments.

D. Method of Reporting: Each taxpayer shall elect to report on either a cash receipts basis or an accrual basis and shall indicate the choice on the privilege license application. A taxpayer shall not change his reporting method without receiving prior written approval by the Tax Collector.

1. Taxpayers must report all gross income subject to the tax using the same basis of reporting.
2. Taxes imposed upon construction contracting shall be reported as follows:
 - a. Construction contractors shall report on either a progressive billing ("accrual") basis or cash receipts basis.
 - b. Speculative builders shall report the gross income derived from sale of improved real property at close of escrow or at transfer of title or possession, whichever occurs earlier.
 - c. Owner-builders who are not speculative builders shall report taxable amounts as provided in Section 3-05-004-0417.

**3-05-005-0530 WHEN TAX DUE; WHEN DELINQUENT; VERIFICATION OF RETURN;
EXTENSIONS:**

A. Except as provided elsewhere in this Section, the taxes shall be due and payable monthly on or before the twentieth (20th) day of the month next succeeding the month in which the tax accrues.

~~1.—Quarterly returns. The Tax Collector may authorize a taxpayer whose reporting history indicates an estimated annual City privilege and use tax liability on taxable gross income in excess of five thousand dollars (\$5,000.00) but less than fifty thousand dollars (\$50,000.00) to file returns on a calendar-quarterly basis.~~

~~The taxes for each calendar quarter shall be due and payable on or before the twentieth (20th) day of the month next succeeding the end of each calendar quarter.~~

~~2.—Annual returns. The Tax Collector may authorize a taxpayer whose reporting history indicates an estimated annual City privilege and use tax liability on taxable gross income of not more than five thousand dollars (\$5,000.00) to file returns for such taxes on a calendar-annual basis. The taxes for each calendar year shall be due and payable on or before January 20 of the following year.~~

~~B.—Special Requirements of Taxpayers Filing Quarterly or Annual Returns: No taxpayer may report on a quarterly or annual basis until he has established, to the Tax Collector's satisfaction, six (6) months reporting history. It is the taxpayer's responsibility to notify the Tax Collector and increase his reporting frequency (to quarterly or monthly as applicable) when his taxable income or tax due exceeds the maximum limits for his current reporting frequency. Failure to do so may be deemed negligence or evasion, and penalties may apply.~~

~~Failure to file returns timely, without good cause shown to the satisfaction of the Tax Collector, is sufficient cause for the Tax Collector to deny future filings by the taxpayer on a quarterly or annual basis.~~

B. ANY PERSON WHO IS ENGAGED IN OR CONDUCTING BUSINESS IN TWO OR MORE LOCATIONS OR UNDER TWO OR MORE BUSINESS NAMES SHALL FILE THE RETURN REQUIRED UNDER THIS CHAPTER BY ELECTRONIC MEANS.

~~C.—Delinquency Date: Except as provided in subsection D. below, all returns and remittances received within the Tax Collector's office on or before the last business day of the month when due shall be regarded as timely filed. The start of business of the first business day following the month when due shall be the delinquency date. It shall be the taxpayer's responsibility to cause his return and remittance to be timely received. Mailing the return or remittance on or before the due date or delinquency date does not relieve the taxpayer of the responsibility of causing his return or remittance to be received by the last business day of the month when due.~~

C. THE DEPARTMENT, FOR ANY TAXPAYER WHOSE ESTIMATED ANNUAL LIABILITY FOR TAXES IMPOSED OR ADMINISTERED BY A.R.S. TITLE 42, CHAPTER 5, ARTICLE 1, OR A.R.S TITLE 42, CHAPTER 6, IS BETWEEN TWO THOUSAND DOLLARS AND EIGHT THOUSAND DOLLARS, SHALL AUTHORIZE SUCH TAXPAYER TO PAY SUCH TAXES ON A QUARTERLY BASIS. THE DEPARTMENT, FOR ANY TAXPAYER WHOSE ESTIMATED ANNUAL LIABILITY FOR TAXES IMPOSED OR ADMINISTERED BY A.R.S. TITLE 42, CHAPTER 5, ARTICLE 1, OR A.R.S. TITLE 42, CHAPTER 6, IS LESS THAN TWO THOUSAND DOLLARS SHALL AUTHORIZE SUCH TAXPAYER TO PAY SUCH TAXES ON AN ANNUAL BASIS.

D. DELINQUENCY DATE: THE TAXES LEVIED UNDER THIS CHAPTER WILL BE CONSIDERED DELINQUENT IN ACCORDANCE WITH A.R.S. SECTION 42-5014, AS FOLLOWS:

1. FOR TAXPAYERS THAT ARE REQUIRED OR ELECT TO FILE AND PAY ELECTRONICALLY IN ANY MONTH, IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE THE LAST BUSINESS DAY OF THE MONTH.

2. FOR ALL OTHER TAXPAYERS, IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF THE MONTH.

DE. Jeopardy Reporting: If the Tax Collector determines that the collection of any tax due to the City is in jeopardy, the Tax Collector may direct the taxpayer to file his return and remit the tax on a weekly, daily, or transaction-by-transaction basis. Such return and remittance shall be due upon the date fixed by the Tax Collector, and the "delinquency date" shall be the following day.

EF. Extensions: The Tax Collector may extend the time for filing a return, for good cause shown, and only when requested in writing and received by the Tax Collector prior to the tax due date. However, the time for filing such return shall not be extended beyond the last business day of the month next succeeding the due date of such return. In such cases, only the penalties for late filing and late payment may be waived by the Tax Collector for filing and payment within the extension period. Notwithstanding the granting of an extension, the interest payable for late payment of taxes shall be paid for the period commencing upon the original delinquency date and ending on the date the tax is paid. The interest may not be waived by the Tax Collector.

(Ord. 1851, 01/03/95) (Revised, Ordinance No. 2006-19, 08/01/2006)

3-05-005-0540 INTEREST AND CIVIL PENALTIES:

A. Any taxpayer who failed to pay any of the taxes imposed by this Chapter which were due or found to be due before the delinquency date shall be subject to and shall pay interest upon such tax, until paid. From and after October 1, 2005, the interest rate shall be determined in the same manner and at the same times as prescribed by Section 6621 of the United States Internal Revenue Code and compounded annually under the method described in Subsection 1 below. The rate of interest for both overpayments and underpayments for all taxpayers is the federal short-term rate, determined pursuant to Section 6621(b) of the Internal Revenue code, plus three percentage points. The interest rate prior to October 1, 2005 shall be one percent (1.0%) per month. Said interest may be neither waived by the Tax Collector nor abated by the Hearing Officer except as it might relate to a tax abated as provided by Section 3-05-005-0570.

1. On January 1 of each year any interest outstanding as of that date that was accrued from and after October 1, 2005 is thereafter considered a part of the principal amount of the tax and accrues interest pursuant to this section.

2. Interest accrued prior to October 1, 2005 shall not be added to the principal.

B. In addition to interest assessed under subsection A. above, any taxpayer who failed to pay any of the taxes imposed by this Chapter which were due or found to be due before the delinquency date shall be subject

to and shall pay any or all of the following civil penalties, in addition to any other penalties prescribed by this Chapter:

1. A taxpayer who fails to timely file a return for a tax imposed by this Chapter shall pay a penalty of five percent (5%) of the tax for each month or fraction of a month elapsing between the delinquency date of the return and the date on which it is filed, unless the taxpayer shows that the failure to timely file is due to reasonable cause and not due to wilful neglect. This penalty shall not exceed twenty-five percent (25%) of the tax due.

2. A taxpayer who fails to pay the tax within the time prescribed shall pay a penalty of ten percent (10%) of the unpaid tax, unless the taxpayer shows that the failure to timely pay is due to reasonable cause and not due to wilful neglect. If the taxpayer is also subject to a penalty under subsection B.1. above for the same period, the total penalties under subsection B.1. and this subsection shall not exceed twenty five percent (25%) of the tax due.

3. A taxpayer who fails or refuses to file a return within thirty (30) days of having received a written notice and demand from the Tax Collector shall pay a penalty of twenty five percent (25%) of the tax, unless the taxpayer shows that the failure is due to reasonable cause and not due to wilful neglect or the Tax Collector agrees to a longer time period.

4. If the cause of a tax deficiency is determined by the Tax Collector to be due to negligence, but without regard for intent to defraud, the taxpayer shall pay a penalty of ten percent (10%) of the amount of deficiency. If the taxpayer is also subject to a penalty under subsection B.1. or B.2. above for the same tax period, the total penalties imposed under subsection B.1., B.2. and this subsection shall not exceed twenty-five percent (25%) of the tax due.

5. If the cause of a tax deficiency is determined by the Tax Collector to be due to civil fraud or evasion of the tax, the taxpayer shall pay a penalty of fifty percent (50%) of the amount of deficiency.

C. Penalties and interest imposed by this Section are due and payable upon notice by the Tax Collector.

D. If, following an audit, penalties attributable to the audit period are to be assessed pursuant to subsection B.1. or B.2. above, the Tax Collector, before assessing such penalties, must take into consideration any information or explanations provided by the taxpayer as to why the return was not timely filed and/or the tax was not timely paid. If such information and/or explanations are provided by the taxpayer, and the Tax Collector ~~never the less~~ **NEVERTHELESS** decides to assess penalties pursuant to subsection B.1. ~~and~~ **OR** B.2. above,

then, at the time the penalties are assessed, the Tax Collector must provide the taxpayer with a detailed written explanation of the basis for the Tax Collector's determination that the information and/or explanations provided by the taxpayer did not constitute reasonable cause.

E. The assessment of the penalties prescribed by subsection B.3. through B.5. above must be approved on a case-by-case basis by the Tax Collector prior to such assessment. In addition, any assessment which includes penalties based upon subsection B.3., B.4., or B.5. above must be accompanied by a statement signed by the Tax Collector setting forth in detail the basis for the Tax Collector's determination that the penalties are warranted under the circumstances.

F. The Tax Collector shall waive or adjust penalties imposed by subsections B.1. and B.2. above upon a finding that:

1. In the past, the taxpayer has consistently filed and paid the taxes imposed by this Chapter in a timely manner; or
2. The amount of the penalty is greatly disproportionate to the amount of the tax; or
3. The failure of a taxpayer to file a return and/or pay any tax by the delinquency date was caused by any of the following circumstances which must occur prior to the delinquency date of the return or payment in question:
 - a. The return was timely filed but was inadvertently forwarded to another taxing jurisdiction.
 - b. Erroneous or insufficient information was furnished the taxpayer by the Tax Collector or his employee or agent.
 - c. Death or serious illness of the taxpayer, member of his immediate family, or the preparer of the reports immediately prior to the due date.
 - d. Unavoidable absence of the taxpayer immediately prior to the due date.
 - e. Destruction, by fire or other casualty, of the taxpayer's place of business or records.
 - f. Prior to the due date, the taxpayer made application for proper forms which could not be furnished in sufficient time to permit a timely filing.

- g. The taxpayer was in the process of pursuing an active protest of the tax in question in another taxing jurisdiction at the time the tax and/or return was due.
- h. The taxpayer establishes through competent evidence that the taxpayer contacted a tax advisor who is competent on the specific tax matter and, after furnishing necessary and relevant information, the taxpayer was incorrectly advised that no tax was owed and/or the filing of a return was not required.
- i. The taxpayer has never been audited by a city for the tax or on the issue in question and relied, in good faith, on a State exemption or interpretation.
- j. The taxpayer can provide some public record (court case, report in a periodical, professional journal or publication, etc.) stating that the transaction is not subject to tax.
- k. The Arizona Department of Revenue, based upon the same facts and circumstances, abated penalties for the same filing period.

A taxpayer may also request a waiver or adjustment of penalty for a reason thought to be equally substantive to those reasons itemized above. All requests for waiver or adjustment of penalty must be in writing and shall contain all pertinent facts and other reliable and substantive evidence to support the request. In all cases, the burden of proof is upon the taxpayer.

G. No request for waiver of penalty under subsection F. above may be granted unless written request for waiver is received by the Tax Collector within forty-five (45) days following the imposition of penalty. Any taxpayer aggrieved by the refusal to grant a waiver under subsection F. above may appeal under the provisions of Section 3-05-005-0570 provided that a petition of appeal or request for an extension is submitted to the Tax Collector within forty-five (45) days of the taxpayer's receipt of notice by the City that waiver has been denied.

H. For the purpose of this Section, "reasonable cause" shall mean that the taxpayer exercised ordinary business care and prudence, i.e., had a reasonable basis for believing that the tax did not apply to the business activity or the storage or use of the taxpayer's tangible personal property in this City.

I. For the purpose of this Section, "negligence" shall be characterized chiefly by inadvertence, thoughtlessness, inattention, or the like, rather than an "honest mistake". Examples of negligence include:

1. The taxpayer's failure to maintain records in accordance with Division 3-05-003 of this Chapter.

2. Repeated failures to timely file returns; or
3. Gross ignorance of the law.

(Ord. 1924, 01/07/97) (Revised, Ordinance No. 2006-19, 08/01/2006)

3-05-005-0541 ERRONEOUS ADVICE OR MISLEADING STATEMENTS BY THE TAX COLLECTOR; ABATEMENT OF PENALTIES AND INTEREST; DEFINITION

A. Notwithstanding Section 3-05-005-0540 A., no interest or penalty may be assessed on an amount assessed as a deficiency if either:

1. The deficiency assessed is directly attributable to erroneous written advice furnished to the taxpayer by an employee of the City acting in an official capacity in response to a specific request from the taxpayer and not from the taxpayer's failure to provide adequate or accurate information.
2. All of the following are true:
 - a. A tax return form prepared by the Tax Collector contains a statement that, if followed by a taxpayer, would cause the taxpayer to misapply this Chapter.
 - b. The taxpayer reasonably relies on the statement.
 - c. The taxpayer's underpayment directly results from this reliance.

B. Each employee of the Tax Collector, at the time any oral advice is given to any person, shall inform the person that the Tax Collector is not bound by such oral advice.

C. For purposes of this Section "tax return form" includes the instructions that the Tax Collector prepares for use with the tax return form.

(Ord. 1924, 01/07/97)

3-05-005-0542 PROSPECTIVE APPLICATION OF NEW LAW OR INTERPRETATION OR APPLICATION OF LAW

A. Unless expressly authorized by law, the tax collector shall not apply any newly enacted legislation retroactively or in a manner that will penalize a taxpayer for complying with prior law.

B. If the tax collector adopts a new interpretation or application of any provision of this chapter or determines that any provision applies to a new or additional category or type of business and the change in interpretation or application is not due to a change in the law:

(1) The change in interpretation or application applies prospectively only unless it is favorable to taxpayers.

(2) The tax collector shall not assess any tax, penalty or interest retroactively based on the change in interpretation or application.

C. For purposes of subsection Subsection B, "New Interpretation or Application" includes policies and procedures which differ from established interpretations of this chapter.

D. Reserved.

(Ord. No. 2004-25, Amended, 01/10/05); (Amended, Ordinance No. 2006-19, 08/01/2006)

3-05-005-0545 DEFICIENCIES; WHEN INACCURATE RETURN IS FILED; WHEN NO RETURN IS FILED; ESTIMATES:

A. If the taxpayer has failed to file a return, or if the Tax Collector is not satisfied with the return and payment of the amount of tax required, and additional taxes are determined by the Tax Collector to be due, the Tax Collector shall deliver written notice of his determination of a deficiency to the taxpayer, and such deficiency, plus penalties and interest, shall be due and payable forty-five (45) days after receipt of the notice and demand. Such additional taxes shall bear any applicable civil penalties and interest as provided in Section 3-05-005-0540, and every such notice of a determination of an additional amount due shall be assessed within the limitation period provided in Section 3-05-005-0550.

1. When a return is filed. If the Tax Collector is not satisfied with a return and payment of the amount of tax required by this Chapter to be paid to the City, he may examine the return or examine the records of the taxpayer, and redetermine the amount of tax, penalties, and interest required to be paid, for any periods available to the Tax Collector under Section 3-05-005-0550, based upon the information contained in the return or records or based upon any information within his possession or which comes into his possession.

2. When no return is filed. If any person fails to make a return, the Tax Collector may make an estimate of the amount of tax due under this Chapter and compute any applicable penalties and interest due, based upon any information within his possession or which comes into his possession.

B. Estimates by the Tax Collector. Any estimate made by the Tax Collector is to be made on a reasonable basis. The existence of another reasonable basis of estimation does not, in any way, invalidate the Tax Collector's estimate. It is the responsibility of the taxpayer to prove that the Tax Collector's estimate is not reasonable and correct, by providing sufficient documentation of the type and form required by this chapter or satisfactory to the Tax Collector.

(Ord. 1491, 06/16/1987)

3-05-005-0546 CLOSING AGREEMENTS IN CASES OF EXTENSIVE TAXPAYER MISUNDERSTANDING OR MISAPPLICATION; CITY ATTORNEY APPROVAL; RULES:

A. If the Tax Collector determines that noncompliance with tax obligations results from extensive misunderstanding or misapplication of provisions of this Chapter it may enter into closing agreements with those taxpayers under the following terms and conditions:

1. Extensive misunderstanding or misapplication of the tax laws occurs if the Tax Collector determines that more than sixty percent (60%) of the persons in the affected class have failed to properly account for their taxes owing to the same misunderstanding or misapplication of the tax laws.
2. The Tax Collector shall publicly declare the nature of the possible misapplication and the proposed definition of the class of affected taxpayers and shall conduct a public hearing to hear testimony regarding the extent of the misapplication and the definition of the affected class.
3. If, after the public hearing, the Tax Collector determines that a class of affected taxpayers has failed to comply with their tax obligations because of extensive misunderstanding or misapplication of the tax laws it shall issue a tax ruling announcing that finding and publish the ruling in a newspaper of general circulation in the City and through the next two model city tax code updates.
4. A closing agreement under this Section may abate some or all of the penalties, interest and tax that taxpayers have failed to remit, or the agreement may provide for the prospective treatment of the matter as to the class of affected taxpayers. All taxpayers in the class shall be offered the opportunity to enter into a similar agreement for the same tax periods.

5. Taxpayers in the affected class who have properly accounted for their tax obligations for these tax periods shall be offered the opportunity to enter into an equivalent closing agreement providing for a pro rata credit or refund of their taxes previously paid.

6. The closing agreement shall require the taxpayers to properly account for and pay such taxes in the future. If a taxpayer fails to adhere to such a requirement, the closing agreement is voidable by the Tax Collector and he may assess the taxpayer for the delinquent taxes. The Tax Collector may issue such a proposed assessment within six months after the date that he declares that closing agreement void or within the period prescribed by section 3-05-005-0550 of this Chapter.

B. Before entering into closing agreements pursuant to this Section, the Tax Collector shall secure such approval as required by charter, ordinance or administrative regulation.

C. After a closing agreement has been signed pursuant to this Section, it is final and conclusive except on a showing of fraud, malfeasance or misrepresentation of a material fact. The case shall not be reopened as to the matters agreed upon or the agreement shall not be modified by any officer, employee or agent of the City. The agreement or any determination, assessment, collection, payment abatement, refund or credit made pursuant to the agreement shall not be annulled, modified, set aside or disregarded in any suit, action or proceeding.

D. The Tax Collector shall report in writing its activities under this Section to the Mayor and City Council on or before February 1 of each year.

(Ord. 1924, 01/07/97)

3-05-005-0550 LIMITATION PERIODS:

A. Limitation when a return has been filed:

1. Except as provided elsewhere in this Section, the Tax Collector may assess additional tax due at any time within four (4) years after the date on which the return is required to be filed, or within four (4) years after the date on which the return is filed, whichever period expires later.

2. However, if a taxpayer does not report an amount properly reportable which is in excess of twenty-five percent (25%) of the taxable amount stated on the return, the Tax Collector may assess additional tax due at any time within six (6) years after the date on which the return was filed.

3. Any delay in commencement or completion of any examination by the Tax Collector, which is requested or agreed to in writing by the taxpayer, shall be excluded from the computation of any limitation period prescribed by this Section, and the Tax Collector shall be entitled to make a determination for taxes due without exclusion of any such time period, and any limitation period shall be extended for a length of time equivalent to the period of the agreed upon delay.

4. Any assessment of additional tax due by the Tax Collector shall be deemed to have been made by mailing a copy of a notice of audit assessment by certified mail to the taxpayer's address of record with the Tax Collector or by personal delivery of a copy of a notice of audit assessment to the taxpayer or his authorized agent.

B. Suspension of Limitation Period: The limitation period on assessment shall be suspended for any period:

1. The assets of the taxpayer are in the control or custody of the court in any proceeding before any court of jurisdiction within the United States of America, and for one hundred eighty (180) calendar days thereafter; or

2. Which the taxpayer and the Tax Collector agree upon in writing.

C. When No Return Filed; Fraudulent Return: In the case of a fraudulent return with the intent to evade tax, or the failure or refusal to file a return for any month, the Tax Collector may assess the amount of taxes payable for that month at any time, without any reliance by the taxpayer upon any time limitation provided elsewhere in this Chapter.

D. Special Provisions Relating to Owner-Builders: The limitation for an owner-builder subject to the tax as prescribed in Section 3-05-004-0417 shall be based upon the date such tax liability is reportable or was reported, as provided in Section 3-05-004-0417.

(Ord. 1924, 01/07/97)

3-05-005-0553 EXAMINATION OF TAXPAYER RECORDS; JOINT AUDITS

A. Waiver of joint audit. A taxpayer that does not authorize a joint audit to be conducted for a tax jurisdiction is subject to audit by that tax jurisdiction at any time subject to the limitation provisions provided in Section 03-05-005-0550.

B. Tax jurisdiction acceptance of joint audit. If the Arizona Department of Revenue intends to conduct an audit of a taxpayer, the cities or towns for whom a joint audit is being conducted may accept the audit by the Arizona Department of Revenue or may elect to have a representative participate, provided that no more than two city or town representatives in total may participate.

(1) If a city or town does not accept the audit as a joint audit, the city or town may not conduct an audit of the taxpayer for forty-two months from the close of the last tax period covered by the audit unless an exception applies to that taxpayer pursuant to A.R.S. Section 42-2059.

(2) If a joint audit is performed by a city or town, the Arizona Department of Revenue is not prohibited from conducting an audit that does not violate the provisions of A.R.S. Section 42-2059.

(Ord. No. 2004-25, Amended, 01/10/05)

**3-05-005-0555 TAX COLLECTOR MAY EXAMINE BOOKS AND OTHER RECORDS;
FAILURE TO PROVIDE RECORDS:**

A. The Tax Collector may require the taxpayer to provide and may examine any books, records, or other documents of any person who, in the opinion of the Tax Collector, might be liable for any tax under this Chapter, for any periods available to him under Section 3-05-005-0550.

B. In order to perform any examination authorized by this Chapter, the Tax Collector may issue an administrative request for the attendance of witnesses or for the production of documents, as provided by regulation.

C. If within sixty (60) days of receiving a written request for information in the possession of the taxpayer, the taxpayer fails or refuses to furnish the requested information the Tax Collector may, in addition to penalties prescribed under Section 3-05-005-0540, impose an additional penalty of twenty-five percent (25%) of the amount of any tax deficiency which is attributable to the information which the taxpayer failed to provide, unless the taxpayer shows that the failure is due to reasonable cause and not due to wilful neglect.

D. The Tax Collector may use any generally accepted auditing procedures, including sampling techniques, to determine the correct tax liability of any taxpayer. The Tax Collector shall ensure that the procedures used are in accordance with generally accepted auditing standards.

E. The fact that the taxpayer has not maintained or provided such books and records which the Tax Collector considers necessary to determine the tax liability of any person does not preclude the Tax Collector from

making any assessment. In such cases, the Tax Collector is authorized to use estimates, projections, or samplings, to determine the correct tax. The provisions of Section 3-05-005-0545 B., concerning estimates, shall apply.

F. The Tax Collector shall give the taxpayer written notice of his determination of a deficiency by certified mail to the taxpayer's address of record with the Tax Collector, and the tax deficiency, plus interest and penalties, is final forty-five (45) days from the date of receipt of the notice by the taxpayer, unless an appeal is taken pursuant to the provisions of Section 3-05-005-0570 through 3-05-005-0575.

(Ord. 1924, 01/07/97)

3-05-005-0556 NO ADDITIONAL AUDITS OR PROPOSED ASSESSMENTS; EXCEPTIONS:

(a) Once the Tax Collector completes an examination authorized by Section ~~3-5-555~~ 3-05-005-555 and a written notice of the determination of a deficiency has been issued to the taxpayer pursuant to Section ~~3-5-545(a) or 3-5-555(f)~~ 3-05-005-0545(A) OR 3-05-005-0555(F), the taxpayer's liability for the time period subjected to the examination is fixed and determined, and no additional audit or examination may be conducted by the Tax Collector with respect to such time period except under the following circumstances.

(1) if a taxpayer files a claim for refund under Section ~~3-5-560~~ 3-05-005-0560, the Tax Collector may conduct an examination limited to the issues presented in the refund claim.

(2) if the taxpayer failed to disclose material information during the initial examination, falsified books or records, or otherwise engaged in conduct which prevented the Tax Collector from conducting an accurate examination. The applicability of this subsection, and the Tax Collector's right to proceed thereunder, may be raised and contested by the taxpayer in a subsequent administrative review brought pursuant to Section ~~3-5-570~~ 3-05-005-0570.

(b) An audit or examination conducted by any other taxing jurisdiction will not preclude the Tax Collector from conducting an audit or examination for the same time period.

(c) If the Tax Collector issues a notice of deficiency pursuant to either Section ~~3-5-545(a)~~ 3-05-005-0545(A) or Section ~~3-5-555(f)~~ 3-05-005-0555(F), the Tax Collector may not increase the proposed deficiency except in one or more of the following circumstances:

(1) the taxpayer made a material misrepresentation of fact.

- (2) the taxpayer failed to disclose a material fact.
- (3) the Tax Collector submitted a written request for information prior to issuance of the assessment, and the taxpayer, despite possessing or having access to such information, failed to provide it within 60 days as required by Section ~~3-5-555(e)~~ [3-05-005-0555\(C\)](#).
- (4) after issuing the notice of determination of deficiency but before the deficiency became final, the Arizona Tax Court, Court of Appeals or Supreme Court issued a decision, the applicability of which causes the deficiency initially proposed to increase.

(Ord. 1924, 01/07/97; Ord. 1979, 10/06/98); (Ord. No. 1979, Amended, 10/06/98)

3-05-005-0560 ERRONEOUS PAYMENT OF TAX; CREDITS AND REFUNDS; LIMITATIONS

A. The Tax Collector may authorize either credits or payments of refunds for any taxes, penalties or interest paid in excess of the amount actually due. Any credit authorized by the Tax Collector shall be cancelled from the accounts of the City if no timely filed request for credit or refund is made by the claimant claiming same within one [\(1\)](#) year following the date of determination and notice by the Tax Collector of the excess payment. For purposes of this section, "claimant" means a taxpayer that has paid a tax imposed under this **article** [DIVISION](#) and has submitted a credit or refund claim under this Section. Except where the taxpayer has granted a customer a power of attorney to pursue a credit or refund claim on the taxpayer's behalf, claimant does not include any customer of such taxpayer, whether or not the claimant collected the tax from customers by separately stated itemization.

B. No credit shall be allowed or refund paid except under one of the following conditions:

1. As provided in Section [3-05-005-0565](#).
2. Upon examination of filed returns for any period not excluded by Section [3-05-005-0550](#), and not to exceed the tax, penalty, or interest actually paid with such returns.
3. Upon audit or other examination of the books and records of the taxpayer, but only for periods as provided in Section [3-05-005-0550](#). In the case of an examination performed at the taxpayer's request, credit shall be allowed or refund paid only for any excess taxes, penalties, or interest taxes actually paid within the limitation period provided in Section [3-05-005-0550](#), such period to be calculated from the date of receipt of the taxpayer's request by the Tax Collector. Requests by taxpayers for audits to

authorize credits shall be honored unless, in the opinion of the Tax Collector, the taxpayer has made excessive requests for audits.

4. Upon the claimant's submission of a written claim for credit or refund of any taxes, penalties, or interest paid to the City by the claimant.

C. A credit or refund claim submitted by a claimant pursuant to subsection ~~(b)(4)~~ [B.4.](#) of this section must:

1. Identify the name, address and city tax identification number of the taxpayer; and
2. Identify the dollar amount of the credit or refund requested; and
3. Identify the specific tax period involved; and
4. Identify the specific grounds upon which the claim is based.

D. When a written claim for credit or refund is submitted pursuant to subsection ~~(b)(4)~~ [B.4.](#) of this section, no credit shall be allowed or refund paid except for those taxes, penalties, or interest paid in excess of the amount due within the limitation period provided in Section ~~3-5-550~~ [3-05-005-0550](#). The credit or refund limitation period shall be calculated from the date the Tax Collector receives the claimant's written claim meeting the requirements of subsection ~~(e)~~ [C](#) of this Section.

E. The following additional requirements apply to the Tax Collector and the claimant for claims for credit or refund submitted pursuant to subsection ~~(b)(4)~~ [B.4.](#) of this Section:

1. The Tax Collector shall notify the claimant that the claim for credit or refund has been received and shall indicate whether the claim meets the requirements of subsection ~~(e)~~ [C](#) of this Section. If the claim does not meet the requirements of subsection ~~(e)~~ [C](#) of this Section, the Tax Collector shall identify the deficiency in writing. Any claim that does not meet the requirements of subsection ~~(e)~~ [C](#) of this Section shall not secure the limitation period pursuant to Section ~~3-5-550~~ [3-05-005-0550](#).
2. The Tax Collector may request, in writing, additional information or documentation from the claimant to support the requested credit or refund. Such information or documentation must be reasonably related to the claim and required to be maintained under this Chapter in the normal course of business.

a. The claimant may request in writing one or more extensions to supply the requested information or documentation. The Tax Collector may reject an extension request only by denying the claim in whole or in part, subject to appeal by the claimant pursuant to Section ~~3-5-570~~ [3-05-005-0570](#).

b. A claimant aggrieved by a request for information or documentation under this subsection may file an appeal in the manner provided for in Section ~~3-5-570~~ [3-05-005-0570](#) regarding the scope of the request for information or documentation. Such petition must be filed no later than the last day by which requested information or documentation must be provided to the Tax Collector, including any extensions. The decision of the Hearing Officer regarding a request for information or documentation may not be appealed by either party until the claim has been approved or denied, in whole or in part, under subsection ~~(h)~~ [H](#) of this Section or through subsections ~~(e)(3)~~ [E.3.](#) or ~~(e)(4)~~ [E.4.](#) of this Section. A claimant shall not be barred from raising the issue of the reasonableness of the Tax Collector's information or documentation request in an appeal filed under subsection ~~(h)~~ [H](#) of this Section or through subsections ~~(e)(3)~~ [E.3.](#) or ~~(e)(4)~~ [E.4.](#) of this Section through a lack of filing a petition under this subsection.

3. If the Tax Collector fails to request additional information or documentation pursuant to this Section and fails to issue a determination on any claim for credit or refund within six (6) months after the claim is filed, the claimant may consider the claim denied and may file an appeal pursuant to Section ~~3-5-570~~ [3-05-005-0570](#).

4. If the Tax Collector fails to issue a determination within six (6) months of receiving all requested additional information or documentation, the claimant may consider the claim for credit or refund denied and may file an appeal pursuant to Section ~~3-5-570~~ [3-05-005-0570](#).

5. The burden of proof to show that a notice, request, determination or other communication was received by the Claimant in this Section is on the Tax Collector, and will be satisfied by receipt of notice. The burden of proof to show that a claim or additional information or documentation was received by the Tax Collector is on the claimant and will be satisfied by receipt of notice.

F. Interest shall be allowed on the overpayment of tax for any credit or refund authorized pursuant to subsections ~~(b)(3) or (b)(4)~~ of this Section at the rate and in the manner set forth in Section ~~3-5-540(a)~~ as follows: [3-05-005-0540\(A\)](#). **INTEREST SHALL BE CALCULATED FROM THE DATE THE TAX COLLECTOR**

RECEIVES THE CLAIMANT'S WRITTEN CLAIM MEETING THE REQUIREMENTS OF SUBSECTION C OF THIS SECTION.

~~1.—For credits or refunds authorized pursuant to subsection (b)(3) of this Section, interest shall be calculated from the date the Tax Collector receives the claimant's written claim following the date of notice to the claimant authorizing the credit or refund.~~

~~2.—For credits or refunds authorized pursuant to subsection (b)(4) of this Section, interest shall be calculated from the date the Tax Collector receives the claimant's written claim meeting the requirements of subsection (c) of this Section.~~

G. The Tax Collector shall give the claimant a written notice of determination for a claim made under subsection ~~(b)~~ B of this Section. If the determination is a denial of a claim, in whole or in part, the determination must state that the claim for credit or refund has been denied in whole or in part, with the reason for denial, and must include the claimant's rights of appeal pursuant to Section ~~3-5-570~~ 3-05-005-0570.

H. A determination by the Tax Collector under this section, whether an approval of a claim or a denial of a claim, in whole or in part, shall become final forty-five (45) days from the date of receipt of the notice by the claimant, unless an appeal is made pursuant to Section 3-05-005-0570. If the claimant is the prevailing party in an appeal of a determination under this section, Section 3-05-005-0578 shall apply, except that reasonable fees and other costs may be awarded either by the Hearing Officer or court and are not subject to the monetary limitations of ~~Section~~ SUBSECTION 3-05-005-0578(E) if the Tax Collector's position was not substantially justified or was brought for the purpose of harassing the claimant, frustrating the credit or refund process or delaying the credit or refund. For the purposes of this section, "reasonable fees and other costs" means fees and other costs that are based on prevailing market rates for the kind and quality of the furnished services, not to exceed the amounts actually paid for expert witnesses, the cost of any study, analysis, report, test, project or computer program that is found to be necessary to prepare the claimant's case and necessary fees for attorneys or other representatives.

I. The amendments to this section as enacted in Ordinance No. 2006-19 shall be effective as follows:

1. For any claim for refund or credit received by the Tax Collector before October 1, 2005,
 - a. The provisions of this section as it existed prior to the adoption of Ordinance No. 2006-19 shall apply, except that interest shall be allowed from and after October 1, 2005 as provided in subsection ~~(F)~~ of this section as enacted by Ordinance No. 2006-19.

b. Except as noted in subsection ~~(1)(1)(a)~~ of this section [I.1.A. ABOVE](#), the amendments to this section as enacted in Ordinance No. 2006-19 shall not be cited or considered in the construction or the interpretation of the City tax refund or credit provisions, interest provisions, or appeal provisions in effect prior to October 1, 2005.

2. The provisions of this section enacted by Ordinance No. 2006-19 shall apply to all claims for refund or credit, for any periods as determined by subsection ~~(D)~~ or ~~(E)~~ of this section, received by the Tax Collector from and after October 1, 2005, except for claims that, in whole or in part, had been received by the Tax Collector prior to October 1, 2005.

J. Any refund paid under the provisions of this section shall be paid from the Privilege Tax revenue accounts.

(Ord. 1924, 01/07/1997; Ord. 2006-18, Amended, 08/01/2006)

3-05-005-0565 PAYMENT OF TAX BY THE INCORRECT TAXPAYER OR TO THE INCORRECT ARIZONA CITY OR TOWN:

A. When it is determined that taxes have been reported and paid to the City by the wrong taxpayer, any taxes erroneously paid shall be transferred by the City to the privilege tax account of the person who actually owes and should have paid such taxes; provided, that the City receives an assignment and waiver signed by both the person who actually paid the tax and the person who should have paid the tax.

B. An assignment and waiver provided under this section must:

1. Identify the name and City privilege license number of the person who erroneously paid the tax and the person who should have paid the tax.
2. Provide that the person who erroneously paid the tax waives any right such person may have to a refund of the taxes erroneously paid.
3. Authorize the City Treasurer to transfer the erroneously paid tax to the privilege tax account of the person who should have paid the tax.

C. When it is determined that taxes have been reported and paid to the wrong Arizona city or town, such taxes shall be remitted to the correct city or town, provided that the city or town to whom the taxes were erroneously paid receives an assignment and waiver signed by both the person who actually paid the tax and the person who should have paid the tax. Where the person who actually paid the tax and the person who

should have paid the tax are one and the same, no assignment and waiver need be provided. The City shall neither pay nor charge any interest or penalty on any overpayment or underpayment except such interest and penalty actually paid by the taxpayer relating to such tax.

D. This section in no way limits or restricts the applicability of any remedies which may otherwise be available under A.R.S. Section 42-6003. The limitations and procedures set forth in A.R.S. Section 42-6003 shall apply to all payments under this section.

E. When reference is made in this section to this City or an Arizona city or town, and payments made to or requested from this City or an Arizona city or town, the provisions shall be applicable to the Arizona Department of Revenue when it is acting for or on behalf of this City or an Arizona city or town.

(Ord. 1924, 01/07/1997; Ord. 2007-28, Amended, 05/01/2007)

3-05-005-0567 RESERVED:

3-05-005-0570 ADMINISTRATIVE REVIEW; PETITION FOR HEARING OR FOR REDETERMINATION; FINALITY OF ORDER

For the purposes of this section, "Municipal Tax Hearing Office" means the administrative offices of the Municipal Tax Hearing Officer.

A. Informal Conference. A taxpayer shall have the right to discuss any proposed assessment with the auditor prior to the issuance of any assessment, but any such informal conference is not required for the taxpayer to file a petition for administrative review.

B. Administrative Review.

1. Filing a Petition. Other than in the case of a jeopardy assessment, a taxpayer may contest the applicability or amount of any tax, penalty, or interest imposed upon or paid by him pursuant to this chapter by filing a petition for a hearing or for redetermination with the Tax Collector as set forth below:

a. Within forty-five (45) days of receipt by the taxpayer of notice of a determination by the Tax Collector that a tax, penalty, or interest amount is due, or that a request for refund or credit has been denied; or

b. By voluntary payment of any contested amount when accompanied by a timely filed return and a petition requesting a refund of the protested portion of said payment; or

c. By petition accompanying a timely filed return contesting an amount reported but not paid;
or

d. By petition requesting review of denial of waiver of penalty as provided in Section 3-05-005-0540(G).

2. Extension to file a petition. In all cases, the taxpayer may request an extension from the Tax Collector. Such request must be in writing, state the reasons for the requested delay and must be filed with the Tax Collector within the period allowed above for originally filing a petition. The Tax Collector shall allow a forty-five (45) day extension to file a petition, when such written request has been properly and timely made by the taxpayer. The Tax Collector may grant an additional extension and may determine the corresponding time of any such extension at his sole discretion.

3. Requirements for petition.

a. The petition shall be in writing and shall set forth the reasons why any correction, abatement, or refund should be granted, and the amount of reduction or refund requested. The petition may be amended at any time prior to the time the taxpayer rests his case at the hearing or such time as the Hearing Officer allows for submitting of amendments in cases of redeterminations without hearings. The Hearing Officer may require that amendments be in writing, and in that case, he shall provide a reasonable period of time to file the amendment. The Hearing Officer shall provide a reasonable period of time for the Tax Collector to review and respond to the petition and to any written amendments.

b. The taxpayer, as part of the petition, may request a hearing which shall be granted by the Hearing Officer. If no request for hearing is made the petition shall be considered to be submitted for decision by the Hearing Officer on the matters contained in the petition and in any reply made by the Tax Collector.

~~dC~~. The provisions of this section are exclusive, and no petition seeking any correction, abatement, or refund shall be considered unless the petition is timely and properly filed under this Section.

4. Transmittal to Hearing Officer. The city TOWN shall designate a Hearing Officer, who may be other than an employee of the City. The Tax Collector, if designated to receive petitions, shall forward any petition to the Municipal Tax Hearing ~~Office (MTHO)~~ OFFICER within twenty (20) days after receipt,

accompanied by documentation as to timeliness. In cases where the Hearing Officer determines that the petition is not timely or not in proper form, he shall notify both the taxpayer and the Tax Collector; and in cases of petitions not in proper form only, the Hearing Officer shall provide the taxpayer with an extension up to forty-five (45) days to correct the petition.

5. Hearings shall be conducted by a Hearing Officer and shall be continuous until the Hearing Officer closes the record. The taxpayer may be heard in person or by his authorized representative at such hearing. Hearings shall be conducted informally as to the order of proceeding and presentation of evidence. The Hearing Officer shall admit evidence over hearsay objections where the offered evidence has substantial probative value and reliability. Further, copies of records and documents prepared in the ordinary course of business may be admitted, without objection as to foundation, but subject to argument as to weight, admissibility, and authenticity. Summary accounting records may be admitted subject to satisfactory proof of the reliability of the summaries. In all cases, the decision of the Hearing Officer shall be made solely upon substantial and reliable evidence. All expenses incurred in the hearing shall be paid by the party incurring the same.

6. Redeterminations upon a "petition for redetermination" shall follow the same conditions, except that no oral hearing shall be held.

7. Hearing Ruling. In either case, the Hearing Officer shall issue his ruling not later than forty-five (45) days after the close of the record by the Hearing Officer.

8. Notice of Refund or Adjusted Assessment. Within sixty (60) days of the issuance of the Hearing Officer's decision, the Tax Collector shall issue to the taxpayer either a notice of refund or an adjusted assessment recalculated to conform to the Hearing Officer's decision.

C. Stipulations that future tax is also protested. A taxpayer may enter into a stipulation with the Tax Collector that future taxes of similar nature are also at issue in any protest or appeal. However, unless such stipulation is made, it is presumed that the protest or appeal deals solely and exclusively with the tax specifically protested and no other. When a taxpayer enters into such a stipulation with the Tax Collector that future taxes of similar nature will be included in any redetermination, hearing, or court case, it is the burden of that taxpayer to identify, segregate, and keep record of such income or protested taxable amount in his books and records in the same manner as the taxpayer is required to segregate exempt income.

D. When an assessment is final.

1. If a request for administrative review and petition for hearing or redetermination of an assessment made by the Tax Collector is not filed within the period required by subsection (b) above, such person shall be deemed to have waived and abandoned the right to question the amount determined to be due and any tax, interest, or penalty determined to be due shall be final as provided in subsections ~~3-5-545(a) and 3-5-555(f)~~ [3-05-005-0545\(A\)](#) AND [3-05-05-0555\(F\)](#).

2. The decision made by the Hearing Officer upon administrative review by hearing or redetermination shall become final thirty (30) days after the taxpayer receives the notice of refund or adjusted assessment required by subsection (b)(8) above, unless the taxpayer appeals the order or decision in the manner provided in Section ~~3-5-575~~ [3-05-005-0575](#).

~~E. Reserved~~

[E. TAXPAYERS SHALL BE SUBJECT TO THE STATE TAXPAYER BILL OF RIGHTS \(A.R.S. SECTION 42-2051 ET. SEQ.\)](#).

(Ord. 1924, 01/07/97; Ord. 1979, 10/06/98); (Ord. No. 1979, Amended, 10/06/98) (Ord. 2000-29, Amended, 11/21/00) (Ord. 2001-04, Amended, 01/16/2001; Ord. 2000-29, Amended, 11/21/2000; Ord. 2008, Amended, 11/02/1999); (Ord. No. 2004-25, Amended, 01/10/05; Ord. 2009-16, Amended, 06/16/09)

[3-05-005-0571 JEOPARDY ASSESSMENTS \(REG. 571.1\)](#)

[SEE ALSO REGULATION 3-5-571.1.](#)

A. If the Tax Collector believes that the collection of any assessment or deficiency of any amounts imposed by this Chapter will be jeopardized by delay, he shall deliver to the taxpayer a notice of such finding and demand immediate payment of the tax or deficiency declared to be in jeopardy, including interest, penalties, and additions.

B. Jeopardy assessments are immediately due and payable, and the Tax Collector may immediately begin proceedings for collection. The taxpayer, however, may stay collection by filing, within ten (10) days after receipt of notice of jeopardy assessment, or within such additional time as the Tax Collector may allow, by bond or collateral in favor of the City in the amount Tax Collector declared to be in jeopardy in his notice.

C. "Bond or Collateral", as required by this Section,

1. Shall mean either:

- a. A bond issued in favor of the City by a surety company authorized to transact business in this State and approved by the Director of Insurance as to solvency and responsibility, or
- b. Collateral composed of securities or cash which are deposited with, and kept in the custody of, the Tax Collector.

2. Shall be of such form that it may, at any time without notice, be applied to any tax, penalties, or interest due and payable for the purposes of this Chapter. Securities held as collateral by the Tax Collector must be of a nature that they may be sold at public or private sale without notice to the taxpayer.

D. If bond or collateral is not filed within the period prescribed by subsection B. above, the tax collector may treat the assessment as final for purposes of any collection proceedings. The taxpayer nevertheless shall be afforded the appeal rights provided in Sections 3-05-005-0570 and 3-05-005-0575. The filing of a petition by the taxpayer under Section 3-05-005-0570, however, shall not stay the tax collector's rights to pursue any collection proceedings.

E. If the taxpayer timely files sufficient bond or collateral, the jeopardy requirements are deemed satisfied, and the taxpayer may avail himself of the provisions of Section 3-05-005-0570, including requests for additional time to file a petition.

(Ord. 1593, 12/06/88)

3-05-005-0572 EXPEDITED REVIEW OF JEOPARDY ASSESSMENTS:

A. Within thirty (30) days after the day on which the Tax Collector furnishes the written notice required by Section 3-05-005-0571 A., the taxpayer, pursuant to Section 3-05-005-0570, may request the Tax Collector to review the action taken. Within fifteen (15) days after the request for review, the Tax Collector shall determine whether both the jeopardy determination and the amount assessed are reasonable.

B. Within thirty (30) days after the Tax Collector notifies the taxpayer of the determination he reached pursuant to subsection A. above, the taxpayer may bring a civil action in the appropriate court. If the taxpayer so requests, the City shall stipulate to an accelerated and expedited resolution of the civil action. If the court determines that either the jeopardy determination or the amount assessed is unreasonable, the court may order the Tax Collector to abate the assessment, to redetermine any part of the amount assessed or to take such other action as the court finds to be appropriate. A determination made by the court under this subsection is final except as provided in Arizona Revised Statutes Section 12-170.

(Ord. 1924, 01/07/97)

3-05-005-0575 JUDICIAL REVIEW:

(a) A taxpayer may seek judicial review of all or any part of a Hearing Officer's decision by initiating an action against the City in the appropriate court of this County. A taxpayer is not required to pay any tax, penalty, or interest upheld by the Hearing Officer before seeking such judicial review.

(b) The Tax Collector may seek judicial review of all or any part of a Hearing Officer's decision by initiating an action in the appropriate court of this County.

(c) An action for judicial review cannot be commenced by either the taxpayer or the Tax Collector more than thirty (30) days after receipt by the taxpayer of notice of any refund or assessment recalculated or reduced to conform to the Hearing Officer's decision, unless the time to commence such an action is extended in writing signed by both the taxpayer and the Tax Collector. Failure to bring the action within thirty (30) days or such other time as is agreed upon in writing shall constitute a waiver of any right to judicial review, except as provided in subsection ~~F~~. [G](#) below.

(d) The court shall hear and determine the appeal as a trial de novo; however, the Tax Collector cannot raise in the court any grounds or basis for the assessment not asserted before the Hearing Officer. Nothing in this subsection, however, shall preclude the Tax Collector from responding to any arguments which are raised by the taxpayer in the appeal.

(e) The City has the burden of proof by a preponderance of the evidence in any court proceeding regarding any factual issue relevant to ascertaining the tax liability of a taxpayer. This subsection does not abrogate any requirements of this chapter that requires a taxpayer to substantiate an item of gross income, exclusion, exemption, deduction, or credit. This subsection applies to a factual issue if a preponderance of the evidence demonstrates that:

(1) The taxpayer asserts a reasonable dispute regarding the issue.

(2) The taxpayer has fully cooperated with the Tax Collector regarding the issue, including providing within a reasonable period of time, access to and inspection of all witnesses, information and documents within the taxpayer's control, as reasonable requested by the Tax Collector.

(3) The taxpayer has kept and maintained records as required by the City.

(f) The issuance of an adjusted or corrected assessment or notice of refund due to the taxpayer, where made by the Tax Collector pursuant to the decision of the Hearing Officer, shall not be deemed an acquiescence by the City or the Tax Collector in said decision, nor shall it constitute a bar or estoppel to the institution of an action or counterclaim by the City to recover any amounts claimed to be due to it by virtue of the original assessment.

(g) After the initiation of any action in the appropriate court by either party, the opposite party may file such counterclaim as would be allowed pursuant to the Arizona Rules of Civil Procedure.

(Ord. 1924, 01/07/97)

(Ord. 2008, Amended, 11/02/1999)

3-05-005-0577 REFUNDS OF TAXES PAID UNDER PROTEST:

In the event the Hearing Officer's decision or a final judgment by the court is rendered in favor of the taxpayer to recover protested taxes, it shall be the duty of the Tax Collector, upon receipt of such decision or of a certified copy of such final judgment, to authorize a warrant in favor of the taxpayer in an amount equal to the amount of the tax found by such decision or by the final judgment to have been paid under protest, and such warrant shall include the amount of interest or other cost that may have been recovered against the city by the final judgment in such action in the courts, to be paid from the privilege tax revenue accounts.

3-05-005-0578 REIMBURSEMENT OF FEES AND OTHER COSTS; DEFINITIONS:

A. A taxpayer who is a prevailing party may be reimbursed for reasonable fees and other costs related to any administrative proceeding brought by the taxpayer pursuant to Section 3-05-005-0570 B. For purposes of this Section, a taxpayer is considered to be the prevailing party only if both of the following are true:

1. The Tax Collector's position was not substantially justified.
2. The taxpayer prevails as to the most significant issue or set of issues.

B. Reimbursement under this Section may be denied if any of the following circumstances apply:

1. During the course of the proceeding the taxpayer unduly and unreasonably protracted the final resolution of the matter.
2. The reason that the taxpayer prevailed is due to an intervening change in the applicable law.

C. The taxpayer shall present an itemization of the reasonable fees and other costs to the Taxpayer Problem Resolution Officer within thirty (30) days after receipt by the taxpayer of a notice of refund or recalculated assessment issued by the Tax Collector pursuant to Section 3-05-005-0570 B.8. The Taxpayer Problem Resolution Officer shall determine the validity of the fees and other costs within thirty (30) days after receiving the itemization. The Taxpayer Problem Resolution Officer's decision is considered a final decision. Either the taxpayer or the Tax Collector may seek judicial review of the Taxpayer Problem Resolution Officer's decision. An action for judicial review, however, shall not be commenced more than thirty (30) days after receipt of the resolution officer's decision.

D. In the event judicial review is not sought pursuant to subsection C. above, the City shall pay the fees and other costs awarded as provided in this Section within thirty days after demand by a person who has received an award pursuant to this Section.

E. Reimbursement to a taxpayer under this Section shall not exceed twenty thousand dollars or actual monies spent, whichever is less. The reimbursable attorney or representative fees shall not exceed one hundred dollars per hour or actual monies spent, whichever is less, unless the Taxpayer Problem Resolution Officer determines that an increase in the cost of living or a special factor such as the limited availability of qualified attorneys or representatives for the proceeding involved justifies a higher fee.

F. For purposes of this Section "reasonable fees and other costs" means fees and other costs that are based on prevailing market rates for the kind and quality of the furnished services, but not exceeding the amounts actually spent for expert witnesses, the cost of any study, analysis, report, test or project that is found to be necessary to prepare the party's case and necessary fees for attorneys or other representatives.

(Ord. 1924, 01/07/97)

3-05-005-0580 CRIMINAL PENALTIES:

A. It is unlawful for any person to knowingly or wilfully:

1. Fail or refuse to make any return required by this chapter.
2. Fail to remit as and when due the full amount of any tax or additional tax or penalty and interest thereon.
3. Make or cause to be made a false or fraudulent return.

4. Make or cause to be made a false or fraudulent statement in a return, in written support of a return, or to demonstrate or support entitlement to a deduction, exclusion, or credit or to entitle the person to an allocation or apportionment or receipts subject to tax.
5. Fail or refuse to permit any lawful examination of any book, account, record, or other memorandum by the Tax Collector.
6. Fail or refuse to remit any tax collected by such person from his customer to the Tax Collector before the delinquency date next following such collection.
7. Advertise or hold out to the public in any manner, directly or indirectly, that any tax imposed by this chapter, as provided in this chapter, is not considered as an element in the price to the consumer.
8. Fail or refuse to obtain a privilege license or to aid or abet another in any attempt to intentionally refuse to obtain such a license or evade the license fee.
9. Reproduce, forge, falsify, fraudulently obtain or secure, or aid or abet another in any attempt to reproduce, forge, falsify, or fraudulently obtain or secure, an exemption from taxes imposed by this chapter.

B. The violation of any provision of subsection ~~(A) of this section~~ [A ABOVE](#) shall constitute a class one misdemeanor.

C. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of perjury and on conviction thereof shall be punished in the manner provided by law.

(Ord. 2013-26, Amended, 01/07/2014)

3-05-005-0590 CIVIL ACTIONS:

A. Liens:

1. Any tax, penalty, or interest imposed under this Chapter which has become final, as provided in this Chapter, shall become a lien when the City perfects a notice and claim of lien setting forth the name of the taxpayer, the amount of the tax, penalty, and interest, the period or periods for which the same is due, and the date of accrual thereof, the amount of the recording costs by the County

Recorder in any county in which the taxpayer owns real property and the documentation and lien processing fees imposed by the City Council and further stating that the City claims a lien therefor.

2. The notice of claim of lien shall be signed by the ~~Administrative Services Director~~ CITY TREASURER under his official seal or the official seal of the City, and, with respect to real property, shall be recorded in the office of the County Recorder of any county in which the taxpayer owns real property, and, with respect to personal property shall be filed in the office of the Secretary of State. After the notice and claim of lien is recorded or filed, the taxes, penalties, interest and recording costs and lien processing fees referred to above in the amounts specified therein shall be a lien on all real property of the taxpayer located in such county where recorded, and all tangible personal property of the taxpayer within the State, superior to all other liens and assessments recorded or filed subsequent to the recording or filing of the notice and claim of lien.

3. Every tax and any increases, interest, penalties, and recording costs and lien processing fees referred to above, shall become from the time the same is due and payable a personal debt from the person liable to the City, but shall be payable to and recoverable by the Tax Collector and which may be collected in the manner set forth in subsection B. below.

4. Any lien perfected pursuant to this Section shall, upon payment of the taxes, penalties, and interest, recording costs and lien processing fees referred to above and lien release fees imposed by the County Recorder in any county in which the lien was recorded, thereby, be released by the Tax Collector in the same manner as mortgages and judgments are released. The Tax Collector may, at his sole discretion, release a lien in part, that is, against only specified property, for partial payment of moneys due the City.

B. Actions to Recover Tax: An action may be brought by the City Attorney or other legal advisor to the City designated by the City Council, at the request of the Tax Collector, in the name of the City, to recover the amount of any taxes, penalties, interest, recording costs, lien processing fees and lien release fees due under this Chapter; provided that:

1. No action or proceeding may be taken or commenced to collect any taxes levied by this Chapter until the amount thereof has been established by assessment, correction, or reassessment; and

2. Such collection effort is made or the proceedings begun:

a. Within six (6) years after the assessment of the tax; or

b. Prior to the expiration of any period of collection agreed upon in writing by the Tax Collector and the taxpayer before the expiration of such six (6) year period, or any extensions thereof; or

c. At any time for the collection of tax arising by reason of a tax lien perfected, recorded, or possessed by the City under this Section.

(Ord. 1851, 01/03/95)

3-05-005-0595 COLLECTION OF TAXES WHEN THERE IS SUCCESSION IN AND/OR CESSATION OF BUSINESS:

A. In addition to any remedy provided elsewhere in this City Code that may apply, the Tax Collector may apply the provisions of subsections B through D below concerning the collection of taxes when there is succession in and/or cessation of business.

B. The taxes imposed by this chapter are a lien on the property of any person subject to this chapter who sells his business or stock of goods, or quits his business, if the person fails to make a final return and payment of the tax within fifteen (15) days after selling or quitting his business.

C. Any person who purchases, or who acquires by foreclosure, by sale under trust deed or warranty deed in lieu of foreclosure, or by any other method, improved real property or a portion of improved real property for which the privilege tax imposed by this Chapter has not been paid shall be responsible for payment of such tax as a speculative builder or owner-builder, as provided in Sections 3-05-004-0416 and 3-05-004-0417.

(1) any person who is a creditor or an affiliate of creditor, who acquires improved real property directly or indirectly from the creditor's debtor by any means set forth in this subsection, shall pay the tax based on the amount received by the creditor or its affiliate in a subsequent sale of such improved real property to a party unrelated to the creditor, regardless of when such subsequent sale takes place. Such tax shall be due in the month following the month in which the sale of the improved real property by the creditor or its affiliate occurs. Notwithstanding the foregoing, if the real property meets the definition of partially improved residential real property in Section 3-05-004-0416(a)(4) and all of the requirements of Section 3-05-004-0416(b)(4) are met by the parties to the subsequent sale transaction, then the tax shall not apply to the subsequent sale.

(2) In the event a creditor or its affiliate uses the acquired improved real property for any business purpose, other than operating the property in the manner in which it was operated, or was intended to

be operated, before the acquisition or in any other manner unrelated to selling the property, the tax shall be due. The gross income upon which the tax shall be determined pursuant to Sections 3-05-004-0416 and 3-05-004-0417 shall be the fair market value of the improved real property as of the date of acquisition. The tax shall be due in the month following the month in which such first business use occurs. When applicable, the credit bid shall be deemed to be the fair market value of the property as of the date of acquisition.

(3) Once the subsequent sale by the creditor or its affiliate has occurred and the creditor or its affiliate has paid the tax due from it pursuant to this subsection, neither the creditor nor its affiliate, nor any future owner, shall be liable for any outstanding tax, penalties or interest that may continue to be due from the debtor based on the transfer from the debtor to the creditor or its affiliate.

(4) If the tax liability imposed by either Section 3-05-004-0416 or Section 3-05-004-0417 on the transfer of the improved real property to the creditor or its affiliate, or any part thereof, is paid to the tax collector by the debtor subsequent to payment of the tax by the creditor or its affiliate, the amount so paid may constitute a credit, as equitably determined by the tax collector in good faith, against the tax imposed on the creditor or its affiliate by either paragraph 1 or paragraph 2 of this subsection.

(5) Notwithstanding anything in this chapter to the contrary, if a creditor or its affiliate is subject to tax as described in paragraph 1 or paragraph 2 of this subsection and such creditor or affiliate has not previously been required to be licensed, such creditor or affiliate shall become licensed no later than the date on which the tax is due.

(Ord. 2011-21, Amended, 10/18/2011)

D. A person's successors or assignees shall withhold from the purchase money an amount sufficient to cover the taxes required to be paid, and interest or penalties due and payable, until the former owner produces a receipt from the Tax Collector showing that all City tax has been paid or a certificate stating that no amount is due as then shown by the records of the Tax Collector. The tax collector shall respond to a request from the seller for a certificate within fifteen (15) days by either providing the certificate or a written notice stating why the certificate cannot be issued.

1. If a subsequent audit shows a deficiency arising before the sale of the business, the deficiency is an obligation of the seller and does not constitute a liability against a buyer who has received a certificate from the Tax Collector.

2. If the purchaser of a business or stock of goods fails to obtain a certificate as provided by this Section, he is personally liable for payment of the amount of taxes required to be paid by the former owner on account of the business so purchased, with interest and penalties accrued by the former owner or assignees.

(Ord. 1593, 12/06/88)

(Ord. 2011-21, Amended, 10/18/2011)

3-05-005-0596 AGREEMENT FOR INSTALLMENT PAYMENTS OF TAX

A. The City may enter into an agreement with a taxpayer to allow the taxpayer to satisfy a liability for any tax imposed by this Chapter by means of installment payments. The Tax Collector may require a taxpayer who requests an installment payment agreement to complete a financial report in such form and manner as the Tax Collector may prescribe.

B. The Tax Collector, without notice, may alter, modify or terminate an installment payment agreement if the taxpayer:

1. Fails to pay an installment at the time the installment payment is due under the agreement.
2. Fails to pay any other tax liability at the time the liability is due.
3. Fails to file any tax report or return at the time the report or return is due.
4. Fails to furnish any information requested by the Tax Collector within thirty days after receiving a written request for such information.
5. Fails to notify the Tax Collector of a material improvement in the taxpayer's financial condition above the income previously reported in the most recent income statement within thirty days after the material improvement.
6. Provides inaccurate, false or incomplete information to the Tax Collector.

C. Notwithstanding any installment payment agreement, the Tax Collector may offset any tax refunds against the liabilities provided for in the installment payment agreement, may file and perfect any tax liens and, in the event the taxpayer breaches any term or provision of the installment payment agreement, may engage in collection activities.

D. The Tax Collector, without notice, may terminate an installment payment agreement if the Tax Collector believes that the collection of tax to which the payment agreement pertains is in jeopardy.

E. If the Tax Collector determines that the financial condition of a taxpayer has improved, the Tax Collector may alter, modify or terminate the agreement by providing notice to the taxpayer at least thirty days before the effective date of the action. The notice shall include the reasons why the tax collector believes the alteration, modification or termination is appropriate.

F. An installment payment agreement shall remain in effect for the term of the agreement except as otherwise provided in this Section.

G. A taxpayer who is aggrieved by a decision of the Tax Collector to refuse to enter into an installment payment agreement or to alter, modify or terminate an agreement entered into pursuant to this Section may petition the Taxpayer Problem Resolution Officer to review that determination. The taxpayer problem resolution officer may stay such alteration, modification or termination pending its review and may modify or nullify the determination.

H. The City and the taxpayer may modify any installment payment agreement at any time by entering into a new or modified agreement.

(Ord. 1924, 01/07/97)

**3-05-005-0597 PRIVATE TAXPAYER RULINGS; REQUEST; REVOCATION OR
MODIFICATION; DEFINITION:**

A. The Tax Collector shall issue private taxpayer rulings to taxpayers and potential taxpayers on request. Each request shall be in writing and shall:

1. State the name, address and, if applicable, taxpayer identifying number of the taxpayer or potential taxpayer who requests the ruling.
2. Describe all facts that are relevant to the requested ruling.
3. State whether, to the best knowledge of the taxpayer or potential taxpayer, the issue or related issues are being considered by the Tax Collector or any other taxing jurisdiction in connection with an active audit, protest or appeal that involves the taxpayer or potential taxpayer and whether the same request has been or is being submitted to another taxing jurisdiction for a ruling.

4. Be signed by the taxpayer or potential taxpayer who makes the request or by an authorized representative of the taxpayer or potential taxpayer.

B. A private taxpayer ruling may be revoked or modified by either:

1. A change or clarification in the law that was applicable at the time the ruling was issued, including changes or clarifications caused by regulations and court decisions.

2. Actual written notice by the Tax Collector to the last known address of the taxpayer or potential taxpayer of the revocation or modification of the private taxpayer ruling.

C. With respect to the taxpayer or prospective taxpayer to whom a private taxpayer ruling is issued, the revocation or modification of a private taxpayer ruling shall not be applied retroactively to tax periods or tax years before the effective date of the revocation or modification and the Tax Collector shall not assess any penalty or tax attributable to erroneous advice that is furnished to the taxpayer or potential taxpayer in the private taxpayer ruling if:

1. The taxpayer reasonably relied on the private taxpayer ruling.

2. The penalty or tax did not result either from a failure by the taxpayer to provide adequate or accurate information or from a change in the information.

D. A private taxpayer ruling may not be relied upon, cited nor introduced into evidence in any proceeding by any taxpayer other than the taxpayer who received the ruling.

E. A taxpayer may appeal the propriety of a retroactive application of a revoked or modified private taxpayer ruling by filing a written petition with the tax collector pursuant to Section 3-05-005-0570 within forty-five (45) days after receiving written notice of the intent to retroactively apply a revoked or modified private taxpayer ruling.

F. A private taxpayer ruling constitutes the Tax Collector's interpretation of the sections of this chapter only as they apply to the taxpayer making, and the particular facts contained in, the request.

G. A private taxpayer ruling which addresses a taxpayer's ongoing business activities will apply only to transactions that occur or tax liabilities that accrue from and after the date of the taxpayer's ruling request.

H. The Tax Collector shall attempt to issue private taxpayer rulings within forty-five (45) days after receiving the written request and on receiving the facts that are relevant to the ruling. If the ruling is expected to be delayed beyond the forty-five (45) days, the Tax Collector shall notify the requestor of the delay and the proposed date of issuance.

I. Within thirty (30) days after being issued, the Tax Collector shall maintain the private taxpayer ruling as a public record and make it available at a reasonable cost for public inspection and copying. The text of private taxpayer rulings is open to public inspection subject to the confidentiality requirements prescribed by Section 3-05-005-0510.

J. In this section, "private taxpayer ruling" means a written determination by the Tax Collector issued pursuant to this section that interprets and applies one or more sections contained in this chapter and any applicable regulations.

K. A private taxpayer ruling issued by the Arizona Department of Revenue pursuant to A.R.S. Section 42-2101 may be relied upon by the taxpayer to whom the ruling was issued and must be recognized and followed by any city in which such taxpayer has obtained a privilege license if the City has not issued a ruling addressing the facts described in the taxpayer's ruling request and the statute at issue in the taxpayer's ruling request is, in essence, worded and written the same as the applicable section hereunder.

(Ord. 1924, 01/07/97; Ord. 2007-28, Amended, 05/01/2007)

DIVISION 3-05-006

USE TAX

SECTIONS:

- 3-05-006-0600 USE TAX: DEFINITIONS
- 3-05-006-0601 RESERVED
- 3-05-006-0602 RESERVED
- 3-05-006-0610 USE TAX: IMPOSITION OF TAX; PRESUMPTION
- 3-05-006-0620 USE TAX: LIABILITY FOR TAX
- 3-05-006-0630 USE TAX: RECORDKEEPING REQUIREMENTS
- 3-05-006-0640 USE TAX: CREDIT FOR EQUIVALENT EXCISE TAXES PAID ANOTHER JURISDICTION
- 3-05-006-0650 USE TAX: EXCLUSION WHEN ACQUISITION SUBJECT TO USE TAX IS TAXED OR TAXABLE ELSEWHERE IN THIS CHAPTER; LIMITATION
- 3-05-006-0660 USE TAX: EXEMPTIONS

3-05-006-0600 USE TAX: DEFINITIONS

For the purposes of this division only, the following definitions shall apply, in addition to the definitions provided in Division 3-05-001:

"Acquire (for storage or use)" means purchase, rent, lease, or license for storage or use.

"Retailer" also means any person selling, renting, licensing for use, or leasing tangible personal property under circumstances which would render such transactions subject to the taxes imposed in Division 3-05-004, if such transactions had occurred within this City.

"Storage (within the City)" means the keeping or retaining of tangible personal property at a place within the City for any purpose, except for those items acquired specifically and solely for the purpose of sale, rental, lease, or license for use in the regular course of business or for the purpose of subsequent use solely outside the City.

"Use (of tangible personal property)" means consumption or exercise of any other right or power over tangible personal property incident to the ownership thereof except the holding for the sale, rental, lease, or license for use of such property in the regular course of business.

(Ord. 2014-16, Enacted, 07/15/2014)

3-05-006-0601 RESERVED

3-05-006-0602 RESERVED

3-05-006-0610 USE TAX: IMPOSITION OF TAX; PRESUMPTION

A. There is hereby levied and imposed, subject to all other provisions of this chapter, an excise tax on the storage or use in the City of tangible personal property, for the purpose of raising revenue to be used in defraying the necessary expenses of the City, such taxes to be collected by the Tax Collector.

B. The tax rate shall be at an amount equal to TWO AND FOUR-HUNDRED EIGHTY-SIX THOUSANDTHS PERCENT (2.486%) ~~two and two hundred eighty-one thousandths percent (2.281%)~~ of the:

1. Cost of tangible personal property acquired from a retailer, upon every person storing or using such property in this City.
2. Gross income from the business activity upon every person meeting the requirements of Section 3-05-006-0620(B) or (C) who is engaged or continuing in the business activity of sales, rentals, leases, or licenses of tangible personal property to persons within the City for storage or use within the City, to the extent that tax has been collected upon such transaction.
3. Cost of the tangible personal property provided under the conditions of a warranty, maintenance, or service contract.
4. Cost of complimentary items provided to patrons without itemized charge by a restaurant, hotel, or other business.
5. Reserved.

C. It shall be presumed that all tangible personal property acquired by any person who at the time of such acquisition resides in the City is acquired for storage or use in this City, until the contrary is established by the taxpayer.

D. Exclusions. For the purposes of this division, the acquisition of the following shall not be deemed to be the purchase, rental, lease, or license of tangible personal property for storage or use within the City:

1. Stocks, bonds, options, or other similar materials.
2. Lottery tickets or shares sold pursuant to A.R.S. Title 5, Chapter 5, Article I.

3. Platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by regulation.

E. Reserved.

F. Reserved.

(Ord. 2014-16, Enacted, 07/15/2014; Ord. 2019-13, Amended, 07/02/2019)

3-05-006-0620 USE TAX: LIABILITY FOR TAX

The following persons shall be deemed liable for the tax imposed by this division; and such liability shall not be extinguished until the tax has been paid to this City, except that a receipt from a retailer separately charging the tax imposed by this chapter is sufficient to relieve the person acquiring such property from further liability for the tax to which the receipt refers:

A. Any person who acquires tangible personal property from a retailer, whether or not such retailer is located in this City, when such person stores or uses said property within the City.

B. Any retailer not located within the City, selling, renting, leasing, or licensing tangible personal property for storage or use of such property within the City, may obtain a license from the Tax Collector and collect the use tax on such transactions. Such retailer shall be liable for the use tax to the extent such use tax is collected from his customers.

C. Every agent within the City of any retailer not maintaining an office or place of business in this City, when such person sells, rents, leases, or licenses tangible personal property for storage or use in this City, shall, at the time of such transaction, collect and be liable for the tax imposed by this division upon the storage or use of the property so transferred, unless such retailer or agent is liable for an equivalent excise tax upon the transaction.

D. Any person who acquires tangible personal property from a retailer located in the City and such person claims to be exempt from the City privilege or use tax at the time of the transaction, and upon which no City privilege tax was charged or paid, when such claim is not sustainable.

E. Every person storing or using tangible personal property under the conditions of a warranty, maintenance, or service contract.

(Ord. 2014-16, Enacted, 07/15/2014)

3-05-006-0630 USE TAX: RECORDKEEPING REQUIREMENTS

All deductions, exclusions, exemptions, and credits provided in this division are conditional upon adequate proof of documentation as required by Division 3-05-003 or elsewhere in this chapter.

(Ord. 2014-16, Enacted, 07/15/2014)

3-05-006-0640 USE TAX: CREDIT FOR EQUIVALENT EXCISE TAXES PAID ANOTHER JURISDICTION

In the event that an equivalent excise tax has been levied and paid upon tangible personal property which is acquired to be stored or used within this City, full credit for any and all such taxes so paid shall be allowed by the Tax Collector but only to the extent use tax is imposed upon that transaction by this division.

(Ord. 2014-16, Enacted, 07/15/2014)

3-05-006-0650 USE TAX: EXCLUSION WHEN ACQUISITION SUBJECT TO USE TAX IS TAXED OR TAXABLE ELSEWHERE IN THIS CHAPTER; LIMITATION

The tax levied by this division does not apply to the storage or use in this City of tangible personal property acquired in this City, the gross income from the sale, rental, lease, or license of which were included in the measure of the tax imposed by Division 3-05-004 of this chapter; provided, however, that any person who has acquired tangible personal property from a vendor in this City without paying the City privilege tax because of a representation to the vendor that the property was not subject to such tax, when such claim is not sustainable, may not claim the exclusion from such use tax provided by this section.

(Ord. 2014-16, Enacted, 07/15/2014)

3-05-006-0660 USE TAX: EXEMPTIONS

The storage or use in this City of the following tangible personal property is exempt from the use tax imposed by this division:

A. Tangible personal property brought into the City by an individual who was not a resident of the City at the time the property was acquired for his own use, if the first actual use of such property was outside the City, unless such property is used in conducting a business in this City.

B. Tangible personal property, ~~the value of which does not exceed the amount of one thousand dollars (\$1,000.00) per item, acquired by an individual outside the limits of the City for his personal use and enjoyment~~

NOT EXCEEDING TWO HUNDRED DOLLARS IN ANY ONE MONTH PURCHASED BY AN INDIVIDUAL AT RETAIL OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES FOR THE INDIVIDUAL'S OWN PERSONAL USE AND ENJOYMENT.

C. Charges for delivery, installation, or other customer services, as prescribed by ~~regulation~~ SECTION 3-05-001-0100.2.

D. Charges for repair services, as prescribed by regulation.

E. Separately itemized charges for warranty, maintenance, and service contracts.

F. Prosthetics.

G. Income-producing capital equipment.

H. ~~Rental equipment and rental supplies.~~ TANGIBLE PERSONAL PROPERTY ACQUIRED BY A PERSON ENGAGED IN THE BUSINESS OF RENTING, LEASING, OR LICENSING FOR USE SUCH PROPERTY UNDER THE RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY CLASSIFICATION IF SUCH PROPERTY IS TO BE RENTED, LEASED, OR LICENSED FOR USE BY SUCH PERSON.

I. Mining and metallurgical supplies.

J. PURCHASES OF:

1. Motor vehicle fuel and use fuel which are used upon the highways of this State and upon which a tax has been imposed under the provisions of A.R.S. Title 28, Chapter 16, Article I or II;

2. USE FUEL TO A HOLDER OF A VALID SINGLE TRIP USE FUEL TAX PERMIT ISSUED UNDER A.R.S. SECTION 28-5739;

3. NATURAL GAS OR LIQUEFIED PETROLEUM GAS USED TO PROPEL A MOTOR VEHICLE;

4. MOTOR VEHICLE FUEL AND USE FUEL TO A QUALIFIED BUSINESS UNDER A.R.S. SECTION 41-1516 FOR OFF-ROAD USE IN HARVESTING, PROCESSING, OR TRANSPORTING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN A.R.S. SECTION 41-1516;

5. REPAIR PARTS INSTALLED IN EQUIPMENT USED DIRECTLY BY A QUALIFIED BUSINESS UNDER A.R.S. SECTION 41-1516 IN HARVESTING, PROCESSING, OR TRANSPORTING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN A.R.S. SECTION 41-1516.

K. Tangible personal property purchased by:

1. a construction contractor, but not an owner-builder, when such person holds a valid privilege license for engaging or continuing in the business of construction contracting, and where the property acquired is incorporated into any structure or improvement to real property in fulfillment of a construction contract.

2. A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 3-05-004-0415(B)(12) AND THAT HAS BEEN PROVIDED A COPY OF A CERTIFICATE UNDER A.R.S. SECTION 42-5009, SUBSECTION L, IF THE PROPERTY SO SOLD IS INCORPORATED OR FABRICATED BY THE PERSON INTO THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT, OR IMPROVEMENT DESCRIBED IN THE CERTIFICATE.

L. Sales of motor vehicles to nonresidents of this State for use outside this State if the vendor ships or delivers the motor vehicle to a destination outside this State.

M. Tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.

N. Rental, leasing, or licensing for use of film, tape, or slides by a theater or other person taxed under Section 3-05-004-0410, or by a radio station, television station, or subscription television system.

O. Food served to patrons for a consideration by any person engaged in a business properly licensed and taxed under Section 3-05-004-0455, but not food consumed by owners, agents, or employees of such business.

P. Tangible personal property ~~acquired by a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property is in fact used in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512~~; PURCHASED BY:

1. A QUALIFYING HOSPITAL;
2. A QUALIFYING HEALTH CARE ORGANIZATION IF THE TANGIBLE PERSONAL PROPERTY IS USED BY THE ORGANIZATION SOLELY TO PROVIDE HEALTH AND MEDICAL RELATED EDUCATIONAL AND CHARITABLE SERVICES;
3. A QUALIFYING HEALTH CARE ORGANIZATION IF THE ORGANIZATION IS DEDICATED TO PROVIDING EDUCATIONAL, THERAPEUTIC, REHABILITATIVE, AND FAMILY MEDICAL EDUCATION TRAINING FOR BLIND AND VISUALLY IMPAIRED CHILDREN AND CHILDREN WITH MULTIPLE DISABILITIES FROM THE TIME OF BIRTH TO AGE TWENTY-ONE;
4. A QUALIFYING COMMUNITY HEALTH CENTER;
5. A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE AND THAT REGULARLY SERVES MEALS TO THE NEEDY AND INDIGENT ON A CONTINUING BASIS AT NO COST;
6. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2001, A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE AND THAT PROVIDES RESIDENTIAL APARTMENT HOUSING FOR LOW INCOME PERSONS OVER SIXTY-TWO YEARS OF AGE IN A FACILITY THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY, IF THE TANGIBLE PERSONAL PROPERTY IS USED BY THE ORGANIZATION SOLELY TO PROVIDE RESIDENTIAL APARTMENT HOUSING FOR LOW INCOME PERSONS OVER SIXTY-TWO YEARS OF AGE IN A FACILITY THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY;
7. A QUALIFYING HEALTH SCIENCES EDUCATIONAL INSTITUTION;
8. ANY PERSON REPRESENTING OR WORKING ON BEHALF OF ANOTHER PERSON DESCRIBED IN SUBDIVISIONS 1 THROUGH 7 OF THIS PARAGRAPH IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN A.R.S. SECTION 42-5075, SUBSECTION O.

Q. Reserved.

~~R.—Reserved.~~

~~1. Reserved.~~

~~2. Reserved.~~

~~3. Reserved.~~

~~4. Reserved.~~

R. PURCHASES OF:

1. LIVESTOCK AND POULTRY TO PERSONS ENGAGING IN THE BUSINESSES OF FARMING, RANCHING, OR PRODUCING LIVESTOCK OR POULTRY.

2. LIVESTOCK AND POULTRY FEED, SALTS, VITAMINS, AND OTHER ADDITIVES SOLD TO PERSONS FOR USE OR CONSUMPTION IN THE BUSINESSES OF FARMING, RANCHING, AND PRODUCING OR FEEDING LIVESTOCK OR POULTRY OR FOR USE OR CONSUMPTION IN NONCOMMERCIAL BOARDING OF LIVESTOCK. FOR THE PURPOSES OF THIS PARAGRAPH, "POULTRY" INCLUDES RATITES.

3. IMPLANTS USED AS GROWTH PROMOTANTS AND INJECTABLE MEDICINES, NOT ALREADY EXEMPT UNDER THE DEFINITION OF "PROSTHETIC." FOR LIVESTOCK AND POULTRY OWNED BY, OR IN POSSESSION OF, PERSONS WHO ARE ENGAGED IN PRODUCING LIVESTOCK, POULTRY, OR LIVESTOCK OR POULTRY PRODUCTS, OR WHO ARE ENGAGED IN FEEDING LIVESTOCK OR POULTRY COMMERCIALY. FOR THE PURPOSES OF THIS PARAGRAPH, "POULTRY" INCLUDES RATITES.

4. NEAT ANIMALS, HORSES, ASSES, SHEEP, RATITES, SWINE, OR GOATS USED OR TO BE USED AS BREEDING OR PRODUCTION STOCK, INCLUDING SALES OF BREEDINGS OR OWNERSHIP SHARES IN SUCH ANIMALS USED FOR BREEDING OR PRODUCTION.

S. Groundwater measuring devices required by A.R.S. Section 45-604.

T. Reserved.

U. ~~Aircraft acquired for use outside the State, as prescribed by regulation.~~ SEEDS, SEEDLINGS, ROOTS, BULBS, CUTTINGS, AND OTHER PROPAGATIVE MATERIAL FOR USE IN COMMERCIALY PRODUCING AGRICULTURAL, HORTICULTURAL, VITICULTURAL, OR FLORICULTURAL CROPS IN THIS STATE.

V. ~~Sales of~~ Food products SOLD by FOOD producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.

W. Reserved.

X. Food and drink provided by a person who is engaged in business that is classified under the restaurant classification without monetary charge to its employees for their own consumption on the premises during such employees' hours of employment.

Y. Tangible personal property donated to an organization or entity qualifying as an exempt organization under 26 U.S.C Section 501(c)(3); if and only if:

1. The donor is engaged or continuing in a business activity subject to a tax imposed by Division 3-05-004; and
2. The donor originally purchased the donated property for resale in the ordinary course of the donor's business; and
3. The donor obtained from the donee a letter or other evidence satisfactory to the Tax Collector of qualification under 26 U.S.C. Section 501(c)(3) from the Internal Revenue Service or other appropriate Federal agency; and
4. The donor maintains, and provides upon demand, such evidence to the Tax Collector, in a manner similar to other documentation required under Division 3-05-003.

Z. Reserved.

AA. Tangible personal property used in remediation contracting as defined in Section 3-05-001-0100 and ~~Regulation 3-5-100.5~~ SECTION 3-05-001-0100.5.

BB. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, State university libraries or Federal, State, County or municipal libraries for use by the public as follows:

1. Printed or photographic materials.
2. Electronic or digital media materials.

CC. Food, beverages, condiments and accessories used for serving food and beverages by a commercial airline, as defined in A.R.S. Section ~~42-5061(A)(49)~~, that serves the food and beverages to its passengers, without additional charge, for consumption in flight. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

DD. Wireless telecommunication equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under Section 3-05-004-0470.

EE. Reserved.

FF. Alternative fuel as defined in A.R.S. Section 1-215, by a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. Section 49-426 or A.R.S. SECTION 49-480.

GG. Food, beverages, condiments and accessories purchased by or for a public educational entity, pursuant to any of the provisions of A.R.S. Title 15, including a regularly organized private or parochial school that offers an educational program for grade twelve (12) or under which may be attended in substitution for a public school pursuant to A.R.S. Section 15-802; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

HH. Personal hygiene items purchased by a person engaged in the business of and subject to tax under Section 3-05-004-0444 of this code if the tangible personal property is furnished without additional charge to and intended to be consumed by the person during his occupancy.

II. The diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

JJ. Food, beverages, condiments and accessories purchased by or for a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C. Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means

paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

KK. Sales of motor vehicles that use alternative fuel if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and sales of equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

LL. The storage, use or consumption of tangible personal property in the City or town by a school district or charter school.

MM. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this ~~subsection~~ PARAGRAPH, "renewable energy credit" means a unit created administratively by the Corporation Commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

NN. Magazines or other periodicals or other publications by this State to encourage tourist travel.

OO. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

PP. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

QQ. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in A.R.S. Section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This ~~subsection~~ PARAGRAPH shall apply for twenty (20) full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

RR. Machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in A.R.S. Section 41-1514.02. This subsection applies for ten (10) full consecutive calendar or fiscal years after the start of initial construction.

SS. RESERVED.

TT. THE TRANSFER OF TITLE OR POSSESSION OF COAL BACK AND FORTH BETWEEN AN OWNER OR OPERATOR OF A POWER PLANT AND A PERSON WHO IS RESPONSIBLE FOR REFINING COAL IF BOTH OF THE FOLLOWING APPLY:

1. THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE PURPOSE OF REFINING THE COAL; AND

2. THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO THE OWNER OR OPERATOR OF THE POWER PLANT AFTER COMPLETION OF THE COAL REFINING PROCESS. FOR THE PURPOSES OF THIS SUBDIVISION, "COAL REFINING PROCESS" MEANS THE APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE REDUCTION OF POWER PLANT EMISSIONS DURING THE COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

UU. COMPUTER DATA CENTER EQUIPMENT PURCHASED BY THE OWNER, OPERATOR, OR QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER A.R.S. SECTION 41-1519 OR AN AUTHORIZED AGENT OF THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT DURING THE QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA CENTER. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA CENTER," "COMPUTER DATA CENTER EQUIPMENT," "QUALIFICATION PERIOD," AND "QUALIFIED COLOCATION TENANT" HAVE THE SAME MEANINGS PRESCRIBED IN A.R.S. SECTION 41-1519.

VV. RESERVED.

WW. THE PURCHASE MANUFACTURE, WHOLESALE, OR DISTRIBUTION TO OR AMONG ANY WHOLESALERS, DISTRIBUTORS, OR RETAILERS, OF FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR HOME CONSUMPTION OR FOR CONSUMPTION ON THE PREMISES.

XX. ANY CONTAINER OR PACKAGING USED EXCLUSIVELY FOR TRANSPORTING, PROTECTING, OR CONSUMING FOOD ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S. SECTION 42-5106, SUBSECTION D, FOR HOME CONSUMPTION OR FOR CONSUMPTION ON THE PREMISES.

YY. MACHINERY, EQUIPMENT, TECHNOLOGY, OR RELATED SUPPLIES THAT ARE ONLY USEFUL TO ASSIST A PERSON WITH A PHYSICAL DISABILITY AS DEFINED IN A.R.S. SECTION 46-191 OR A PERSON WHO HAS A DEVELOPMENTAL DISABILITY AS DEFINED IN A.R.S. SECTION 36-551 OR HAS A HEAD INJURY AS DEFINED IN A.R.S. SECTION 41-3201 TO BE MORE INDEPENDENT AND FUNCTIONAL.

ZZ. APPLICATION SERVICES THAT ARE DESIGNED TO ASSESS OR TEST STUDENT LEARNING OR TO PROMOTE CURRICULUM DESIGN OR ENHANCEMENT PURCHASED BY OR FOR ANY SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE OR STATE UNIVERSITY. FOR THE PURPOSES OF THIS PARAGRAPH:

1. "APPLICATION SERVICES" MEANS SOFTWARE APPLICATIONS PROVIDED REMOTELY USING HYPERTEXT TRANSFER PROTOCOL OR ANOTHER NETWORK PROTOCOL.
2. "CURRICULUM DESIGN OR ENHANCEMENT" MEANS PLANNING, IMPLEMENTING, OR REPORTING ON COURSES OF STUDY, LESSONS, ASSIGNMENTS, OR OTHER LEARNING ACTIVITIES.

(Ord. 2014-16, Enacted, 07/15/2014)

DIVISION 3-05-007
REGULATIONS-PRIVILEGE AND EXCISE TAXES

SECTIONS:

3-05-007-0001 REGULATIONS-PRIVILEGE AND EXCISE TAXES:

3-05-007-0001 REGULATIONS-PRIVILEGE AND EXCISE TAXES:

Reg. 3-5-100.1. BROKERS:

[SECTION 3-05-001-0100.1 REPLACES REGULATION 3-5-100.1 BROKERS WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.](#)

~~(a) For the purposes of proper administration of this Chapter and to prevent evasion of taxes imposed, brokers shall be wherever necessary treated as taxpayers for all purposes, and shall file a return and remit the tax imposed on the activity on behalf of the principal. No deduction shall be allowed for any commissions or fees retained by such broker, except as provided in Section 3-05-004-0405, relating to advertising commissions.~~

~~(b) Brokers for vendors. A broker acting for a seller, lessor, or other similar person deriving gross income in a category upon which this Chapter imposes a tax shall be liable for such tax, even if his principal would not be subject to the tax if he conducted such activity in his own behalf, by reason of the activity being deemed a "casual" one. For example:~~

~~(1) An auctioneer or other sales agent of tangible personal property is subject to the tax imposed upon retail sales, even if such sales would be deemed "casual" if his principal had sold such items himself.~~

~~(2) A property manager is subject to the tax imposed upon rental, leasing, or licensing of real property, even if such rental, leasing, or licensing would be deemed "casual" if his principal managed such real property himself.~~

~~(c) Brokers for vendees. A broker acting solely for a buyer, lessee, tenant, or other similar person who is a party to a transaction which may be subject to the tax, shall be liable for such tax and for filing a return in connection with such tax only to the extent his principal is subject to the tax.~~

~~(d) The liability of a broker does not relieve the principal of liability except upon presentation to the Tax Collector of proof of payment of the tax, and only to the extent of the correct payment. The broker shall be relieved of the responsibility to file and pay taxes upon the filing and correct payment of such taxes by the principal.~~

~~(e) Reserved.~~

~~(f) Location of Business. Retail sales by brokers acting for another person shall be deemed to have occurred at the regular business location of the broker, in a manner similar to that used to determine "out-of-City sales"; provided, however, that an auctioneer is deemed to be engaged in business at the site of each auction.~~

~~Reg. 3-5-100.2. DELIVERY, INSTALLATION, OR OTHER DIRECT CUSTOMER SERVICES:~~

~~(a) "Delivery Charges" exist only when the total charges to the ultimate customer or consumer include, as separately charged to the ultimate customer, charges for delivery to the ultimate consumer, whether the place of delivery is within or without the City, and when the taxpayer's books and records show the separate delivery charges.~~

~~(1) Identification to the customer or consumer that the listed price has "delivery included" or other similar expression is insufficient to show the delivery as a separate charge. Only the separately stated charge for the delivery shall be deemed a "delivery charge".~~

~~(2) Freight in. Charges for delivery from place of production or the manufacturer to the vendor either directly or through a chain of wholesalers or jobbers or other middlemen are deemed "freight-in" and are not considered delivery.~~

~~(b) "Installation", as used in this definition, relates only to tangible personal property. installation to real property is deemed construction contracting in this Chapter. Examples of installation relating to tangible personal property are: installing a radio in an automobile; applying sun screens on the windows of a boat; installing cabinets, carpeting, or "built-in appliances" to a camper or motorized recreational vehicle.~~

~~(c) Repair of tangible personal property is not included in this definition. See Regulation 3-5-465.(1)~~

~~(d) "Direct Customer Services" means services other than repair rendered directly to the customer. Services or labor provided by any person prior to the transfer of tangible personal property to the customer or consumer are not included in this definition. In the following examples, the requirements of subsection (e) below are referred to by the words "identify" or "identification."~~

(1) A retailer sells a customer a \$100 "plug-in" appliance, with a \$25 delivery and installation charge. If the retailer identifies the \$25 delivery and installation charge, it is a charge for direct customer services.

(2) A caterer charges his customer \$1,000 for the food and drink served, \$300 for setup and site cleanup, and \$500 for bartender and waiters. If all charges are properly identified, only the \$300 for set up and cleanup is a charge for direct customer services, and the \$1,500 for food and service is restauranting gross income.

(3) Persons engaged in engraving on wood, metal, stone, etc. or persons engaged in retouching photographs or paintings may consider such charges for labor as direct customer services.

(4) All charges by a photographer resulting in the sale of a photograph (sitting charges, developing, making enlargements, retouching, etc.) for services that occur prior to transfer of tangible personal property are not direct customer services.

(5) An equipment rental company charging \$25 for delivery may consider such delivery charge as a charge for direct customer service only if such charge is properly identified.

(6) Even if identified, charges for labor incurred in the production of any manufactured article or of a custom-made article (jewelry, artwork, tailoring, draperies, etc.) are not included in this definition, as such labor occurs prior to the transfer of property.

(e) Recordkeeping requirements.

(1) Any person who engages in transactions involving these services must:

(A) Separately bill, invoice, or charge the customer for such services in a manner by which the customer or consumer may readily identify the specific dollar amount of the service charge; and

(B) Maintain business books and records in a manner in which the separate charge for such services can be clearly identified, to the satisfaction of the Tax Collector.

(2) Rendering a statement to a customer for a transaction involving such services and the transfer of tangible personal property which only indicates the total amount of the charges with words such as

~~"services included" or "charge includes labor and parts" or similar a expression does not satisfy the requirements of this subsection.~~

Reg. 3-5-100.3. RETAILERS:

SECTION 3-05-001-100.3 RETAILERS REPLACES REGULATION 3-5-100.3 RETAILERS WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.

~~When in the opinion of the Tax Collector it is necessary for efficient administration of this Chapter, he may regard any salesman, representative, peddler, canvasser, or agent of any dealer, distributor, supervisor, or employer under whom he operates or from whom he obtains tangible personal property for sale, rental, lease, or license as a retailer for the purposes of this Chapter, irrespective of whether he is making sales, rentals, leases, or licenses on his own behalf or on behalf of others. The Tax Collector may also regard such dealer, distributor, supervisor, or employer as a retailer for the purposes of this Chapter.~~

Reg. 3-5-100.4. OUT-OF-CITY/OUT-OF-STATE SALES: SALES TO NATIVE AMERICANS

SECTION 3-05-001-0100.4 OUT-OF-CITY/OUT-OF-STATE SALES: SALES TO NATIVE AMERICANS REPLACES REGULATION 3-5-100.4 OUT-OF-CITY/OUT-OF-STATE SALES: SALES TO NATIVE AMERICANS WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.

~~(a) Sales to Native Americans or tribal councils by vendors located within the City shall be deemed sales within the City, unless all of the following conditions exist:~~

~~(1) The vendor has properly accounted for such sales, in a manner similar to the recordkeeping requirements for out-of-City sales; and,~~

~~(2) All of the following elements of the sale exist:~~

~~(A) Solicitation and placement of the order occurs on the reservation; and~~

~~(B) Delivery is made to the reservation; and~~

~~(C) Payment originates from the reservation.~~

Reg. 3-5-100.5. REMEDIATION CONTRACTING.

SECTION 3-05-001-0100.5 REMEDIATION CONTRACTING REPLACES REGULATION 3-5-100.5
REMEDATION CONTRACTING WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.

The following activities are considered remediation contracting and are exempt:

- ~~(1) Excavation, transportation, treatment, and/or disposal of contaminated soil for purposes of site remediation (rather than characterization);~~
- ~~(2) Installation of groundwater extraction and/or injection wells for purposes of groundwater remediation;~~
- ~~(3) Installation of pumps and piping into groundwater extraction wells for remediation purposes;~~
- ~~(4) Installation of vapor extraction wells for the purpose of soil or groundwater remediation;~~
- ~~(5) Construction of remediation systems, such as groundwater treatment plants, vapor extraction systems, or air injection systems;~~
- ~~(6) Connection of remediation systems to utilities;~~
- ~~(7) Abandonment of groundwater or vapor extraction wells;~~
- ~~(8) Removal/demolition of remediation systems;~~
- ~~(9) Capping/closure construction activities; and~~
- ~~(10) Service or handling charges for subcontracted remediation contracting activities.~~

Reg. 3-5-115.1. COMPUTER HARDWARE, SOFTWARE, AND DATA SERVICES

A. Definitions.

1. "Computer hardware" (also called "computer equipment" or "peripherals") is the components and accessories which constitute the physical computer assembly, including but not limited to: central processing unit, keyboard, console, monitor, memory unit, disk drive, tape drive or reader, terminal, printer, plotter, modem, document sorter, optical reader and/or digitizer, and network.
2. "Computer software" (also called "computer program") is tangible personal property, and includes:

- a. "Operating program (software)" (also called "executive program (software)"), which is the programming system or technical language upon which or by means of which the basic operating procedures of the computer are recorded. The operating program serves as an interface with user applied programs and allows the user to access the computer's processing capabilities.
 - b. "Applied program (software)," which is the programming system or technical language (including the tape, disk, cards, or other medium upon which such language or program is recorded) designed either for application in a specialized use, or upon which or by means of which a plan for the solution of a particular problem is based. Typically, applied programs can be transferred from one (1) computer to another via storage media. Examples of applied programs include: payroll processing, general ledger, sales data, spreadsheet, word processing, and data management programs.
3. "Storage medium" is any hard disk, compact disk, floppy disk, diskette, disk pack, magnetic tape, cards, or other medium used for storage of information in a form readable by a computer, but not including the memory of the computer itself.
 4. A "terminal arrangement" (also called "'online' arrangement") is any agreement allowing access to a remote central processing unit through telecommunications via hardware.
 5. A "computer services agreement" (also called "data services agreement") is an agreement allowing access to a computer through a third-party operator.

B. For the purposes of this chapter, transfer of title and possession of the following are deemed sales of tangible personal property and any other transfer of title, possession, or right to use for a consideration of the following is deemed rental, leasing, or licensing of tangible personal property:

1. Computer hardware or storage media. Rental, leasing, or licensing for use of computer hardware or storage media includes the lessee's use of such hardware or storage media on the lessor's premises.
2. Computer software which is not custom computer programming. Such prewritten ("canned") programs may be transferred to a customer in the form of punched cards, magnetic tape, or other storage medium, or by listing the program instructions on coding sheets. Transfer is deemed to have occurred whether title to the storage medium upon which the program is recorded, coded, or punched

passes to the customer or the program is recorded, coded, or punched on storage medium furnished by the customer. Gross income from the transfer of such prewritten programs includes:

- a. The entire amount charged to the customer for the sale, rental, lease, or license for use of the storage medium or coding sheets on which or into which the prewritten program has been recorded, coded, or punched.
- b. The entire amount charged for the temporary transfer or possession of a prewritten program to be directly used or to be recorded, coded, or punched by the customer on the customer's premises.
- c. License fees, royalty fees, or program design fees; any fee present or future, whether for a period of minimum use or of use for extended periods, relating to the use of a prewritten program.
- d. The entire amount charged for transfer of a prewritten ("canned") program by remote telecommunications from the transferor's place of business to or through the customer's computer.
- e. Any charge for the purchase of a maintenance contract which entitles the customer to receive storage media on which prewritten program improvements or error corrections have been recorded or to receive telephone or on-site consultation services; provided, that:
 - (1) If such maintenance contract is not optional with the customer, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.
 - (2) If such maintenance contract is optional with the customer but the customer does not have the option to purchase the consultation services separately from the storage media containing the improvements or error corrections, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.
 - (3) If such maintenance contract is optional with the customer and the customer may purchase the consultation services separately from the storage media containing the improvements or error corrections, then only the charges for such improvements

or error corrections are deemed gross income from the transfer of a prewritten program and charges for consultation are deemed to be charges for professional services.

C. Producing the following by means of computer hardware is deemed to be the activity of job printing for the purposes of this chapter:

1. Statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or any other information produced or compiled by a computer; except as provided in subsection ~~(E)~~ of this section [E BELOW](#).

2. Additional copies of records, reports, manuals, tabulations, etc. "Additional copies" are any copies in excess to those produced simultaneously with the production of the original and on the same printer, whether such copies are prepared by running the same program, by using multiple printers, by looping the program, by using different programs to produce the same output, or by other means.

D. Charges for the use of communications channel in conjunction with a terminal arrangement or data services agreement are deemed gross income from the activity of providing telecommunication services.

E. The following transactions are deemed direct customer services; provided, that charges for such services are separately stated and maintained as provided by Regulation 3-5-100.2(e):

1. "Custom (computer) programming," which is any computer software which is written or prepared for a single customer, including those services represented by separately stated charges for the modification of existing prewritten programs.

a. Customer computer programming is deemed a professional service regardless of the form in which the programming is transferred.

b. Custom programming includes such programming performed in connection with the sale, rental, lease, or license for use of computer hardware; provided, that the charges for such are separately stated from the charges for the hardware.

c. Custom computer programming includes a program prepared to the special order of a customer who will use the program to produce copies of the program for sale, rental, lease, or license. The subsequent sale, rental, lease, or license of such a program is deemed the sale, rental, lease, or license of a prewritten program.

2. Training services related to computer hardware or software; provided further, that:
 - a. The provider of such training services is deemed the ultimate consumer of all tangible personal property used in training others or provided to such trainees without separately itemized charge for the materials provided.
 - b. Training deemed a direct customer service does not include:
 - (1) Training materials, books, manuals, etc., furnished to customers for a charge separate from the charge for training services.
 - (2) Training provided to customers without separate charge as part of the sale, rental, lease, or license of computer hardware or software, or as part of a terminal arrangement or data services agreement.
3. The use of computer time through the use of a terminal arrangement or a data service agreement, but not charges for computer hardware located at the customer's place of business (for example, the terminal, a printer attached to the terminal, a modem used to communicate with the remote central processing unit over a telephone line).
4. Compiling and producing, as part of a terminal arrangement or computer services agreement, original copies of statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or other information for the same person who supplied the raw data used to create such reports.

F. The purchase, rental, lease, or license for use of computer hardware, storage media, or computer software which is not deemed custom programming is deemed the use or storage of tangible personal property for the purpose of this chapter, and the amount which may be subject to use tax shall be determined in the same manner as the determination of the gross income from the sale, rental, lease, or license for use of such.

(Ord. 2014-16, Amended, 07/15/2014)

Reg. 3-5-120.1. Repealed by Ord. 2013-26.

Reg. 3-5-200.1. WHEN DEPOSITS ARE INCLUDABLE IN GROSS INCOME:

- (a) Refundable deposits shall be includable as gross income of the taxpayer for the month in which the deposits are forfeited by the lessee.

(b) Reserved.

Reg. 3-5-250.1. EXCESS TAX COLLECTED:

If a taxpayer collects taxes in excess of the combined tax from any customer in any transaction, all such excess tax shall be paid to the taxing jurisdictions in proportion to their effective rates. The right of the taxpayer to charge his customer for his own liability for tax does not allow the taxpayer to enrich himself at the cost of his customers. Tax paid on an activity that is not subject to tax or that qualifies for an exemption, deduction, exclusion or credit is not excess tax collected.

Reg. 3-5-270.1. PROPRIETARY ACTIVITIES OF MUNICIPALITIES ARE NOT CONSIDERED ACTIVITIES OF A GOVERNMENTAL ENTITY:

The following activities, when performed by a municipality, are considered to be activities of a person engaged in business for the purposes of this Chapter, and not excludable by reason of Section 3-05-002-0270:

- A. Rental, leasing, or licensing for use of real property to other than another department or agency of the municipality.
- B. Producing, providing, or furnishing electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.
- C. Sale of tangible personal property to the public, when similar tangible personal property is available for sale by other persons, as, for example, at police or surplus auctions.
- D. Providing wastewater removal services to consumers or ratepayers by means of sewer lines or similar pipelines.

Reg. 3-5-270.2. PROPRIETARY CLUBS:

(a) Equity requirements. In order to qualify for exclusion under Section 3-05-002-0270, a proprietary club must actually be owned by the members. For the purposes of qualification, a club will be deemed to be member-owned if at least eighty-five percent (85%) of the equity of the total amount of club-owned property is owned by bona fide individual members whose membership is represented in the form of shares, certificates, bonds, or other indicia of capital interest. A corporation may be considered an individual owner provided that it owns a membership solely for the benefit of one or more of its employees and it is not engaged in any business activity connected with the operation of the club.

(b) Gross revenue requirements. In computing gross revenue for the computation of this fifteen percent (15%) rule of subsection 3-05-002-0270 (c)(1),

(1) The following shall be excluded:

- (A) Membership dues.
- (B) Membership fees which relate to the general admission to the club on a periodic (or perpetual) basis.
- (C) Assessments.
- (D) Special fund raising events, raffles, etc.
- (E) Donations, gifts, or bequests.
- (F) Gate receipts, admissions, and program advertising for not more than one tournament in any calendar year.

(2) The following must be included:

- (A) Green fees, court use fees, and similar charges for the actual use of a facility or part thereof.
- (B) Pro shop sales if the shop is owned by the club.
- (C) Golf cart rental if the carts are owned by the club.
- (D) Rentals, percentages, or commissions received for permitting the use of the premises or any portion thereof by a caterer, concessionaire, professional, or any other person for sales, rental, leasing, licensing, catering, food or beverage service, or instruction.
- (E) All receipts from food or beverage sales, room use or rental charge, corkage and catering charges, and similar receipts.
- (F) Locker and locker room fees and attendants charges if paid to the club.
- (G) Tournament entry fees other than entry fees for the one annual tournament exempt under subsection (b)(1)(f) above.

Reg. 3-5-405.1. LOCAL ADVERTISING EXAMPLES:

For the purposes of illustration only, and not by way of limitation, the following are provided as examples of local advertising subject to the tax:

- (1) Retail sales and rental establishments doing business within the State when only one commonly designated business entity is identified by name in the advertisement.
- (2) Financial institutions doing business within the State whether part of a national chain or local business only.
- (3) Sales of real estate located within the State.
- (4) Health care facilities located within the State.
- (5) Hotels, motels, and apartments, whether a national chain or local so long as the advertisement identifies any location within the State.
- (6) Brokers doing business within the State whether stockbrokers, real estate brokers, insurance brokers, etc.
- (7) Nonprofit organizations, which even though tax exempt, have an office, whether national, local, or branch, within the State.
- (8) Political activity, except United States Presidential and Vice Presidential candidates.
- (9) Restaurants or food service establishments which have one or more branches, outlets, or franchises within the State even though the local franchisee or licensee may not be responsible for the placement of the advertisement.
- (10) Services provided by individuals or entities within the State such as doctors, lawyers, architects, hairdressers, auto repair shops, counseling services, utilities, contractors, auction houses, etc.
- (11) Coupons redeemable only at a single commonly designated business entity within the State.
- (12) Theater, sports, and other entertainment events held at locations within the State.

Reg. 3-5-405.2. ADVERTISING ACTIVITY WITHIN THE CITY:

(a) In General. Except as provided elsewhere in this regulation, a person engaged in advertising activity shall be considered to be doing business entirely within the City if all or a major portion of the dissemination facilities such as broadcasting studios, printing plants, or distribution centers are located within the City limits. Remote studios patched to an in-City studio and subject to engineering modulation or control at the in-City studio are considered studios doing business in the City.

(b) Billboards and other outdoor advertising companies shall be considered to be doing business within the City to the extent they have billboards or similar displays within the City.

(c) Publishers and distributors of newspaper and other periodicals shall be subject to the tax upon advertising imposed by Section 3-05-004-0405 and such tax shall be allocated in the manner prescribed by subsection (e) of Section 3-05-005-0435.

Reg. 3-5-407.1. RESERVED:

Reg. 3-5-415.1. DISTINCTION BETWEEN THE CATEGORIES OF CONSTRUCTION CONTRACTING:

For the purposes of this Chapter, transactions involving improvements to, or sales of, real property are designated into one of the following categories, and these categorizations shall apply, whether or not a person designates himself as a contractor, construction manager, developer, or otherwise:

(a) A person performing improvements to real property is one of the following:

(1) An "Owner-Builder" when the work is performed by the owner or lessor or lessee-in-possession. An "owner-builder" may also be a "speculative builder".

(2) A "Construction Contractor" when performing work for the owner or lessor or lessee-in-possession of the real property, unless that person has provided a written declaration stating that:

(A) The owner-builder is improving the property for sale; and

(B) The owner-builder is liable for the tax for such construction contracting activity; and

(C) The owner-builder has provided the contractor his city Privilege License number.

(3) A "Subcontractor" as provided in Section 3-05-004-0415 (c)

(b) An owner or lessor ("owner-builder") of improved real property is one of the following:

- (1) A "Speculative Builder" as provided in Section 3-05-001-0100; or
- (2) An "owner-builder who is not a speculative builder" in all other cases.

(c) The terms "owner", "lessor", and "lessee-in-possession" shall be deemed to include any authorized agent for such person.

Reg. 3-5-415.2. DISTINCTION BETWEEN CONSTRUCTION CONTRACTING AND CERTAIN RELATED ACTIVITIES:

(a) Certain rentals, leases, and licenses for use in connection with construction contracting. Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:

- (1) Rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.
- (2) Rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.
- (3) Rental of pumps or cranes is rental of tangible personal property, whether or not an operator is provided with the equipment rented.

(b) Distinction between construction contracting, retail, and certain direct customer service activities.

- (1) When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.
- (2) Items attached or installed on tangible personal property are retail sales.
- (3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscaping maintenance).
- (4) Demolition, earth moving, and wrecking activities are considered construction contracting.

(c) Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.

(d) Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.

(1) "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.

(2) Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.

(3) Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.

(4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

Reg. 3-5-0415.3 CONSTRUCTION CONTRACTING; TAX RATE EFFECTIVE DATE

A. In the event of a tax rate change, the rate imposed on gross income from construction contracting shall be computed based upon the rate in effect when the contract was executed, subject to the "enactment date" as defined in this section. Gross income from a contract executed prior to the enactment date shall not be subject to the tax rate change, provided the contract contains no provision that entitles the construction contractor to recover the amount of the tax.

B. In the event of a rate increase, in order to qualify for the lower rate, the construction contractor shall, upon request, provide sufficient documentation, in a manner and form prescribed by the tax collector, to verify that a contract was entered into before the enactment date.

C. For the purposes of this section, "enactment date" shall be:

(1) In the event an election is held, the date of election.

(2) In the event no election is held, the date of final adoption by the Mayor and Council.

(3) Notwithstanding the above, nothing in this section shall be construed to prevent the City from establishing a later enactment date.

Reg. 3-5-416.1. SPECULATIVE BUILDERS: HOMEOWNER'S BONA FIDE NON-BUSINESS SALE OF A FAMILY RESIDENCE:

SECTION 3-05-004-416.1 SPECULATIVE BUILDERS: HOMEOWNER'S BONA FIDE NON-BUSINESS SALE OF A FAMILY RESIDENCE REPLACES REGULATION 3-5-416.1 SPECULATIVE BUILDERS: HOMEOWNER'S BONA FIDE NON-BUSINESS SALE OF A FAMILY RESIDENCE WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.

~~(a) A sale of a custom home, regardless of the stage of completion of such home shall be considered a "homeowner's bona fide non-business sale" and not subject to the tax on speculative builders if:~~

~~(1) The property was actually used as the principal place of family residence or vacation residence by the immediate family of the seller for the six (6) months next prior to the offer for sale; and~~

~~(2) The seller has not sold more than two (2) such residences (or, if the residence is a vacation residence, two (2) such vacation residences) within the thirty-six (36) months immediately prior to the offer for sale; and~~

~~(3) The seller has not licensed, leased, or rented the sold premises for any period within twenty-four (24) months prior to the offer for sale.~~

~~(b) In the event that a homeowner of a family residence contracts with a licensed construction contractor for improvements to a residence, the construction contracting on a family residence shall be presumed to be for an owner's bona fide non-business purpose and all construction contractors shall be required to report and pay the tax imposed on all such improvements.~~

~~(c) Purchases by a homeowner of tangible personal property for inclusion in any construction, alteration, or repair of his residence shall be subject to tax as retail sales to the ultimate consumer.~~

~~(d) "Owner" and "Homeowner" as used in this Regulation shall only mean an individual, and no other entity, association, or representative shall qualify; except that an administrator, executor, personal representative, or guardian in guardianship or probate proceedings, for the estate of a deceased or incompetent person or a minor, may claim "homeowner" status for such person if such person would have otherwise qualified with respect to the specific property involved.~~

Reg. 3-5-416.2. RECONSTRUCTION CONTRACTING:

SECTION 3-05-004-416.2 RECONSTRUCTION CONTRACTING REPLACES REGULATION 3-5-416.2 RECONSTRUCTION CONTRACTING WITH AN EFFECTIVE DATE OF OCTOBER 1, 2019.

~~(a) "Reconstruction (of Real Property)" shall mean the subdividing of real property and, in addition, all construction contracting activities performed upon said real property; provided, however, that each of the following conditions are met:~~

~~(1) A structure existed on said real property prior to the reconstruction activity; and~~

~~(2) The "prior value" of said structure exceeds fifteen percent (15%) of the "prior value" of the integrated property (land, improvements, and structure); and~~

~~(3) The total cost of all construction contracting activities performed on said real property in the twenty-four (24) month period prior to the sale of any part of the real property exceeds fifteen percent (15%) of the "prior value" of the real property; and~~

~~(4) The structure which existed on the real property prior to the reconstruction activity still exists in some form upon the property, and is included, in whole or in part, in the property sold.~~

~~(b) Except as provided in subsection (c) below, "prior value" means the value of the total integrated property, with improvements, as existing immediately prior to any reconstruction activity. where, according to Title 42 of the Arizona Revised Statutes, a property's full cash value for secondary tax purposes is intended to represent the property's fair market value, "prior value" shall be the property's full cash value for secondary property tax purposes as determined by the County Assessor in the year immediately preceding the year in which the reconstruction improvement(s) are or could have been included in the County Assessor's valuation. If the County Assessor's valuation is contested or appealed, the final determination at either the administrative or judicial level shall apply. Where, according to Title 42 of the Arizona Revised Statutes, a property's full cash value for secondary property tax purposes is not intended to represent the property's fair market value, "prior value" shall be the property's fair market value prior to the reconstruction improvement(s).~~

~~(c) "Alternative Prior Value" shall mean that as an alternative to the "prior value" defined above, the taxpayer may use his actual cost of the reconstructed property prior to reconstruction, provided that evidence of such cost is presented to the Tax Collector and is determined by the Tax Collector, in his sole discretion, to be satisfactory. Such evidence shall consist, at a minimum, of proof of the actual, arms-length acquisition price,~~

~~accompanied by a full appraisal of all property involved which appraisal shall have been performed by a real estate broker or MAI appraiser specifically for the purpose of assisting in the acquisition and further shall have been performed on behalf of the seller or a lending institution which has lent at least sixty-five percent (65%) of the acquisition price. (Only long term lending – not interim or construction financing will be considered.) This alternative value shall be used only if the property was acquired by the reconstruction taxpayer not more than thirty-six (36) months prior to a "sale" as defined below.~~

~~(d) A "sale" for the purpose of determining "alternative prior value" or "reconstruction" only shall be deemed to have occurred as of the date of the execution of a contract of sale or a deed (joint tenancy or warranty) whichever is earlier, to a purchaser or grantee of any single residential or other occupancy unit. In addition to the foregoing, a lease with option to purchase a single residential unit shall be considered a "sale" at the date of execution of such lease if said option is exercisable by the lessee in not later than nine (9) months. Further in the case of cooperative apartments, the sale date shall be the date of execution of the contract selling (subject or not to encumbrances, liens or security interests) of a share, or a sufficient number of shares which entitle the purchaser to the occupancy of a residential unit. In all cases a person shall include a husband and wife as a community, or any co-occupants of a single unit as joint tenants.~~

Reg. 3-5-425.1. DISTINCTION BETWEEN JOB PRINTING AND CERTAIN RELATED ACTIVITIES:

(a) Computerized Printing. Computerized versions of all items which would be taxable under Section 3-05-004-0425 if performed without computerized assistance are considered taxable under that Section, and therefore, are not exempt services.

(b) Book publishing. The printing of books shall be deemed job printing. Sales of books shall be deemed retail sales.

(c) Publication of newspapers, magazines, or other periodicals shall not be considered job printing for the purposes of this Chapter.

Reg. 3-5-435.1. DISTINCTION BETWEEN PUBLISHING OF PERIODICALS AND CERTAIN RELATED ACTIVITIES:

(a) Book publishing shall not be considered publication of newspapers, magazines, or other periodicals for purposes of this Chapter. Sales of books shall be deemed retail sales. The printing of books shall be deemed job printing.

(b) Publication of newspapers, magazines, or other periodicals shall not be considered job printing for the purposes of this chapter.

Reg. 3-5-435.2. ADVERTISING INCOME OF PUBLISHERS AND DISTRIBUTORS OF NEWSPAPERS AND OTHER PERIODICALS:

Publishers and distributors of newspapers and other periodicals shall be subject to the tax upon advertising imposed by Section 3-05-004-0405 and such tax shall be allocated in the manner prescribed by subsection (e) of Section 3-05-004-0435.

Reg. 3-5-445.1. WHEN THE RENTAL, LEASING, AND LICENSING OF REAL PROPERTY IS EXEMPT AS "CASUAL":

Reg. 3-5-445.1. When the rental, leasing, and licensing of real property is exempt as "casual".

(a) (Reserved)

(b) (Reserved)

Reg. 3-5-445.3. RENTAL, LEASING, AND LICENSING OF REAL PROPERTY AS LODGING: ROOM AND BOARD; FURNISHED LODGING:

(a) Room and board.

(1) Rooming houses, lodges, or other establishments providing both lodging and meals, shall maintain a record of the separate charges made for the lodging and the meals.

(2) The charge for lodging shall be subject to the tax imposed by Section 3-05-004-0444 or 3-05-004-0445. The charge for meals is subject to the tax upon restaurants and bars prescribed by Section 3-05-004-0455.

(b) Furnished lodging. A person who provides lodging with furnishings shall be deemed to be only in the business of rental, leasing, and licensing of lodging, and not in the business of rental, leasing, and licensing of such furnishings as tangible personal property, unless:

(1) Any tenant of any lodging space may choose to rent, lease, or license such lodging space either furnished or unfurnished; and

- (2) The lessor separately charges tenants for lodging and for furnishings; and
- (3) The lessor separately maintains his gross income from lodging and from furnishings separately in his accounting books and records.

If all of the above conditions are met, such person shall report both sources of income separately to the City.

Reg. 3-5-450.1. DISTINCTION BETWEEN RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY AND CERTAIN RELATED ACTIVITIES:

(a) Certain rentals, leases, and licenses for use in connection with construction contracting. Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:

- (1) Rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.
- (2) Rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.
- (3) Rental of pumps or cranes is rental of tangible personal property, regardless of whether or not an operator is included with the equipment rented.

(b) Distinction between equipment rental, leasing, or licensing for use and transporting for hire. The hiring of mobile equipment (cranes, airplanes, limousines, etc.) is considered rental, leasing, or licensing of tangible personal property whenever the charge is for a fixed sum or hourly rate. By comparison, the activity of a common carrier conveying goods or persons for a fee based upon distance, and not time, shall be considered transporting for hire.

Reg. 3-5-450.2. RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY: MEMBERSHIP FEES; OTHER CHARGES:

(a) Membership, admission, or other fees charged by any rental club or limited access lessor are considered part of taxable gross income.

(b) Gross income from rental, leasing, or licensing for use of tangible personal property must include all charges by the lessor to the lessee for repair, maintenance, or other service upon the tangible personal property rented, leased, or licensed.

(c) Sale of a warranty, maintenance, or service contract as a requirement of, or in conjunction with, a rental, leasing, or licensing contract is exempt.

Reg. 3-5-450.3. RENTAL, LEASING, AND LICENSING FOR USE OF EQUIPMENT WITH OPERATOR~~Y~~

In cases where the tangible personal property is rented, leased, or licensed with an operator provided by the lessor, the charge for the operator shall not be includable in the gross income from the rental, lease, or license of such tangible personal property if the charge for the operator and the charge for the use of the equipment are separately itemized to the lessee and separately maintained on the books and records of the lessor.

Reg. 3-5-450.4. RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY:
SEMI-PERMANENTLY OR PERMANENTLY INSTALLED TANGIBLE PERSONAL PROPERTY~~Y~~

(a) The term "semi-permanently or permanently installed" means that the item of tangible personal property has and is expected to have at the time of installation a permanent location at the site installed, as under a long-term lease agreement, except that the person using or applying said property may eventually replace it because it has become worn out or has become obsolete or the person ceases to have the right to possession of said property.

(b) An item of tangible personal property is deemed permanently installed if its installation requires alterations to the premises.

(c) Examples of "semi-permanently or permanently installed tangible personal property" include, but are not limited to: Computers, duplicating machines, furniture not of portable design, major appliances, store fixtures.

(d) The term does not include mobile transportation equipment or tangible personal property designed for regular use at different locations or customarily used at different locations, as under numerous short-term rental, lease, or license agreements, whether or not such property is in fact so used.

(1) For example, use of a mobile crane, trencher, automobile, or other similar equipment shall be considered a rental, lease, or license transaction subject to taxation only by the city or town in which such business office of the lessor is based.

(2) Other similar examples include, but are not limited to: camping equipment, contracting equipment, chain saw, forklift, household items, invalid needs, janitorial equipment, reducing equipment, furniture of portable design, trucks or trailers, tools, towbars, sump pumps, arc welders.

(e) A rental, lease, or license agreement which specifies that the item in question shall remain, under the terms of the agreement, located within the same city or town for more than one hundred eighty (180) consecutive days shall be sufficient evidence that such rented, leased, or licensed item is "permanently or semi-permanently installed" in said city or town, except when the item is mobile transportation equipment or one of the other types of portable equipment or property described in subsection (d) above.

Reg. 3-5-450.5. RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY: DELIVERY, INSTALLATION, REPAIR, AND MAINTENANCE CHARGES

(a) Delivery and installation charges in connection with the rental, leasing, and licensing of tangible personal property are exempt from the tax imposed by Section 3-05-004-0450; provided that the provisions of Regulation 3-5-100.2 have been met.

(b) Gross income from the sale of a warranty, maintenance, or similar service contract in connection with the rental, leasing, and licensing of tangible personal property shall be exempt:

(c) Separately stated charges for repair not included as part of a warranty, maintenance, or similar service contract relating to the rental, leasing, or licensing of tangible personal property are exempt from the tax imposed by Section 3-05-004-0450; however, such income is subject to the provisions of Sections 3-05-004-0460 and 3-05-004-0465, and the provisions of Regulation 3-5-465.~~(1)~~.

Reg. 3-5-455.1. GRATUITIES RELATED TO RESTAURANT ACTIVITY:

Gratuities charged by or collected by persons subject to the tax imposed by Section 3-05-004-0455 may be excluded from gross income if:

(a) Such charge is separately stated upon the bill, invoice, etc. provided the customer, and such amounts are maintained separately in the books and records of the taxpayer; and

(b) Such gratuities are distributed in total to employees of the taxpayer in addition to customary and regular wages.

Reg. 3-5-460.1. DISTINCTION BETWEEN RETAIL SALES AND CERTAIN OTHER TRANSFERS OF TANGIBLE PERSONAL PROPERTY:

A. Charges for transfer of tangible personal property included in the gross income of the business activity of persons engaged in the following business activities shall be deemed only as gross income from such business activity and not sales at retail taxed by Section 3-05-004-0460:

1. Tangible personal property incorporated into real property as part of reconstruction or construction contracting, per Sections 3-05-004-0415 through ~~3-05-004-0417~~ 3-05-004-0418.
2. Sales of feed at wholesale, per Section 3-05-004-0420.
3. Job printing, per Section 3-05-004-0425.
4. Mining, timbering, and other extraction, but not sales of sand, gravel, or rock extracted from the ground, per Section 3-05-004-0430.
5. Publication of newspapers, magazines, and other periodicals, per Section 3-05-004-0435.
6. Rental, leasing, and licensing of real or tangible personal property, per Sections 3-05-004-0445 or 3-05-004-0450.
7. Restaurants and bars, per Section 3-05-004-0455.
8. Food for home consumption, per Section 3-05-004-0462.
9. Telecommunications services, per Section 3-05-004-0470.
10. Utility services, per Section 3-05-004-0480.
11. Wastewater removal services, per Section 3-05-004-0485.

B. Distinction between construction contracting, retail, and certain direct customer service activities.

1. When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.
2. Items attached or installed on tangible personal property are retail sales.

3. Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscape maintenance).

4. Demolition, earth moving, and wrecking activities are considered construction contracting.

C. The sale of sand, rock, and gravel extracted from the ground shall be deemed a sale of tangible personal property and not mining or metallurgical activity.

D. Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.

E. Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.

1. "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.

2. Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.

3. Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.

4. The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

Reg. 3-5-460.2. RETAIL SALES: TRADING STAMP COMPANY TRANSACTIONS

A trading stamp transaction is defined as follows: The trading stamp company issues stamps to a vendor; the vendor then provides them to its customers; and the customer then exchanges the stamps for merchandise from the trading stamp company.

The exchange transaction for the merchandise shall be deemed a retail sale and the trading stamp company a retailer. All taxes imposed by this Chapter applicable to retail transactions are therefore applicable to such exchange transactions.

The rate of tax shall be the retail rate based upon the retail dollar value of the redeemed merchandise as expressed in the redemption dollar value per book of stamps or portion thereof. The tax imposition described herein is in lieu of any Privilege or Use Tax upon the business of issuing stamps, redeeming the same, or using or storing property redeemed.

Reg. 3-5-460.3. ~~RETAIL SALES: MEMBERSHIP FEES OF RETAILERS:~~ [REPEALED EFFECTIVE OCTOBER 1, 2019.](#)

~~Membership, admission, or other fees charged by limited access retailers are considered part of taxable gross income of the business activity of selling tangible personal property.~~

Reg. 3-5-460.4. ~~RETAIL SALES: PROFESSIONAL SERVICES:~~

(a) "Professional Services" refer to services rendered by such persons as doctors, lawyers, accountants, architects, etc. for their customers or clients where the services meet particular needs of a specific client and only apply in the factual context of the client and the final product has no retail value in itself. For example, opinion letters, workpapers, reports, etc. are not in a form which would be subject to retail sales to customers. However, transfer of items in a form which would be subject to retail sales (e.g., artwork, forms, manuals, etc.) would not be considered professional services. The issue is one of fact which must be resolved in each situation.

(b) Creative ("idea") labor and design labor that do not result in tangible personal property that will be or can be sold are deemed professional services and, if charged separately and maintained separately in the taxpayer's books and records, are not includable in gross income.

(c) "Professional services" shall be deemed to include those items of tangible personal property which are incidental to the services rendered, provided such tangible personal property is "inconsequential."

(1) Incidental transfers of tangible personal property shall be regarded as "inconsequential" if,

(A) The purchase price of the tangible personal property to the person rendering the professional services represents less than fifteen percent (15%) of the charge, billing, or statement rendered to the purchaser in connection with the transaction, and

(B) The tangible personal property transferred is not itself in a form which is subject to retail sale.

(2) In cases where the tangible personal property transferred is deemed inconsequential, the provider of the tangible personal property so transferred is deemed the ultimate consumer of such tangible personal property, and subject to all applicable taxes imposed by this Chapter upon such transfer.

(d) Examples:

(1) The transfer of paper embodying the result or work product of the services rendered by an attorney or certified public accountant is regarded as inconsequential to the charges for professional services.

(2) An appraisal report issued by an appraiser, reflecting such appraiser's efforts to appraise real estate, is regarded inconsequential.

(3) Use of a hair care product on a client's hair by a barber or beautician in connection with performing professional services is usually inconsequential. On the other hand, if the barber or beautician supplies the customer with a bottle of the product for the client's use thereafter and without the professional's assistance, the transfer of the bottle of hair care product is deemed not inconsequential.

(4) If a mortician properly segregates his professional services from other taxable activities on his bill (invoice, contract), his gross income would include only the income derived from the sale of tangible personal property (casket, cards, flowers, etc.) and rental, leasing, or licensing of real and tangible personal property. His charges for professional services (embalming, cosmetic work, etc.) would not be includable in gross income.

Reg. 3-5-460.5. RETAIL SALES: MONETIZED BULLION; NUMISMATIC VALUE OF COINS

(a) "Monetized Bullion" means coins or other forms of money manufactured or minted from precious metals or other metals and issued as legal tender or a medium of exchange by or for any government authorized to do so.

(b) Any coin shall be considered to have been transferred or acquired primarily for its "Numismatic value" if the sale or acquisition price:

(1) Is equal to or greater than twice (2 times) the value of the metallic content of the coin as of the date of transfer or acquisition; and

(2) Is equal to or greater than twice (2 times) its face value, in the case of a coin which, at the time of transfer or acquisition, was legal tender or a medium of exchange of the government issuing or authorizing its issuance.

Reg. 3-5-460.6. ~~RETAIL SALES: CONSIGNMENT SALES:~~ [REPEALED EFFECTIVE OCTOBER 1, 2019.](#)

~~Sales of merchandise acquired on consignment are taxable as retail sales. In cases where the merchant is acting as an agent on behalf of another dealer, sales of the consigned merchandise are taxable to the principal, provided the merchant makes full disclosure to customers that he is acting only as an agent for the named principal. However, when the principal is not deemed to be a dealer, such sales are considered to be those of the merchant and are taxable to him.~~

Reg. 3-5-465.1. RETAIL SALES: REPAIR SERVICES:

(a) Fair market value of parts and labor charges. The Tax Collector may examine the reporting of all transactions covered by this Section to determine if an "arms-length" price is charged for the parts and materials. The applicable tax may not be avoided by pricing a part, which ordinarily sells to the customer at \$10, at \$5 and including the difference as "service" or "labor". In the absence of satisfactory evidence supplied by the taxpayer as to industry or business practice, the Tax Collector may use the cost of the part or materials to the taxpayer marked up by a reasonable profit, to estimate the gross income subject to tax.

(b) Notwithstanding Regulation 3-5-350.1(e),

(1) In the case where the taxpayer does not normally and regularly sell items of tangible personal property apart from a repair transaction, the taxpayer may determine the sale price of the tangible personal property transferred by means of a "computed charge". The "computed charge" shall be the sum of the cost of the item of tangible personal property transferred, plus a "reasonable markup." The "reasonable markup" shall be that amount needed to achieve a representative retail price for which such items of tangible personal property are normally sold at retail by comparable businesses within the State (not under circumstances involving the combination of such sale with the providing of repair services). The taxpayer shall have the initial responsibility of determining such reasonable markup, and providing to the Tax Collector, if requested, the basis for his determination.

(2) In the event that there is a disagreement between the Tax Collector and the taxpayer as to the proper determination of the "computed charges", the burden shall be upon the taxpayer to satisfy the Tax Collector, the Hearing Officer in the event of a hearing, or the court in any subsequent court action

involving an assessment, of the validity of the taxpayer's method of determination of such "computed charges". The determination by the Tax Collector as to the proper "computed charge" shall be considered valid, and shall be sustained unless it is proven by the taxpayer that such determination is arbitrary and unreasonable.

Reg. 3-5-465.2. RETAIL SALES: WARRANTY, MAINTENANCE, AND SIMILAR SERVICE CONTRACTS

(a) Gross income from sales of warranty, maintenance, and service contracts is exempt from the tax imposed by Section 3-05-004-0460.

(b) Transfers of tangible personal property in connection with a service, warranty, guaranty, or maintenance agreement between a vendor and a vendee shall be subject to tax under Section 3-05-004-0460 only to the extent of gross income received from separately itemized charges made for the items of property transferred.

(c) The gross income derived from a maintenance insurance agreement, which agreement is entered into between the purchaser and any person other than the seller is not subject to tax imposed by Section 3-05-004-0460. If the provider of the maintenance insurance agreement pays for tangible personal property on behalf of the insured in the performance of the agreement, such sales are subject to all applicable taxes imposed by this Chapter.

(d) Charges for tangible personal property provided under the terms of a warranty, maintenance, or service contract exempted under Section 3-05-004-0465 are subject to tax as retail sales.

(e) However, gross income received by a dealer from a manufacturer for work performed under a manufacturer's warranty is not taxable under Section 3-05-004-0460.

Reg. 3-5-465.3. RETAIL SALES: SALE OF CONTAINERS, PAPER PRODUCTS, AND LABELS

(a) The sale of a container or similar packaging material which contains personal property and which is transferred to the customer with the sale of the product is not taxable as a sale for resale. Examples of such nontaxable containers include but are not limited to:

(1) Packaging materials sold to a manufacturer of video equipment for containment of the product during shipment.

(2) Cellophane-type wrap sold to a meat department or butcher for containment of the individually wrapped or contained meat.

(3) Bags used to contain loose fungible goods such as fruits, vegetables, and other products sold in bulk, where such bags or containers are used to contain and measure the amount purchased by the customer.

(4) Shopping bags and similar merchandising bags sold to grocery stores, department stores or other retailers.

(5) Gift wrappings and gift boxes sold to department stores or other retailers.

(b) Sales of non-returnable or disposable paper (and similar products such as plastic or styrofoam) cups, lids, plates, bags, napkins, straws, knives, forks and other similar food accessories to a restaurant or others taxable under Section ~~3-5-455~~ [3-05-004-0455](#) for transfer by the restaurant to its customer to contain or facilitate the consumption of the food, drink or condiment are sales for resale and not taxable.

(c) Where a retailer imposes a charge for gift wrapping and the charge includes the container, paper, and other appropriate materials, the wrapping charge shall be considered a sale.

(d) Charges for returnable containers, where the charges are imposed on the customer, are subject to tax at the time of the transaction. A credit may be taken for the amount of refund after such refund is made.

(e) The sale of labels to a purchaser who affixes them to a primary container is a sale for resale and not taxable. Directional or instructional material included with products sold are considered to be part of the product and a sale for resale. However, the sale of items such as price tags, shipping tags, and advertising matter delivered to the customer in connection with the retail sale is taxable to the retailer as a retail sale to it, and is not exempt as a sale for resale.

Reg. 3-5-465.4. ~~RETAIL SALES: AIRCRAFT ACQUIRED FOR USE OUTSIDE THE STATE~~ [REPEALED](#)
[EFFECTIVE OCTOBER 1, 2019.](#)

~~"Aircraft acquired for use outside the state" means aircraft, navigational and communication instruments, and other accessories and related equipment sold to:~~

~~(a) Any foreign government for use by such government outside of this state.~~

~~(b) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subsection also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located~~

~~outside this state and the property will not be used in this state other than in removing the property from this state.~~

Reg. 3-5-470.1. TELECOMMUNICATION SERVICES:

(a) Gross income from the business activity of providing telecommunication services to consumers within this City shall not include:

(1) Charges for installation, maintenance, and repair of telecommunication equipment which are subject to the provisions of Sections 3-05-004-0415, 3-05-004-0416, or 3-05-004-0417 (construction contracting); 3-05-004-0445 (real property rental); 3-05-004-0450 (tangible personal property rental); or 3-05-004-0460 (retail sales); depending upon the nature of the work performed.

(2) Separately billed advertising charges which are subject to the provisions of Section 3-05-004-0405 or 3-05-004-0435.

(b) Mobile equipment. In cases where the customer is being provided telecommunication services to receiving/transmission equipment designed to be mobile in nature (for example, mobile telephones, portable hand-held two-way radios, paging devices, etc.), the provider shall, for the purposes of the tax imposed by this Section, determine whether such provider's customers are "within this City" as follows:

(1) By the billing address of the customer, provided that such address is a permanent residence or business location of the consumer within the State.

(2) In all other cases, the business location of the telecommunications provider.

Reg. 3-5-475.1. DISTINCTION BETWEEN TRANSPORTING FOR HIRE AND CERTAIN RELATED ACTIVITIES:

The hiring of mobile equipment (cranes, airplanes, limousines, etc.) is deemed rental, leasing, or licensing for use of tangible personal property whenever the charge is for a fixed sum or hourly rate. By comparison, the activity of a common carrier conveying goods or persons for a fee based upon distance, and not time, shall be considered transporting for hire.

Reg. 3-5-520.1. REPORTS MADE TO THE CITY:

A. Each taxpayer shall provide, as a minimum, all of the following when reporting taxes due as provided in this chapter:

1. Legal business name of the taxpayer or his agent.
2. Mailing address of the taxpayer.
3. City privilege license number of the taxpayer.
4. Period of time for which the report is intended.
5. For each category of income to which the taxpayer is subject, for the reporting period, as provided on the official City tax return:
 - a. All amounts subject to, excluded from, exempt from, or deductible from the tax imposed upon that category of business activity, summarized in total as "gross receipts" of that category of business activity.
 - b. The total amount claimed as excludable, exempted, or deducted from such "gross receipts", itemized as provided on the official City tax return, and summarized in total as "total deductions" for that category.
 - c. The difference between such "gross receipts" and "total deductions" as "net taxable" for that category.
 - d. The tax due and payable for that category.
6. That total amount subject to use tax, summarized as "net taxable," and the use tax due and payable for that reporting period.
7. Any excess tax collected which is due and payable.
8. Any claimed tax credits against taxes due and payable.
9. Total amount remitted with the return.

10. A statement verifying that the information provided on the return is accurate to the best of the preparer's knowledge. Such statement must be accompanied by a dated signature of the preparer, and also show the preparer's title or relationship to the taxpayer.

11. The tax collector may prescribe and will notify taxpayers of alternative methods for signing, subscribing or verifying any report or statement required to be filed, including, but not limited to, electronic signatures and/or security codes, and such methods shall have the same validity and consequence as the actual signature or written declaration of the taxpayer or other person required to sign, subscribe or verify the return, statement, or other document.

(Ord. No. 2004-25, Amended, 01/10/05; Ord. 2014-16, Amended, 07/15/2014)

Reg. 3-5-520.2. CHANGE OF METHOD OF REPORTING:

(a) Any taxpayer electing to change his reporting method shall be permitted to do so only upon filing a written request to the Tax Collector and after receiving written approval of the Tax Collector. The approval shall state the effective date of the change.

(b) The Tax Collector may postpone such approval to allow for examination of the records of the taxpayer and may further require that all tax liability be satisfied up to the effective date of the change.

(c) Failure of the taxpayer to notify the Tax Collector and await approval before changing the method of reporting will subject the taxpayer to interest and penalties if his original method of reporting would produce higher taxes due the City. When a person makes such change without the consent of the Tax Collector, the Tax Collector may audit his books and records to verify the tax liability as of the date of the change.

(d) Any taxpayer who has failed to indicate a choice of reporting method upon the application for a Privilege License shall be deemed to have chosen the accrual method of reporting.

Reg. 3-5-555.1. ADMINISTRATIVE REQUEST FOR THE ATTENDANCE OF WITNESSES OR THE PRODUCTION OF DOCUMENTS; SERVICE THEREOF; REMEDIES AND PENALTIES FOR FAILURE TO RESPOND:

(a) If a taxpayer refuses or fails to comply in whole or in part with a request to provide records authorized by Section 3-05-005-0555, the Tax Collector may issue his written Administrative Request which shall:

(1) Designate the individual to provide information.

(2) Describe specifically or generally the information to be provided, and any documents sought to be examined.

(3) State the date, time, and place in which the individual shall appear before the Tax Collector to provide the information and to produce the documents sought.

(4) Be directed to:

(A) Any director, officer, employee, agent, or representative of the person sought to be examined; or

(B) Any independent accountant, accounting firm, bookkeeping or financial service retained or employed by such person for any purpose connected with business activity subject to taxation; or

(C) Any other person who, in the opinion of the Tax Collector, has knowledge of facts bearing upon any tax liability of the person or taxpayer from whom information is sought.

(b) The failure of a taxpayer to comply with reasonable requests for records without good reason or cause may, in the exercise of judicial discretion by a court, be held to constitute a failure to exhaust administrative remedies.

Reg. 3-5-571.1. COLLECTION OF TAX IN JEOPARDY:

Evidence that collection of tax due is in jeopardy shall include documentation that:

(a) The taxpayer is going out of business.

(b) The taxpayer has no City privilege license or has no permanent business location in the State.

(c) The taxpayer has failed to timely pay any tax (or penalties and interest thereon) due to the City on three (3) or more occasions within the previous thirty-six (36) calendar months.

(d) The taxpayer has remitted payment by check, which has been dishonored.

(e) The taxpayer has failed to comply with a formal written request of the Tax Collector made pursuant to Regulation 3-5-555.1.

(Ord. 2008, Amended, 11/02/1999; Ord. 2007-28, Amended, 05/01/2007; Ord. 2013-26, Amended, 01/07/2014)

**DIVISION 3-05-008
MISCELLANEOUS PROVISIONS**

SECTIONS:

- ~~3-05-008-0800 TAX SUNSET DATES, USE OF REVENUES, AUTHORITY TO EXTEND TAXES OR
AMEND CHAPTER (Effective until July 1, 2020)~~
- 3-05-008-0800 TAX SUNSET DATES, USE OF REVENUES, AUTHORITY TO EXTEND TAXES OR
AMEND CHAPTER *(Effective July 1, 2020)*
- 3-05-008-0801 TELEPHONE SERVICE LICENSE TAX
- 3-05-008-0802 RESERVED
- 3-05-008-0805 VALIDITY OF CHAPTER
- 3-05-008-0810 REPEAL

~~**3-05-008-0800 TAX SUNSET DATES, USE OF REVENUES, AUTHORITY TO EXTEND
TAXES OR AMEND CHAPTER (Effective until July 1, 2020)**~~

~~A.—Sunset Clause. The provisions of this chapter shall terminate and cease to be operative for the tax rates specified below at 11:59 p.m. on the date specified for each rate, unless extended pursuant to subsection (B) of this section:~~

- ~~1.—For the one percent (1.0%) transaction privilege tax rate imposed by Ordinance No. 1491, as extended through November 4, 2024, by approval of a majority of the qualified electors voting in the general election held on May 18, 2010. Such tax revenues are unrestricted.~~
- ~~2.—For the two percent (2.0%) transaction privilege tax rate imposed on lodging, restaurant and lounge businesses ("BBB tax"), by Ordinance No. 1532, as extended through March 31, 2028, by approval of a majority of the qualified electors voting in the general election held on May 18, 2010. Such tax revenues shall be used as provided for in Chapter 3-06, Hospitality Industry Tax Revenues.~~
- ~~3.—For the eight-hundredths percent (0.08%) transaction privilege tax rate imposed by Ordinance No. 2000-14, June 30, 2020. Such tax revenues shall be used for "Safe-to-School and Other Pedestrian and Bike Projects" (Proposition 400) as described in the ordinance.~~
- ~~4.—For the sixteen-hundredths percent (0.16%) transaction privilege tax rate imposed by Ordinance No. 2000-14, June 30, 2020. Such tax revenues shall be used for "Fourth Street Railroad Overpass" to Route 66 (Proposition 401A) as described in the ordinance.~~

5.—For the one hundred seventy-five thousandths percent (0.175%) transaction privilege tax rate imposed by Ordinance No. 2000-14, as extended in Ordinance No. 2008-05, June 30, 2020. Such tax revenues shall be used for "Transit Improvements" (Proposition 402) as described in Ordinance No. 2000-14 and "Transit" (Proposition 401) as described in Ordinance No. 2008-05.

6.—For the one hundred eighty-six thousandths percent (0.186%) transaction privilege tax rate imposed by Ordinance No. 2000-14, June 30, 2020. Such tax revenues shall be used for "Traffic Flow and Safety Improvements" (Proposition 403) as described in the ordinance.

7.—For the two hundredths percent (0.02%) transaction privilege tax rate imposed by Ordinance No. 2008-05, June 30, 2020. Such tax revenues shall be used for "Hybrid Vehicles and Transit System Capital" (Proposition 402) as described in the ordinance.

8.—For the two hundredths percent (0.02%) transaction privilege tax rate imposed by Ordinance No. 2008-05, June 30, 2020. Such tax revenues shall be used for transit "Service Between Downtown and the Woodlands Village Areas" through and within the Northern Arizona University campus (Proposition 403) as described in the ordinance.

9.—For the four hundredths percent (0.04%) transaction privilege tax rate imposed by Ordinance No. 2008-05, June 30, 2020. Such tax revenues shall be used to "Support Mountain Line Bus Service in Areas Underserved or Not Served" (Proposition 404) as described in the ordinance.

10.—For the four hundredths percent (0.04%) transaction privilege tax rate imposed by Ordinance No. 2008-05, June 30, 2020. Such tax revenues shall be used for "More Frequent Service on Some Existing Bus Routes" (Proposition 405) as described in the ordinance.

11.—For the thirty-three hundredths percent (0.33%) transaction privilege tax rate imposed by Ordinance No. 2014-34, December 31, 2034. Such tax revenues shall be used for "Road Repair and Street Safety Initiative" (Proposition 406) as described in the ordinance.

12.—For the twenty-three hundredths percent (0.23%) transaction privilege tax rate approved by a majority of the qualified electors voting in the November 6, 2018, general election, codified by Ordinance No. 2019-01, for the twenty (20) year period of July 1, 2019, through June 30, 2039. Such tax revenues shall be used to pay for the costs of a Lone Tree Railroad Overpass from Butler Avenue to Route 66, along with related pedestrian, bicycle, and street connections, per the "Lone Tree Overpass Sales Tax" (Proposition 420), as described in the ordinance.

~~B.—Automatic Extension upon Electors' Approval. The authority to levy each of the tax rates specified in subsection (A) of this section shall be subject to approval by a majority of the qualified electors voting in a regularly scheduled general election. Such approval shall constitute an automatic extension of this chapter for however long the qualified electors approve such extension at the respective tax rate approved without further action by the City Council.~~

~~C.—Authority to Amend. The Council may amend this chapter as it may deem necessary with the exception of the rates or the effective term of this chapter.~~

~~(Ord. 2000-14, Amended, 06/06/2000; Ord. 2008-05, Amended, 01/15/2008; Ord. 2014-16, Renumbered, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019. Formerly 3-05-006-0600)~~

3-05-008-0800 TAX SUNSET DATES, USE OF REVENUES, AUTHORITY TO EXTEND TAXES OR AMEND CHAPTER (Effective July 1, 2020)

A. Sunset Clause. The provisions of this chapter shall terminate and cease to be operative for the tax rates specified below at 11:59 p.m. on the date specified for each rate, unless extended pursuant to subsection (B) of this section:

1. For the one percent (1.0%) transaction privilege tax rate ORIGINALLY imposed by Ordinance No. 1491, ~~as~~ AND extended through JUNE 30, 2035 ~~November 4, 2024~~, by approval of a majority of the qualified electors voting in the general election held on NOVEMBER 3, 2020 (PROPOSITION 436) ~~May 18, 2010~~. Such tax revenues are unrestricted. THIS SECTION IS EFFECTIVE NOVEMBER 5, 2024.
2. For the two percent (2.0%) transaction privilege tax rate ORIGINALLY imposed on lodging, restaurant and lounge businesses ("BBB tax"), by Ordinance No. 1532, AND ~~as~~ extended through JUNE 30, 2043 ~~March 31, 2028~~, by approval of a majority of the qualified electors voting in the general election held on NOVEMBER 5, 2024 (PROPOSITION 487) ~~May 18, 2010~~. Such tax revenues shall be used as provided for in Chapter 3-06, Hospitality Industry Tax Revenues.
3. For the thirty-three hundredths percent (0.33%) transaction privilege tax rate imposed by Ordinance No. 2014-34, December 31, 2034. Such tax revenues shall be used for "Road Repair and Street Safety Initiative" (Proposition 406) as described in the ordinance.

4. For the twenty-three hundredths percent (0.23%) transaction privilege tax rate approved by a majority of the qualified electors voting in the November 6, 2018, general election, codified by Ordinance No. 2019-01, for the twenty (20) year period of July 1, 2019, through June 30, 2039. Such tax revenues shall be used to pay for the costs of a Lone Tree Railroad Overpass from Butler Avenue to Route 66, along with related pedestrian bicycle, and street connections, per the "Lone Tree Overpass Sales Tax" (Proposition 420), as described in the ordinance.

5. For the twenty-nine hundredths and five thousandths percent (0.295%) transaction privilege tax rate extended by a majority of the qualified electors voting in the November 8, 2016, election, codified by Ordinance No. 2019-01, through June 30, 2030, such tax revenues shall be used to pay for the costs of acquiring, constructing, improving, operating, and maintaining equipment and facilities for a public transit system within the City of Flagstaff, per the "Transit Tax Levy" (Proposition 411) as described in the ordinance. [THIS TRANSACTION PRIVILEGE TAX RATE SHALL APPLY THROUGH JUNE 30, 2025.](#)

[6. FOR THE FIVE TENTHS OF A PERCENT \(0.500%\) TRANSACTION PRIVILEGE TAX RATE EXTENDED AND INCREASED BY APPROVAL OF A MAJORITY OF THE QUALIFIED ELECTORS VOTING IN THE NOVEMBER 5, 2024, ELECTION, CODIFIED BY ORDINANCE NO. 2025-XX EFFECTIVE JULY 1, 2025, THROUGH JUNE 30, 2040, SUCH TAX REVENUES SHALL BE USED TO PAY FOR THE PURPOSES OF PUBLIC TRANSIT WITHIN THE CITY OF FLAGSTAFF, PER THE "TRANSIT TAX LEVY" \(PROPOSITION 488\).](#)

~~6~~7. For the forty-two hundredths and six thousandths percent (0.426%) transaction privilege tax rate extended by a majority of the qualified electors voting in the November 6, 2018, election, codified by Ordinance No. 2019-01, for the twenty-one (21) year period commencing July 1, 2020, and continuing through June 30, 2041. Such tax revenues shall be used to pay for roadway, pedestrian, bicycle and safety improvements, per the "Transportation Sales Tax" (Proposition 419), as described in the ordinance.

B. Automatic Extension upon Electors' Approval. The authority to levy each of the tax rates specified in subsection (A) of this section shall be subject to approval by a majority of the qualified electors voting in a regularly scheduled general election. Such approval shall constitute an automatic extension of this chapter for however long the qualified electors approve such extension at the respective tax rate approved without further action by the City Council.

C. Authority to Amend. The Council may amend this chapter as it may deem necessary with the exception of the rates or the effective term of this chapter. ([ORD. 1491](#), [ORD. 1532](#), Ord. 2000-14, Amended, 06/06/2000; Ord. 2008-05, Amended, 01/15/2008; Ord. 2014-16, Renumbered, 07/15/2014; Ord. 2014-34, Amended, 01/06/2015; Ord. 2019-01, Amended, 02/19/2019. Formerly 3-05-006-0600)

3-05-008-0801 TELEPHONE SERVICE LICENSE TAX

Telephone Service Providers. An annual license tax of two percent (2%) shall be paid on the gross proceeds of all sales of telephone services by any provider who uses any City right-of-way. Said license tax shall be paid to the City at the end of each quarter. Gross proceeds of all sales shall include business done exclusively within the City and the State of Arizona, and will exclude any business done to or from points outside the State and telephone services provided to all U.S. governmental units.¹

(Ord. 2018-22, Enacted, 06/19/2018)

3-05-008-0802 RESERVED

3-05-008-0805 VALIDITY OF CHAPTER

A. If any section, subsection, sentence, clause, phrase or portion of this chapter 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 of this section.

(Ord. 1593, 12-6-88; Ord. 2014-16, Renumbered, 07/15/2014. Formerly 3-05-006-0605)

3-05-008-0810 REPEAL

A. All ordinances or parts of ordinances, including but not limited to Ordinance No. 1333, which conflict with the provisions of this chapter are hereby repealed.

B. Subsection A of this section shall be inoperable in the event that the ordinance codified in this chapter is defeated by referendum.

(Ord. 1491, 6-16-87; Ord. 2014-16, Renumbered, 07/15/2014. Formerly 3-05-006-0610)

¹ This voter-approved tax was adopted in 1962, predates the 1987 Model City Tax Code, is separately imposed, and was previously codified in Section [3-01-001-0002](#), License Taxes.