

Attachment B
Amendments to the Phoenix City (Tax) Code

Section I. Phoenix City Code Section 14-110 is amended as follows, with the following effective dates per subsection: (a)(3) January 1, 2015; (a)(6) June 1, 1998; (a)(6)(A)(iv) January 1, 2018; (a)(14) April 17, 1985.

Sec.14-110. Definitions: Income-producing capital equipment.

(a) The following tangible personal property, other than items excluded in subsection (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 14-415(B)(12) AND A.R.S. SECTION**

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1 42-5075, SUBSECTION O, consisting of central office switching equipment;

2 switchboards; private branch exchange equipment; microwave radio equipment,

3 and carrier equipment including optical fiber, coaxial cable, and other

4 transmission media which are components of carrier systems.

- 5 (4) machinery, equipment, or transmission lines used directly in producing or
6 transmitting electrical power, but not including distribution. Transformers and
7 control equipment used at transmission substation sites constitute equipment used
8 in producing or transmitting electrical power.

- 9 (5) pipes or valves four inches (4") in diameter or larger and related equipment, used
10 to transport oil, natural gas, artificial gas, water, or coal slurry. For the purpose of
11 this Section, related equipment includes: compressor units, regulators, machinery
12 and equipment, fittings, seals and any other parts that are used in operating the
13 pipes or valves.

- 14 (6) aircraft, navigational and communication instruments, and other accessories and
15 related equipment sold to:

16 (A) a person:

- 17 (i) holding, OR EXEMPTED BY FEDERAL LAW FROM
18 OBTAINING, a federal certificate of public convenience and
19 necessity FOR USE AS, IN CONJUNCTION WITH OR
20 BECOMING PART OF AN AIRCRAFT TO BE USED TO
21 TRANSPORT PERSONS FOR HIRE IN INTRASTATE,
22 INTERSTATE OR FOREIGN COMMERCE.

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1 (ii) THAT IS CERTIFICATED OR LICENSED UNDER FEDERAL
2 AVIATION ADMINISTRATION REGULATIONS (14 CODE
3 OF FEDERAL REGULATIONS PART 121 OR 135) AS A
4 SCHEDULED OR UNSCHEDULED CARRIER OF PERSONS
5 FOR HIRE FOR USE AS OR IN CONJUNCTION WITH OR
6 BECOMING PART OF AN AIRCRAFT TO BE USED TO
7 TRANSPORT PERSONS FOR HIRE IN INTRASTATE,
8 INTERSTATE OR FOREIGN COMMERCE.

9 (iii) HOLDING A foreign air carrier permit for air transportation for
10 use as or in conjunction with or becoming a part of aircraft to be
11 used to transport persons, property or United States mail in
12 intrastate, interstate or foreign commerce.

13 (iv) OPERATING AN AIRCRAFT TO TRANSPORT PERSONS IN
14 ANY MANNER FOR COMPENSATION OR HIRE, OR FOR
15 USE IN A FRACTIONAL OWNERSHIP PROGRAM THAT
16 MEETS THE REQUIREMENTS OF FEDERAL AVIATION
17 ADMINISTRATION REGULATIONS (14 CODE OF FEDERAL
18 REGULATIONS PART 91, SUBPART K), INCLUDING AS AN
19 AIR CARRIER, A FOREIGN AIR CARRIER OR A
20 COMMERCIAL OPERATOR OR UNDER A RESTRICTED
21 CATEGORY, WITHIN THE MEANING OF 14 CODE OF
22 FEDERAL REGULATIONS, REGARDLESS OF WHETHER
23 THE OPERATION OR AIRCRAFT IS REGULATED OR

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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 N.

(B) any foreign government.

(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.

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- 1 (8) railroad rolling stock, rails, ties and signal control equipment used directly to
2 transport persons or property.
- 3 (9) machinery or equipment used directly to drill for oil or gas or used directly in the
4 process of extracting oil or gas from the earth for commercial purposes.
- 5 (10) buses or other urban mass transit vehicles which are used directly to transport
6 persons or property for hire or pursuant to a governmentally adopted and
7 controlled urban mass transportation program and which are sold to bus
8 companies holding a federal certificate of convenience and necessity or operated
9 by a city, town or other governmental entity or by any person contracting with
10 such governmental entity as part of a governmentally adopted and controlled
11 program to provide urban mass transportation.
- 12 (11) metering, monitoring, receiving, and transmitting equipment acquired by persons
13 engaged in the business of providing utility services or telecommunications
14 services; but only to the extent that such equipment is to be used by the customers
15 of such persons and such persons separately charge or bill their customers for use
16 of such equipment.
- 17 (12) groundwater measuring devices required under A.R.S. **SECTION** 45-604.
- 18 (13) machinery or equipment used in research and development. In this paragraph,
19 "research and development" means basic and applied research in the sciences and
20 engineering, and designing, developing or testing prototypes, processes or new
21 products, including research and development of computer software that is
22 embedded in or an integral part of the prototype or new product or that is required
23 for machinery or equipment otherwise exempt under this Section to function

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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)

(15) Included in income producing capital equipment are liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, 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

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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.

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(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.

(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:

(i) 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.

(ii) 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

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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 (P.L. 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:

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(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.

(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) below, where the property is acquired to become an integral part of another item itemized in subsections (a) or (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), (b) or (c) of this Section regardless of the cost or useful life of that property.

(2) janitorial equipment and hand tools.

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(3) office equipment, furniture, and supplies.

(4) tangible personal property used in selling or distributing activities.

(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) 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) **(RESERVED)**

(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.

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Section II. Phoenix City Code Section 14-410 is amended as follows with the following effective dates per subsection: (b)(6) January 1, 2018; (b)(7) January 1, 2010; (b)(8) August 6, 2016; (b)(9) January 1, 2019.

Sec. 14-410. Amusements, exhibitions, and similar activities.

(a) The tax rate shall be at an amount equal to two and three-tenths percent (2.3%) 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 of sales or gross income derived from the following sources is 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 14-444, if all of the following apply:

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1 (A) The hotel business receives gross income from a customer for the specific
2 business activity otherwise subject to amusement tax.

3 (B) The consideration received by the hotel business is equal to or greater than
4 the amount to be deducted under this subsection.

5 (C) The hotel business has provided an exemption certificate to the person
6 engaging in business under this Section.

7 (4) Income that is specifically included as the gross income of a business activity
8 upon which another Section of this Article imposes a tax, that is separately stated
9 to the customer and is taxable to the person engaged in that classification not to
10 exceed consideration paid to the person conducting the activity.

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

14 (6) EXHIBITION EVENTS IN THIS STATE SPONSORED, CONDUCTED OR
15 OPERATED BY A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM
16 TAXATION UNDER SECTION 501(C)(3), 501(C)(4) OR 501(C)(6) OF THE
17 INTERNAL REVENUE CODE IF THE ORGANIZATION IS ASSOCIATED
18 WITH A MAJOR LEAGUE BASEBALL TEAM OR A NATIONAL TOURING
19 PROFESSIONAL GOLFING ASSOCIATION AND NO PART OF THE
20 ORGANIZATION'S NET EARNINGS INURES TO THE BENEFIT OF ANY
21 PRIVATE SHAREHOLDER OR INDIVIDUAL. THIS PARAGRAPH DOES
22 NOT APPLY TO AN ORGANIZATION THAT IS OWNED, MANAGED OR
23 CONTROLLED, IN WHOLE OR IN PART, BY A MAJOR LEAGUE

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1 BASEBALL TEAM, OR ITS OWNERS, OFFICERS, EMPLOYEES OR
2 AGENTS, OR BY A MAJOR LEAGUE BASEBALL ASSOCIATION OR
3 PROFESSIONAL GOLFING ASSOCIATION, OR ITS OWNERS, OFFICERS,
4 EMPLOYEES OR AGENTS, UNLESS THE ORGANIZATION CONDUCTED
5 OR OPERATED EXHIBITION EVENTS IN THIS STATE BEFORE
6 JANUARY 1, 2018 THAT WERE EXEMPT FROM STATE TRANSACTION
7 PRIVILEGE TAX UNDER A.R.S. SECTION 42-5073.

8 (7) UNTIL MARCH 1, 2017, THE GROSS PROCEEDS OF SALES OR GROSS
9 INCOME DERIVED FROM ENTRY FEES PAID BY PARTICIPANTS FOR
10 EVENTS THAT CONSIST OF A RUN, WALK, SWIM OR BICYCLE RIDE
11 OR A SIMILAR EVENT, OR ANY COMBINATION OF THESE EVENTS.

12 (8) THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM
13 ENTRY FEES PAID BY PARTICIPANTS FOR EVENTS THAT ARE
14 OPERATED OR CONDUCTED BY NONPROFIT ORGANIZATIONS THAT
15 ARE EXEMPT FROM TAXATION UNDER SECTION 501(c)(3) OF THE
16 INTERNAL REVENUE CODE AND OF WHICH NO PART OF THE
17 ORGANIZATION'S NET EARNINGS INURES TO THE BENEFIT OF ANY
18 PRIVATE SHAREHOLDER OR INDIVIDUAL, IF THE EVENT CONSISTS
19 OF A RUN, WALK, SWIM OR BICYCLE RIDE OR A SIMILAR EVENT, OR
20 ANY COMBINATION OF THESE EVENTS.

21 (9) (RESERVED)

22 (c) The tax imposed by this Section shall not include arranging an amusement activity as a
23 service to a person's customers if that person is not otherwise engaged in the business of

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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 paragraph, "arranging" includes billing for or collecting amusement charges from a person's customers on behalf of the persons providing the amusement.

Section III. Phoenix City Code Section 14-415 is amended as follows, with an effective date of January 1, 2015.

Sec. 14-415. Construction contracting: construction contractors.

(a) The tax rate shall be at an amount equal to two and three-tenths percent (2.3%) 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 14-427.

(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

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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) Section 14-465, subsections (g) and (p)

(B) Section 14-660, subsections (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 14-110, that is deducted from

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the retail classification pursuant to Section 14-465(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 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 paragraph, "permanent attachment" means at least one 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 cleanrooms that are deducted from the tax

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base of the retail classification pursuant to Section 14-465, subsection (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, subsection D.

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(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 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, A.R.S.

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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 THE 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.

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1 (B) TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR
2 FABRICATED INTO A PROJECT DESCRIBED IN THIS
3 SUBSECTION MAY BE SUBJECT TO THE AMOUNT PRESCRIBED
4 IN SECTION 14-415.1.

5 (C) EACH CONTRACT IS INDEPENDENT OF ANY OTHER
6 CONTRACT, EXCEPT THAT ANY CHANGE ORDER THAT
7 DIRECTLY RELATES TO THE SCOPE OF WORK OF THE
8 ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE
9 ORIGINAL CONTRACT UNDER THIS CHAPTER, REGARDLESS OF
10 THE AMOUNT OF MODIFICATION ACTIVITIES INCLUDED IN
11 THE CHANGE ORDER. IF A CHANGE ORDER DOES NOT
12 DIRECTLY RELATE TO THE SCOPE OF WORK OF THE ORIGINAL
13 CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A
14 NEW CONTRACT, WITH THE TAX TREATMENT OF ANY
15 SUBSEQUENT CHANGE ORDER TO FOLLOW THE TAX
16 TREATMENT OF THE CONTRACT TO WHICH THE SCOPE OF
17 WORK OF THE SUBSEQUENT CHANGE ORDER DIRECTLY
18 RELATES.

19 (D) THIS PARAGRAPH DOES NOT APPLY TO A CONTRACT THAT
20 PRIMARILY INVOLVES SURFACE OR SUBSURFACE
21 IMPROVEMENTS TO LAND AND THAT IS SUBJECT TO A.R.S.
22 TITLE 28, CHAPTER 19, 20 OR 22 OR A.R.S. TITLE 34, CHAPTER 2
23 OR 6 EVEN IF THE CONTRACT ALSO INCLUDES VERTICAL

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1 IMPROVEMENTS. IF A CITY OR TOWN IMPOSES A TAX ON
2 CONTRACTS THAT ARE SUBJECT TO PROCUREMENT
3 PROCESSES UNDER THOSE PROVISIONS, THE CITY OR TOWN
4 SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A NOTICE
5 TO BIDDERS WHEN THOSE PROJECTS ARE SUBJECT TO THE
6 TAX. THIS SUBDIVISION DOES NOT APPLY TO CONTRACTS
7 WITH:

8 (i) COMMUNITY FACILITIES DISTRICTS, FIRE DISTRICTS,
9 COUNTY TELEVISION IMPROVEMENT DISTRICTS,
10 COMMUNITY PARK MAINTENANCE DISTRICTS, COTTON
11 PEST CONTROL DISTRICTS, HOSPITAL DISTRICTS, PEST
12 ABATEMENT DISTRICTS, HEALTH SERVICE DISTRICTS,
13 AGRICULTURAL IMPROVEMENT DISTRICTS, COUNTY
14 FREE LIBRARY DISTRICTS, COUNTY JAIL DISTRICTS,
15 COUNTY STADIUM DISTRICTS, SPECIAL HEALTH CARE
16 DISTRICTS, PUBLIC HEALTH SERVICES DISTRICTS,
17 THEME PARK DISTRICTS, REGIONAL ATTRACTION
18 DISTRICTS OR REVITALIZATION DISTRICTS.

19 (ii) ANY SPECIAL TAXING DISTRICT NOT SPECIFIED IN ITEM
20 (i) OF THIS SUBDIVISION IF THE DISTRICT DOES NOT
21 SUBSTANTIALLY ENGAGE IN THE MODIFICATION,
22 MAINTENANCE, REPAIR, REPLACEMENT OR

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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,

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1 VEGETATIVE WASTE, ALUMINUM, STEEL OR OTHER
2 RECYCLABLE MATERIAL.

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

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

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

11 (c) "Subcontractor" means a construction contractor performing work for either:

12 (1) a construction contractor who has provided the subcontractor with a written
13 declaration that he is liable for the tax for the project and has provided the
14 subcontractor his City Privilege License number.

15 (2) an owner-builder who has provided the subcontractor with a written declaration
16 that:

17 (A) the owner-builder is improving the property for sale; and

18 (B) the owner-builder is liable for the tax for such construction contracting
19 activity; and

20 (C) the owner-builder has provided the contractor his City Privilege License
21 number.

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(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 set-up; and provided the subcontractor his City Privilege License number.

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

Section IV. Phoenix City Code Section 14-415.1 is adopted as follows, with an effective date of January 1, 2015.

Sec. 14-415.1. LIABILITY FOR MRRA AMOUNTS, EQUAL TO RETAIL TRANSACTION PRIVILEGE TAX DUE.

(A) PERSON THAT IS EITHER A PRIME CONTRACTOR SUBJECT TO TAX UNDER SECTION 14-415 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 14-465(K) OR WAS EXCLUDED FROM THE USE TAX UNDER SECTION 14-660(K) AT THE TIME OF PURCHASE, AND THAT INCORPORATES OR FABRICATES THE TANGIBLE PERSONAL PROPERTY INTO A PROJECT DESCRIBED IN SECTION 14-415(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

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1 REQUIRED TO PAY UNDER SECTION 14-460 AND A.R.S. TITLE 42, CHAPTER 5
2 AS FOLLOWS:

3 (1) THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND
4 REPORTED BASED ON THE LOCATION OF THE PROJECT AND THE
5 TAXES IMPOSED UNDER SECTION 14-460 AND A.R.S. TITLE 42,
6 CHAPTER 5.

7 (2) ALL DEDUCTIONS, EXEMPTIONS AND EXCLUSIONS FOR THE COST
8 OF TANGIBLE PERSONAL PROPERTY PROVIDED IN SECTION 14-415
9 APPLY TO THE TANGIBLE PERSONAL PROPERTY INCORPORATED OR
10 FABRICATED INTO THE PROJECT.

11 (3) THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL
12 PROPERTY THAT IS INCORPORATED OR FABRICATED INTO ANY
13 PROJECT UNDER A CONTRACT THAT WOULD OTHERWISE BE
14 EXCLUDED FROM THE TAX BASE UNDER SECTION 14-415, WITHOUT
15 REGARD TO SECTION 14-415(B)(12).

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

20 (5) THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR
21 WHO HIRED THE PERSON EXECUTES AND PROVIDES TO THE PERSON
22 A CERTIFICATE STATING THAT THE CONTRACTOR PROVIDING THE
23 CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS

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1 SUBSECTION. THE DEPARTMENT OF REVENUE SHALL PRESCRIBE
2 THE FORM OF THE CERTIFICATE. IF THE PERSON HAS REASON TO
3 BELIEVE THAT THE INFORMATION CONTAINED ON THE
4 CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE CITY MAY
5 DISREGARD THE CERTIFICATE. THE CONTRACTOR PROVIDING THE
6 CERTIFICATE IS LIABLE FOR THE AMOUNT THAT OTHERWISE
7 WOULD BE DUE FROM THE PERSON UNDER THIS SUBSECTION.

8 (B) PERSON THAT PURCHASED TANGIBLE PERSONAL PROPERTY, THE
9 PURCHASE PRICE OF WHICH WAS EXCLUDED FROM THE TAX BASE UNDER
10 SECTION 14-465(K) OR WAS EXCLUDED FROM THE USE TAX UNDER
11 SECTION 14-660(K) AT THE TIME OF PURCHASE, WHOSE TRANSACTION
12 PRIVILEGE TAX LICENSE HAS BEEN CANCELED AND THAT SUBSEQUENTLY
13 USES, CONSUMES, SELLS OR DISCARDS THE TANGIBLE PERSONAL
14 PROPERTY IS LIABLE FOR AN AMOUNT OF TAX DETERMINED UNDER THIS
15 SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION:

16 (1) IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR
17 FABRICATED INTO A PROJECT DESCRIBED IN SECTION 14-415(B)(12)
18 AND A.R.S. SECTION 42-5075, SUBSECTION O, OR OTHERWISE USED
19 OR CONSUMED BY THE PERSON, THE AMOUNT OF LIABILITY SHALL
20 BE CALCULATED AND REPORTED BASED ON THE PERSON'S
21 PURCHASE PRICE OF THE TANGIBLE PERSONAL PROPERTY, THE
22 LOCATION OF THE PROJECT, USE OR CONSUMPTION AND THE TAXES
23 IMPOSED UNDER SECTION 14-460 AND A.R.S. TITLE 42, CHAPTER 5.

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- 1 (2) IF THE TANGIBLE PERSONAL PROPERTY IS SOLD IN A MANNER THAT
2 IS NOT SUBJECT TO TAX UNDER THIS CHAPTER OR IS DISCARDED,
3 THE AMOUNT SHALL BE CALCULATED AND REPORTED BASED ON
4 THE PAYMENT RECEIVED BY THE PERSON, THE LOCATION OF THE
5 PERSON'S PRINCIPAL PLACE OF BUSINESS IN THIS STATE AND THE
6 TAXES IMPOSED UNDER SECTION 14-460 AND A.R.S. TITLE 42,
7 CHAPTER 5.
- 8 (3) THE PERSON IS NOT LIABLE UNDER THIS SUBSECTION FOR ANY
9 AMOUNT IF THE PERSON DISCARDS THE TANGIBLE PERSONAL
10 PROPERTY AND DOES NOT RECEIVE PAYMENT OF ANY KIND.
- 11 (4) THE AMOUNT OF LIABILITY SHALL BE REPORTED ON OR BEFORE
12 THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF THE
13 MONTH FOLLOWING THE MONTH IN WHICH THE PERSON USES THE
14 TANGIBLE PERSONAL PROPERTY IN A MANNER DESCRIBED IN
15 PARAGRAPH 1 OR 2 OF THIS SUBSECTION. NO AMOUNT IS DUE
16 UNDER THIS SUBSECTION AT ANY TIME THAT THE PERSON STORES
17 THE TANGIBLE PERSONAL PROPERTY WITHOUT USING IT IN A
18 MANNER DESCRIBED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION.
- 19 (5) ALL DEDUCTIONS, EXEMPTIONS AND EXCLUSIONS FOR THE COST
20 OF TANGIBLE PERSONAL PROPERTY PROVIDED IN SECTION 14-415
21 APPLY TO THE TANGIBLE PERSONAL PROPERTY INCORPORATED OR
22 FABRICATED INTO A PROJECT DESCRIBED IN SECTION 14-415(B)(12)
23 AND A.R.S. SECTION 42-5075, SUBSECTION O.

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1 (6) THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL
2 PROPERTY THAT IS INCORPORATED OR FABRICATED INTO ANY
3 PROJECT UNDER A CONTRACT THAT WOULD OTHERWISE BE
4 EXCLUDED FROM THE TAX BASE UNDER SECTION 14-415 AND A.R.S.
5 SECTION 42-5075, WITHOUT REGARD TO SECTION 14-415(B)(12) AND
6 A.R.S. SECTION 42-5075, SUBSECTION O.

7 (7) THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR
8 WHO HIRED THE PERSON EXECUTES AND PROVIDES TO THE PERSON
9 A CERTIFICATE STATING THAT THE CONTRACTOR PROVIDING THE
10 CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS
11 SUBSECTION FOR TANGIBLE PERSONAL PROPERTY INCORPORATED
12 OR FABRICATED INTO A PROJECT DESCRIBED IN A.R.S. SECTION 42-
13 5075, SUBSECTION O. THE DEPARTMENT SHALL PRESCRIBE THE
14 FORM OF THE CERTIFICATE. IF THE PERSON HAS REASON TO
15 BELIEVE THAT THE INFORMATION CONTAINED ON THE
16 CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT
17 MAY DISREGARD THE CERTIFICATE. THE CONTRACTOR PROVIDING
18 THE CERTIFICATE IS LIABLE FOR THE AMOUNT THAT OTHERWISE
19 WOULD BE DUE FROM THE PERSON UNDER THIS SUBSECTION.

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

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(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 14-415(B)(12) AND A.R.S. SECTION 42-5075, SUBSECTION O AND A FINAL DETERMINATION IS MADE THAT SECTION 14-415(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.

Section V. Phoenix City Code Section 14-422 is amended as follows, with an effective date of December 1, 2017.

Sec. 14-422. Jet fuel sales.

(a) The tax rate shall be at an amount of 0.732 cents per gallon sold from the business activity upon every person engaging or continuing in the business of selling jet fuel.

(1) Gallons sold includes all gallons sold, bartered, exchanged, included as part or whole of a trade-out, or similar transactions regardless of the type or form of payment.

(2) For purposes of this Section the following terms are substitutable in Articles III and V of this chapter, and corresponding regulations:

(A) "gallons" for "gross income"

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(B) "gallon(s)" for "amount(s)".

(b) The burden of proving that a sale of jet fuel is not a taxable sale shall be upon the person who made the sale.

(c) When this city and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a jet fuel 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.

(d) The appropriate tax liability for any jet fuel 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 rate of the city or town of such seller's location.

(E) THE APPLICATION OF THE TAX IS LIMITED TO AMOUNTS OF NOT MORE THAN TEN MILLION GALLONS OF JET FUEL PURCHASED BY EACH PURCHASER IN EACH CALENDAR YEAR. PURCHASES IN EXCESS OF TEN MILLION GALLONS PER PURCHASER PER YEAR ARE EXEMPT.

(F) BEGINNING FROM AND AFTER NOVEMBER 30, 2017, THE REVENUES GENERATED BY EACH PUBLIC AIRPORT MUST BE SEGREGATED IN SEPARATE ACCOUNTS FOR THE EXCLUSIVE EXPENDITURE FOR THE CAPITAL OR OPERATING COSTS OF THE AIRPORT, THE AIRPORT SYSTEM OR OTHER LOCAL AIRPORT FACILITIES OWNED OR OPERATED BY THE

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**MUNICIPALITY AND DIRECTLY AND SUBSTANTIALLY RELATED TO THE
AIR TRANSPORTATION OF PASSENGERS OR PROPERTY.**

- (G) Exemptions. Notwithstanding Section 14-400(d), the exemptions in Section 14-465(a), (b) and (d) through (z) will apply to sales of jet fuel taxed under this Section.

Section VI. Phoenix City Code Section 14-445 is amended as follows, with the following effective dates per subsection: (d) & (k) January 1, 2018; (i) & Footnote January 1, 2012.

Sec. 14-445. Rental, leasing, and licensing for use of real property.

- (a) The tax rate shall be at an amount equal to two and three-tenths percent (2.3%) 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 14-470.

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- (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 **A** 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) A person who has less than three (3) apartments, houses, trailer spaces, or other lodging spaces rented, leased or licensed or available for rent, lease, or license within the State and no units of commercial property for rent, lease, or license within the State, is not deemed to be in the rental business, and is therefore exempt from the tax imposed by this Section on such income. However, a person who has one (1) or more units of commercial

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property is subject to the tax imposed by this Section on rental, lease and license income from all such lodging spaces and commercial units of real estate even though said person may have fewer than three (3) lodging spaces.

(g) (Reserved)

(h) (Reserved)

(i) EXEMPT FROM THE TAX IMPOSED BY THIS SECTION IS THE GROSS INCOME DERIVED FROM PAYMENTS MADE PURSUANT TO A LIFE CARE CONTRACT BY A RESIDENT TO A PROVIDER THAT HOLDS A PERMIT TO ENTER INTO LIFE CARE CONTRACTS ISSUED BY THE ARIZONA DEPARTMENT OF INSURANCE. FOR THE PURPOSES OF THIS PARAGRAPH, "LIFE CARE CONTRACT", "PROVIDER" AND "RESIDENT" HAVE THE SAME MEANINGS PRESCRIBED IN A.R.S. SECTION 20-1801.

(j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 14-444 of this code.

(k) LEASING OR RENTING REAL PROPERTY OR THE RIGHT TO USE REAL PROPERTY AT EXHIBITION EVENTS IN THIS STATE SPONSORED, OPERATED OR CONDUCTED 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 MAJOR LEAGUE BASEBALL TEAMS OR A NATIONAL TOURING PROFESSIONAL GOLFING ASSOCIATION AND NO PART OF THE ORGANIZATION'S NET EARNINGS INURES TO THE BENEFIT OF ANY

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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.

(l) (Reserved)

(m) (Reserved)

(n) Notwithstanding the provisions of Section 14-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this Section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this Section.

(o) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this State or of any other state in a privately-operated prison, jail or detention facility is exempt from the tax imposed by this Section.

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- (p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or other real property during the course of their treatment by such facilities are exempt.
- (q) Charges to patients receiving "personal care" or "directed care", by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statutes and Title 9 of the Arizona Administrative Code are exempt.
- (r) Income received from the rental of any "low-income unit" as established under Section 42 of the Internal Revenue Code, including the low-income housing credit provided by IRC Section 42, to the extent that the collection of tax on rental income causes the "gross rent" defined by IRC Section 42 to exceed the income limitation for the low-income unit is exempt. This exemption also applies to income received from the rental of individual rental units subject to statutory or regulatory "low-income unit" rent restrictions similar to IRC Section 42 to the extent that the collection of tax from the tenant causes the rental receipts to exceed a rent restriction for the low-income unit. This subsection also applies to rent received by a person other than the owner or lessor of the low-income unit, including a broker. This subsection does not apply unless a taxpayer maintains the documentation to support the qualification of a unit as a low-income unit, the "gross rent" limitation for the unit and the rent received from that unit.
- (s) The gross proceeds of a commercial lease of real property between affiliated companies, businesses, persons or reciprocal insurers are exempt. For the purposes of this paragraph:

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(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 (80) per cent 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 Arizona Revised Statutes.

FOOTNOTE TO SECTION 14-445. Retroactivity; refunds; nonseverability pertaining to Section 445.

A. The transaction privilege tax exemption for gross income derived from payments made pursuant to a life care contract by a resident to a provider as provided in Model City Tax Code Section 445(i) applies retroactively to taxable periods beginning from and after January 1, 2012.

B. Any claim for refund of transaction privilege tax based on the retroactive application of Model City Tax Code Section 445(i) shall be submitted to the Department of Revenue on or before December 31, 2019, pursuant to section 42-1118, Arizona Revised Statutes. A failure to file a claim on or before December 31, 2019 constitutes a waiver of the claim for refund under this section.

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1 C. The burden is on the taxpayer to establish by competent evidence the amount of tax paid
2 for all taxable periods and the amount, if any, attributable to gross income derived from
3 payments made pursuant to a life care contract by a resident to a provider that qualify for
4 exemption under the amendment to Model City Tax Code Section 445, as provided by
5 this act. The Department of Revenue shall:

6 1. Review all timely filed claims.

7 2. Determine, on audit if necessary, the correct amount of each claim.

8 3. Notify the taxpayer of its determination. The notice is final unless a taxpayer
9 appeals in the manner provided in section 42-1251, Arizona Revised Statutes.

10 D. Notwithstanding section 42-1119, Arizona Revised Statutes, the Department of Revenue
11 may not make a refund until after determination of the amount of all refund claims filed
12 pursuant to this section. If a taxpayer appeals the Department's determination, the
13 Department, pursuant to the rules protecting confidentiality under Title 42, Chapter 2,
14 Article 1, Arizona Revised Statutes, may notify other taxpayers who have filed claims as
15 to the nature of any delay and, if possible, estimate the possible extent of the delay.

16 E. The aggregate amount of refunds under this section may not exceed ten thousand dollars
17 (\$10,000). If the aggregate amount of claims under this section that are ultimately
18 determined to be correct exceeds ten thousand dollars, the Department of Revenue shall
19 reduce each claim proportionately so that the total refund amount equals ten thousand
20 dollars.

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F. Interest may not be allowed or compounded on any refundable amount if paid before July 1, 2020, but if the amount cannot be determined or paid until after June 30, 2020, interest accrues from and after July 1, 2020 under section 42-1123, Arizona Revised Statutes.

G. If any part of this section is finally adjudicated to be invalid, this entire section is void. The provisions of this section are intended to be nonseverable.

Section VII. Phoenix City Code Section 14-450 is amended as follows, with an effective date of August 1, 2015.

Sec. 14-450. Rental, leasing, and licensing for use of tangible personal property.

(a) The tax rate shall be at an amount equal to two and three-tenths percent (2.3%) 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

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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 14-410, 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.

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- 1 (5) rental, leasing, or licensing for use of tangible personal property to a qualifying
2 hospital, qualifying community health center or a qualifying health care
3 organization, except when the property so rented, leased, or licensed is for use in
4 activities resulting in gross income from unrelated business income as that term is
5 defined in 26 U.S.C. Section 512 or rental, leasing, or licensing for use of tangible
6 personal property in this State by a nonprofit charitable organization that has
7 qualified under Section 501(c)(3) of the United States Internal Revenue Code and
8 that engages in and uses such property exclusively for training, job placement or
9 rehabilitation programs or testing for mentally or physically handicapped persons.
- 10 (6) separately billed charges for delivery, installation, repair, and/or maintenance as
11 provided by Regulation.
- 12 (7) charges for joint pole usage by a person engaged in the business of providing or
13 furnishing utility or telecommunication services **OR THAT IS A CABLE**
14 **OPERATOR, OR CHARGES FOR JOINT POLE USAGE** to **A** person engaged
15 in the business of providing or furnishing utility or telecommunication services
16 **OR THAT IS A CABLE OPERATOR. “CABLE OPERATOR” HAS THE**
17 **SAME MEANING AS PRESCRIBED BY A.R.S. SECTION 9-505.**
- 18 (8) the gross income from coin-operated washing, drying, and dry cleaning machines,
19 or from coin-operated car washing machines. This exemption shall not apply to
20 suppliers or distributors renting, leasing, or licensing for use of such equipment to
21 persons engaged in the operation of coin-operated washing, drying, dry cleaning,
22 or car washing establishments.

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- (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 paragraph, "certified ignition interlock device" has the same meaning prescribed in A.R.S. Section 28-1301.

Section VIII. Phoenix City Code Section 14-455 is amended as follows with the following effective dates per subsection: (f) January 1, 2015; (g) January 1, 2018; (h) August 3, 2018.

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Sec. 14-455. Restaurants and Bars.

- (a) The tax rate shall be at an amount equal to two and three-tenths percent (2.3%) of the gross income from the business activity upon every person engaging or continuing in the business of preparing or serving food or beverage 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, set-up, and clean-up 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, that serves the food and beverages to its passengers, without additional charge, for consumption in flight.

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1 (e) The tax imposed by this Section shall not apply to sales of prepared food, beverages,
2 condiments or accessories to a public educational entity, pursuant to any of the provisions
3 of Title 15, Arizona Revised Statutes, to the extent such items are to be prepared or
4 served to individuals for consumption on the premises of a public educational entity
5 during school hours.

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

18 (G) THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO SALES BY A
19 NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER
20 SECTION 501(C)(3), 501(C)(4) OR 501(C)(6) OF THE INTERNAL REVENUE CODE
21 IF THE ORGANIZATION IS ASSOCIATED WITH A MAJOR LEAGUE BASEBALL
22 TEAM OR A NATIONAL TOURING PROFESSIONAL GOLFING ASSOCIATION
23 AND NO PART OF THE ORGANIZATION'S NET EARNINGS INURES TO THE

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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.

(I) 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.

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Section IX. Phoenix City Code Section 14-462 is amended as follows, with an effective date of January 1, 2015, except new subsection (f) which has an effective date of August 3, 2018.

Sec. 14-462. 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 **THAT IS DEEMED ELIGIBLE TO PARTICIPATE IN 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) 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** ~~whose sales of food are such that it is eligible to participate in the Food Stamp Program established by the Food Stamp Act of~~

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1977 (P.L. 95-113; 91 Stat. 958.7 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 the ordinance codified in 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.

- (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 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.

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- 1 (E) Beverages sold in cups, glasses, or open containers.
- 2 (F) Food sold by caterers.
- 3 (G) Food sold within the premises of theatres, movies, operas, shows of any
4 type or nature, exhibitions, concerts, carnivals, circuses, amusement parks,
5 fairs, races, contests, games, athletic events, rodeos, billiard and pool
6 parlors, bowling alleys, public dances, dance halls, boxing, wrestling and
7 other matches, and any business which charges admission, entrance, or
8 cover fees for exhibition, amusement, entertainment, or instruction.
- 9 (H) Any items contained in subsections (a)(3)(A) through (G) above even
10 though they are sold on a "take-out" or "to go" basis, and whether or not
11 the item is packaged, wrapped, or is actually taken from the premises.
- 12 (4) "Hot prepared food" means those products, items, or ingredients of food which
13 are prepared and intended for consumption in a heated condition. "Hot prepared
14 food" includes a combination of hot and cold food items or ingredients if a single
15 price has been established.
- 16 (5) "Premises" means the total space and facilities in or on which a vendor conducts
17 business and which are owned or controlled, in whole or in part, by a vendor or
18 which are made available for the use of customers of the vendor or group of
19 vendors, including any building or part of a building, parking lot, or grounds.
- 20 (6) "Food for home consumption" means all food, except food for consumption on
21 the premises, if sold by any of the following:

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(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 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 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.

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- 1 (2) Out-of-city sales or out-of-state sales.
- 2 (3) Charges for delivery or other “direct customer services” as prescribed by
3 regulation.
- 4 (4) Food purchased **UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE**
5 **PROGRAM (SNAP) ESTABLISHED BY THE FOOD AND NUTRITION ACT**
6 **OF 2008 (P.L. 110-246; 122 STAT. 1651; 7 UNITED STATES CODE**
7 **SECTIONS 2011 THROUGH 2036A) BY THE UNITED STATES**
8 **DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE** but
9 only to the extent that **SNAP BENEFITS USING AN ELECTRONIC BENEFITS**
10 **TRANSFER (EBT) CARD OR OTHER METHOD OF CONVEYING SNAP**
11 **BENEFITS WAS** actually used to purchase such food.
- 12 (5) Sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-
13 562 and 3-563.
- 14 (6) Sales of food, beverages, condiments and accessories to a public educational
15 entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes,
16 including a regularly organized private or parochial school that offers an
17 educational program for grade twelve or under which may be attended in
18 substitution for a public school pursuant to **A.R.S.** Section 15-802 ; to the extent
19 such items are to be prepared or served to individuals for consumption on the
20 premises of a public educational entity during school hours. for the purposes of
21 this subsection, "accessories" means paper plates, plastic eating utensils, napkins,

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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 14-520, 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, and regulations of the tax collector.

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(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 14-370 and 14-545(b).

(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.

Section X. Phoenix City Code Section 14-465 is amended as follows, with the following effective dates per subsection: (k) January 1, 2015; (v) August 6, 2016; (y) January 1, 2018; (ss) July 24, 2014; (tt) September 1, 2016; (uu) September 12, 2013; (vv) August 3, 2018; (ww) August 3, 2018.

Sec. 14-465. Retail sales: exemptions.

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2 Income derived from the following sources is exempt from the tax imposed by Section 14-460:

3 (a) sales of tangible personal property to a person regularly engaged in the business of selling
4 such property.

5 (b) out-of-City sales or out-of-State sales.

6 (c) charges for delivery, installation, or other direct customer services as prescribed by
7 Regulation.

8 (d) charges for repair services as prescribed by Regulation, when separately charged and
9 separately maintained in the books and records of the taxpayer.

10 (e) sales of warranty, maintenance, and service contracts, when separately charged and
11 separately maintained in the books and records of the taxpayer.

12 (f) sales of prosthetics.

13 (g) sales of income-producing capital equipment.

14 (h) sales of rental equipment and rental supplies.

15 (i) sales of mining and metallurgical supplies.

16 (j) sales of motor vehicle fuel and use fuel which are subject to a tax imposed under the
17 provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes; or sales of
18 use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. Section
19 28-5739, or sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

20 (k) sales of tangible personal property to:

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(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 415(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) 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:

(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.

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1 (o) sales to hotels, bars, restaurants, dining cars, lunchrooms, boarding houses, or similar
2 establishments of articles consumed as food, drink, or condiment, whether simple, mixed,
3 or compounded, where such articles are customarily prepared or served to patrons for
4 consumption on or off the premises, where the purchaser is properly licensed and paying
5 a tax under Section 14-455 or the equivalent excise tax upon such income.

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

14 (q) (Reserved) (see Mesa city page).

15 (r) sales of the following to persons engaging or continuing in the business of farming,
16 ranching, or feeding livestock, poultry or ratites:

17 (1) seed, fertilizer, fungicides, seed treating chemicals, and other similar chemicals.

18 (2) feed for livestock, poultry or ratites, including salt, vitamins, and other additives
19 to such feed.

20 (3) livestock, poultry or ratites purchased or raised for slaughter, but not including
21 livestock purchased or raised for production or use, such as milch cows, breeding
22 bulls, laying hens, riding or work horses.

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(4) (Reserved)

This exemption shall not be construed to include machinery, equipment, fuels, lubricants, pharmaceuticals, repair and replacement parts, or other items used or consumed in the running, maintenance, or repair of machinery, equipment, buildings, or structures used or consumed in the business of farming, ranching, or feeding of livestock, poultry or ratites.

(s) sales of groundwater measuring devices required by A.R.S. Section 45-604.

(t) (Reserved)

(u) sales of aircraft acquired for use outside the State, as prescribed by Regulation.

(v) sales of food products by producers as provided for by A.R.S. Sections 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 COMMERCIALY OR WHO BOARD LIVESTOCK NONCOMMERCIALY.

(w) (Reserved)

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(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) SALES OF TANGIBLE PERSONAL PROPERTY BY A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER SECTION 501(C)(3), 501(C)(4) OR 42 501(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.

(z) (Reserved)

(aa) the sale of tangible personal property used in remediation contracting as defined in Section 14-100 and Regulation 14-100.5.

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- (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 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, 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) 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 14-470, 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 14-470 is considered to be a sale for resale in the regular course of business.

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1 (ff) sales of alternative fuel as defined in A.R.S. Section 1-215, to a used oil fuel burner who
2 has received a Department of Environmental Quality permit to burn used oil or used oil
3 fuel under A.R.S. **SECTION § 49-426** or A.R.S. **SECTION § 49-480**.

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

13 (hh) sales of personal hygiene items to a person engaged in the business of and subject to tax
14 under Section 14-444 of this code if the tangible personal property is furnished without
15 additional charge to and intended to be consumed by the person during his occupancy.

16 (ii) for the purposes of this Section, the diversion of gas from a pipeline by a person engaged
17 in the business of operating a natural or artificial gas pipeline, for the sole purpose of
18 fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the
19 operator of the pipeline.

20 (jj) sales of food, beverages, condiments and accessories to a nonprofit charitable
21 organization that has qualified as an exempt organization under 26 U.S.C Section
22 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no

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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) 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 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.

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1 (pp) sales of overhead materials or other tangible personal property that is used in performing
2 a contract between the United States government and a manufacturer, modifier,
3 assembler or repairer, including property used in performing a subcontract with a
4 government contractor who is a manufacturer, modifier, assembler or repairer, to which
5 title passes to the government under the terms of the contract or subcontract.

6 (qq) sales of coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a
7 qualified environmental technology manufacturer, producer or processor as defined in
8 A.R.S. Section 41-1514.02 and directly used or consumed in the generation or provision
9 of on-site power or energy solely for environmental technology manufacturing,
10 producing or processing or environmental protection. This paragraph shall apply for
11 twenty full consecutive calendar or fiscal years from the date the first paper
12 manufacturing machine is placed in service. In the case of an environmental technology
13 manufacturer, producer or processor who does not manufacture paper, the time period
14 shall begin with the date the first manufacturing, processing or production equipment is
15 placed in service.

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

21 (ss) THE TRANSFER OF TITLE OR POSSESSION OF COAL BACK AND FORTH
22 BETWEEN AN OWNER OR OPERATOR OF A POWER PLANT AND A PERSON

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1 WHO IS RESPONSIBLE FOR REFINING COAL IF BOTH OF THE FOLLOWING
2 APPLY:

3 (1) THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE
4 PURPOSE OF REFINING THE COAL; AND

5 (2) THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO
6 THE OWNER OR OPERATOR OF THE POWER PLANT AFTER
7 COMPLETION OF THE COAL REFINING PROCESS. FOR THE PURPOSES
8 OF THIS SUBDIVISION, "COAL REFINING PROCESS" MEANS THE
9 APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE
10 REDUCTION OF POWER PLANT EMISSIONS DURING THE
11 COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

12 (TT) (RESERVED)

13 (UU) COMPUTER DATA CENTER EQUIPMENT SOLD TO THE OWNER, OPERATOR
14 OR QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER
15 THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER
16 A.R.S. SECTION 41-1519 OR AN AUTHORIZED AGENT OF THE OWNER,
17 OPERATOR OR QUALIFIED COLOCATION TENANT DURING THE
18 QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA
19 CENTER. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA
20 CENTER", "COMPUTER DATA CENTER EQUIPMENT", "QUALIFICATION
21 PERIOD" AND "QUALIFIED COLOCATION TENANT" HAVE THE SAME
22 MEANINGS PRESCRIBED IN A.R.S. SECTION 41-1519.

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(VV) 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.

(WW) 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.

Section XI. Phoenix City Code Section 14-470 is amended as follows, with the following effective dates per subsection: (h) July 24, 2014; (a)(3)(A), (a)(3)(B), (a)(4), & (i) July 1, 2019. Phoenix City Tax Code Regulation 14-470.1 is repealed effective July 1, 2019.

Sec. 14-470. Telecommunication services.

(a) The tax rate shall be at an amount equal to four and seven-tenths percent (4.7%) 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 (1) Telecommunication services shall include:

2 (A) two-way voice, sound, and/or video communication over a

3 communications channel.

4 (B) one-way voice, sound, and/or video transmission or relay over a

5 communications channel.

6 (C) facsimile transmissions.

7 (D) providing relay or repeater service.

8 (E) providing computer interface services over a communications channel.

9 (F) time-sharing activities with a computer accomplished through the use of a

0 communications channel.

1 (2) Gross income from the business activity of providing telecommunication services

2 to consumers within this City shall include:

3 (A) all fees for connection to a telecommunication system.

4 (B) toll charges, charges for transmissions, and charges for other

5 telecommunications services; provided that such charges relate to

6 transmissions originating in the City and terminating in this State.

7 (C) fees charged for access to or subscription to or membership in a

8 telecommunication system or network.

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(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.~~

(D) charges for telephone, fax or internet access services provided at an additional charge by a hotel business subject to taxation under Section 14-444.

(3) Gross income from the business activity of providing telecommunication services to consumers within this City shall not include:

(A) charges for installation, maintenance, and repair of telecommunication equipment which are subject to the provisions of Sections 14-415, 14-416, or 14-417 (construction contracting); 14-445 (real property rental); 14-450 (tangible personal property rental); or 14-460 (retail sales); depending upon the nature of the work performed.

(B) separately billed advertising charges which are subject to the provisions of Section 14-405 (advertising) or 14-435 (publishing).

(4) 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" by the billing address of the customer, provided that such address is a permanent residence or business location of the consumer within the State.

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(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) 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 14-400(b).

(e) (Reserved)

(f) Prepaid calling cards. Telecommunications services purchased with a prepaid calling card that are taxable under Section 14-460 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

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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.

(I) OVER-THE-TOP-SERVICES. THE GROSS INCOME SUBJECT TO TAX UNDER THIS SECTION SHALL NOT INCLUDE SALES OF OVER-THE-TOP SERVICES. FOR THE PURPOSES OF THIS PARAGRAPH "OVER-THE-TOP SERVICES" MEANS AUDIO OR VIDEO PROGRAMMING SERVICES THAT ARE RECEIVED BY THE PURCHASER BY MEANS OF AN INTERNET CONNECTION, REGARDLESS OF THE TECHNOLOGY USED, THAT INCLUDE LINEAR OR LIVE PROGRAMMING AND THAT ARE GENERALLY CONSIDERED COMPARABLE TO PROGRAMMING PROVIDED BY RADIO OR TELEVISION BROADCAST STATION AND INCLUDES RELATED ON DEMAND PROGRAMMING PROVIDED AT NO ADDITIONAL CHARGE, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED INDEPENDENTLY OR PACKAGED WITH OTHER AUDIO OR VIDEO PROGRAMMING.

Phoenix City Code Regulation 14-470.1. Telecommunications services.

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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 Section 14-415, 14-416, or 14-417 (construction contracting); 14-445 (real property rental); 14-450 (tangible personal property rental); or 14-460 (retail sales); depending upon the nature of the work performed.~~

2. ~~Separately billed advertising charges which are subject to the provisions of Section 14-405 or 14-435.~~

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 handheld 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.~~

Section XII. Phoenix City Code Section 14-475 is amended as follows, with an effective date of September 1, 2016.

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Sec. 14-475. Transporting for hire.

The tax rate shall be at an amount equal to two and three-tenths percent (2.3%) 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 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 paragraph, "a single shipment" means the transportation that begins at the point at which one of the railroads first takes possession of the freight or property and continues until the point at which one of the railroads relinquishes possession of the freight or property to a party other than one of the railroads.

(b) transporting of oil or natural or artificial gas through pipe or conduit.

(c) transporting of property by aircraft.

(d) (Reserved)

(1) (Reserved)

(2) (Reserved)

(3) (Reserved)

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(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 Article IV 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.

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(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 paragraph, "arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

Section XIII. Phoenix City Code Section 14-480 is amended as follows, with an effective date of August 1, 2015.

Sec. 14-480. Utility services.

(a) The tax rate shall be at an amount equal to two and seven-tenths percent (2.7%) 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.

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(2) (Reserved)

(b) Exclusion of certain sales of natural gas to a public utility. Notwithstanding the provisions of subsection (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 14-460 and 14-465, 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:

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(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. **SECTION §** 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. **SECTION §** 49-426 or A.R.S. **SECTION §** 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 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.

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(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)

Section XIV. Phoenix City Code Section 14-530 is amended as follows, with an effective date of January 1, 2015.

Sec. 14-530. 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.

(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) 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

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

7 (D) Delinquency Date. THE TAXES LEVIED UNDER THIS CHAPTER WILL BE
8 CONSIDERED DELINQUENT IN ACCORDANCE WITH A.R.S. SECTION 42-5014,
9 AS FOLLOWS:

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

14 (2) FOR ALL OTHER TAXPAYERS, IF NOT RECEIVED BY THE
15 DEPARTMENT ON OR BEFORE THE BUSINESS DAY PRECEDING THE
16 LAST BUSINESS DAY OF THE MONTH

17 (E) Jeopardy reporting. If the Tax Collector determines that the collection of any tax due to
18 the City is in jeopardy, the Tax Collector may direct the taxpayer to file his return and
19 remit the tax on a weekly, daily, or transaction-by-transaction basis. Such return and
20 remittance shall be due upon the date fixed by the Tax Collector, and the "delinquency
21 date" shall be the following day.

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

10
11 **Section XV. Phoenix City Code Section 14-660 is amended as follows, with the following**
12 **effective dates per subsection: (k) January 1, 2015; (ee) January 1, 2018; (ss) August 1,**
13 **2015; (tt) July 24, 2014; (uu) September 12, 2013; (vv) December 1, 2017; (ww) August 3,**
14 **2018; (yy) August 3, 2018.**

15
16 **Sec. 14-660. Use tax: exemptions.**

17 The storage or use in this City of the following tangible personal property is exempt from the
18 Use Tax imposed by this Article:

- 19 (a) tangible personal property brought into the City by an individual who was not a resident
20 of the City at the time the property was acquired for his own use, if the first actual use of
21 such property was outside the City, unless such property is used in conducting a business
22 in this City.

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- (b) tangible personal property, the value of which does not exceed the amount of one thousand dollars (\$1,000) per item, acquired by an individual outside the limits of the City for his personal use and enjoyment.
- (c) charges for delivery, installation, or other customer services, as prescribed by Regulation.
- (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.
- (i) mining and metallurgical supplies.
- (j) 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 Article I or II, Chapter 16, Title 28, Arizona Revised Statutes.
- (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 415(B)(12)
AND THAT HAS BEEN PROVIDED A COPY OF A CERTIFICATE UNDER

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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 14-410, 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 14-455, 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.

(q) (Reserved) (See Mesa City Page).

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(r) the following tangible personal property purchased by persons engaging or continuing in the business of farming, ranching, or feeding livestock, poultry or ratites:

(1) seed, fertilizer, fungicides, seed treating chemicals, and other similar chemicals.

(2) feed for livestock, poultry or ratites, including salt, vitamins, and other additives to such feed.

(3) livestock, poultry or ratites purchased or raised for slaughter, but not including livestock purchased or raised for production or use, such as milch cows, breeding bulls, laying hens, riding or work horses.

(4) (Reserved)

This exemption shall not be construed to include machinery, equipment, fuels, lubricants, pharmaceuticals, repair and replacement parts, or other items used or consumed in the running, maintenance, or repair of machinery, equipment, buildings, or structures used or consumed in the business of farming, ranching, or feeding of livestock, poultry or ratites.

(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.

(v) food products **SOLD** by **FOOD** producers as provided for by A.R.S. Section 3-561, 3-562 and 3-563.

(w) (Reserved)

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(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 Article IV; 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 Article III.

(z) (Reserved)

(aa) tangible personal property used in remediation contracting as defined in Section 14-100 and Regulation 14-100.5.

(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.

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(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, 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 14-470.

(ee) **TANGIBLE PERSONAL PROPERTY SOLD 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**

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1 **EVENTS IN THIS STATE BEFORE JANUARY 1, 2018 THAT WERE EXEMPT**
2 **FROM TRANSACTION PRIVILEGE TAX UNDER A.R.S. SECTION 42-5073.**

3 (ff) alternative fuel as defined in A.R.S. **SECTION §** 1-215, by a used oil fuel burner who has
4 received a Department of Environmental Quality permit to burn used oil or used oil fuel
5 under A.R.S. **SECTION §** 49-426 or **A.R.S. SECTION §** 49-480.

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

15 (hh) personal hygiene items purchased by a person engaged in the business of and subject to
16 tax under Section 14-444 of this code if the tangible personal property is furnished
17 without additional charge to and intended to be consumed by the person during his
18 occupancy.

19 (ii) the diversion of gas from a pipeline by a person engaged in the business of operating a
20 natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to
21 pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

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- (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 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.

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1 (pp) overhead materials or other tangible personal property that is used in performing a
2 contract between the United States government and a manufacturer, modifier, assembler
3 or repairer, including property used in performing a subcontract with a government
4 contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to
5 the government under the terms of the contract or subcontract.

6 (qq) coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified
7 environmental technology manufacturer, producer or processor as defined in A.R.S.
8 **SECTION § 41-1514.02** and directly used or consumed in the generation or provision of
9 on-site power or energy solely for environmental technology manufacturing, producing
10 or processing or environmental protection. This paragraph shall apply for twenty full
11 consecutive calendar or fiscal years from the date the first paper manufacturing machine
12 is placed in service. In the case of an environmental technology manufacturer, producer
13 or processor who does not manufacture paper, the time period shall begin with the date
14 the first manufacturing, processing or production equipment is placed in service.

15 (rr) machinery, equipment, materials and other tangible personal property used directly and
16 predominantly to construct a qualified environmental technology manufacturing,
17 producing or processing facility as described in A.R.S. **SECTION § 41-1514.02**. This
18 subsection applies for ten full consecutive calendar or fiscal years after the start of initial
19 construction.

20 (ss) (Reserved)

21 **(TT) THE TRANSFER OF TITLE OR POSSESSION OF COAL BACK AND FORTH**
22 **BETWEEN AN OWNER OR OPERATOR OF A POWER PLANT AND A PERSON**

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1 WHO IS RESPONSIBLE FOR REFINING COAL IF BOTH OF THE FOLLOWING
2 APPLY:

3 (1) THE TRANSFER OF TITLE OR POSSESSION OF THE COAL IS FOR THE
4 PURPOSE OF REFINING THE COAL; AND

5 (2) THE TITLE OR POSSESSION OF THE COAL IS TRANSFERRED BACK TO
6 THE OWNER OR OPERATOR OF THE POWER PLANT AFTER
7 COMPLETION OF THE COAL REFINING PROCESS. FOR THE PURPOSES
8 OF THIS SUBDIVISION, "COAL REFINING PROCESS" MEANS THE
9 APPLICATION OF A COAL ADDITIVE SYSTEM THAT AIDS THE
10 REDUCTION OF POWER PLANT EMISSIONS DURING THE
11 COMBUSTION OF COAL AND THE TREATMENT OF FLUE GAS.

12 (UU) COMPUTER DATA CENTER EQUIPMENT PURCHASED BY THE OWNER,
13 OPERATOR OR QUALIFIED COLOCATION TENANT OF THE A COMPUTER
14 DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE
15 AUTHORITY UNDER A.R.S. SECTION 41-1519 OR AN AUTHORIZED AGENT OF
16 THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT DURING
17 THE QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA
18 CENTER. FOR THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA
19 CENTER", "COMPUTER DATA CENTER EQUIPMENT", "QUALIFICATION
20 PERIOD" AND "QUALIFIED COLOCATION TENANT" HAVE THE SAME
21 MEANINGS PRESCRIBED IN A.R.S. SECTION 41-1519.

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1 (VV) JET FUEL USE TAX IMPOSED UNDER SECTION 14-610 ON THE STORAGE, USE
2 OR CONSUMPTION IN THIS CITY OF JET FUEL PURCHASED FROM A
3 RETAILER IN ANY CASE IN WHICH THE TAX IMPOSED UNDER SECTION 14-
4 422 HAS NOT BEEN PAID IS LIMITED TO AMOUNTS OF NOT MORE THAN TEN
5 MILLION GALLONS OF JET FUEL PURCHASED IN EACH CALENDAR YEAR.
6 PURCHASES IN EXCESS OF TEN MILLION GALLONS PER YEAR ARE DEEMED
7 EXEMPT.

8 (WW) THE PURCHASE MANUFACTURE, WHOLESALE OR DISTRIBUTION TO OR
9 AMONG ANY WHOLESALERS, DISTRIBUTORS OR RETAILERS, OF FOOD
10 ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE
11 ADOPTED PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY
12 A.R.S. SECTION 42-5106, SUBSECTION D FOR HOME CONSUMPTION OR FOR
13 CONSUMPTION ON THE PREMISES.

14 (YY) THE PURCHASE OF ANY CONTAINER OR PACKAGING USED EXCLUSIVELY
15 FOR TRANSPORTING, PROTECTING OR CONSUMING FOOD ITEMS
16 INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED
17 PURSUANT TO A.R.S. SECTION 42-5106 OR ITEMS PRESCRIBED BY A.R.S.
18 SECTION 42-5106, SUBSECTION D FOR HOME CONSUMPTION OR FOR
19 CONSUMPTION ON THE PREMISES.

20
21 **Section XVI. Phoenix City Code Section 14-416 is amended as follows; Section 14-416.1 is**
22 **added as follows, repealing and replacing Regulation 14-416.1; and Section 416.2 is added**

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as follows, repealing and replacing Regulation 416.2, all effective from and after April 1, 2019.

Sec. 14-416. Construction contracting: speculative builders.

(a) The tax shall be equal to two and three-tenths percent (2.3%) 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 **NEW** structure has been ~~constructed~~ **SUBSTANTIALY 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 14-416.2**; or

(D) where water, power, and streets have been constructed to the property line.

FOR THE PURPOSE OF PARAGRAPH (A), ONCE A STRUCTURE HAS

BEEN DEEMED "SUBSTANTIALY COMPLETE", SUBSEQUENT

IMPROVEMENTS TO THE STRUCTURE SHALL NOT BE CONSIDERED

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FOR THE PURPOSE OF DETERMINING THE DATE ON WHICH A SALE
TRANSACTION WOULD BE TAXABLE UNDER THIS SECTION.

(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) 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 14-416.2.

(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)

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- 1 (4) A speculative builder may exclude gross income from the sale of partially
2 improved ~~residential~~ real property as defined in (a)(4) above to another
3 speculative builder only if all of the following conditions are satisfied:
- 4 (A) The speculative builder purchasing the partially improved ~~residential~~ real
5 property has a valid ~~City MUNICIPAL~~ privilege ~~TAX~~ license for
6 construction contracting as a speculative builder; and
- 7 (B) At the time of the transaction, the purchaser provides the seller with a
8 properly completed written declaration that the purchaser assumes liability
9 for and will pay all privilege taxes which would otherwise be due the City
10 at the time of sale of the partially improved ~~residential~~ real property; and
- 11 (C) The seller also:
- 12 (i) maintains proper records of such transactions in a manner similar
13 to the requirements provided in this chapter relating to sales for
14 resale; and
- 15 (ii) retains a copy of the written declaration provided by the buyer for
16 the transaction; and
- 17 (iii) is properly licensed with the City as a speculative builder ~~and~~
18 ~~provides the City with the written declaration attached to the City~~
19 ~~privilege tax return where he claims the exclusion.~~
- 20 (5) For taxable periods beginning from and after July 1, 2008, the portion of gross
21 proceeds of sales or gross income attributable to the actual direct costs of

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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:

(i) Section 14-465, subsections (g) and (p)

(ii) Section 14-660, subsections (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 cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 14-465, subsection (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 paragraph:

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

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(ii) 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.

(iii) "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, 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:

(I) 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 INCLUDE NON-

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1 REFUNDABLE DEPOSITS AND EXCLUDES ALL

2 REFUNDABLE DEPOSITS REGARDLESS OF WHETHER

3 THE REFUNDABLE DEPOSIT MAY BE FORFEITED.

4 (II) FOR A COMMERCIAL LEASE, THE VALUE OF THE IN-

5 PLACE LEASE IS THE PRESENT VALUE OF THE

6 EXPECTED LEASE RECEIPTS THROUGH THE END OF THE

7 CURRENT LEASE TERM OR FIRST OPTION OF EITHER

8 PARTY TO TERMINATE THE LEASE, WHICHEVER IS LESS.

9 THE DISCOUNT RATE USED TO CALCULATE THE

10 PRESENT VALUE SHALL BE THE 100% MID-TERM

11 APPLICABLE FEDERAL RATE PUBLISHED BY THE

12 INTERNAL REVENUE SERVICE ASSOCIATED WITH THE

13 PAYMENT TERMS OF THE LEASE RELATED TO THE

14 MONTH PRECEDING THE CLOSE OF ESCROW PLUS

15 THREE (3) PERCENTAGE POINTS.

16 A TRANSACTION, WHETHER CHARACTERIZED AS A LEASE OR

17 OTHERWISE, WHICH IN SUBSTANCE IS A TRANSFER OF TITLE

18 OF OR EQUITABLE OWNERSHIP IN IMPROVED REAL

19 PROPERTY, INCLUDING ANY LEASE OF THE PROPERTY FOR A

20 TERM OF THIRTY (30) YEARS OR MORE (WITH ALL OPTIONS

21 FOR RENEWAL BEING INCLUDED AS A PART OF THE TERM) IS

22 DEEMED TO BE A SALE OF IMPROVED REAL PROPERTY

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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.

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

~~(B)~~(C) 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 14-110, that is
deducted from the retail classification pursuant to Section 14-465(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 paragraph does not include gross proceeds
of sales or gross income from that portion of any contracting activity

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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 paragraph, "permanent attachment" means at least one of the following:

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

~~(C)~~(D) 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:

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(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).

~~(C)(D)~~ No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

SECTION 14-416.1. SPECULATIVE BUILDERS: HOMEOWNER'S BONA FIDE NON-BUSINESS SALE OF A FAMILY RESIDENCE.

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

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

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

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

16 (B) IN THE EVENT THAT A HOMEOWNER OF A FAMILY RESIDENCE
17 CONTRACTS WITH A LICENSED CONSTRUCTION CONTRACTOR FOR
18 IMPROVEMENTS TO A RESIDENCE, THE CONSTRUCTION CONTRACTING ON
19 A FAMILY RESIDENCE SHALL BE PRESUMED TO BE FOR AN OWNER'S BONA
20 FIDE NON-BUSINESS PURPOSE AND ALL CONSTRUCTION CONTRACTORS
21 SHALL BE REQUIRED TO REPORT AND PAY THE TAX IMPOSED ON ALL
22 SUCH IMPROVEMENTS.

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

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

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

18
19 ~~Reg. 14-416.1. Speculative builders: homeowner's bona fide non-business sale of a family~~
20 ~~residence.~~

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(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

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1 ~~the estate of a deceased or incompetent person or a minor, may claim "homeowner" status~~
2 ~~for such person if such person would have otherwise qualified with respect to the specific~~
3 ~~property involved.~~

4
5 **SECTION 14-416.2. RECONSTRUCTION CONTRACTING.**

6
7 (A) **"RECONSTRUCTION (OF REAL PROPERTY)" SHALL MEAN THE SUBDIVIDING**
8 **OF REAL PROPERTY AND, IN ADDITION, ALL CONSTRUCTION**
9 **CONTRACTING ACTIVITIES PERFORMED UPON SAID REAL PROPERTY;**
10 **PROVIDED, HOWEVER, THAT EACH OF THE FOLLOWING CONDITIONS ARE**
11 **MET:**

12 (1) **A STRUCTURE EXISTED ON SAID REAL PROPERTY PRIOR TO THE**
13 **RECONSTRUCTION ACTIVITY; AND**

14 (2) **THE "PRIOR VALUE" OF SAID STRUCTURE EXCEEDS FIFTEEN**
15 **PERCENT (15%) OF THE "PRIOR VALUE" OF THE INTEGRATED**
16 **PROPERTY (LAND, IMPROVEMENTS, AND STRUCTURE); AND**

17 (3) **THE TOTAL COST OF ALL CONSTRUCTION CONTRACTING**
18 **ACTIVITIES PERFORMED ON SAID REAL PROPERTY IN THE TWENTY-**
19 **FOUR (24) MONTH PERIOD PRIOR TO THE SALE OF ANY PART OF THE**
20 **REAL PROPERTY EXCEEDS FIFTEEN PERCENT (15%) OF THE "PRIOR**
21 **VALUE" OF THE REAL PROPERTY; AND**

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

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

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- 1 (C) "ALTERNATIVE PRIOR VALUE" SHALL MEAN THAT AS AN ALTERNATIVE
2 TO THE "PRIOR VALUE" DEFINED ABOVE, THE TAXPAYER MAY USE HIS
3 ACTUAL COST OF THE RECONSTRUCTED PROPERTY PRIOR TO
4 RECONSTRUCTION, PROVIDED THAT EVIDENCE OF SUCH COST IS
5 PRESENTED TO THE TAX COLLECTOR AND IS DETERMINED BY THE TAX
6 COLLECTOR, IN HIS SOLE DISCRETION, TO BE SATISFACTORY. SUCH
7 EVIDENCE SHALL CONSIST, AT A MINIMUM, OF PROOF OF THE ACTUAL,
8 ARMS-LENGTH ACQUISITION PRICE, ACCOMPANIED BY A FULL APPRAISAL
9 OF ALL PROPERTY INVOLVED WHICH APPRAISAL SHALL HAVE BEEN
10 PERFORMED BY A REAL ESTATE BROKER OR MAI APPRAISER
11 SPECIFICALLY FOR THE PURPOSE OF ASSISTING IN THE ACQUISITION AND
12 FURTHER SHALL HAVE BEEN PERFORMED ON BEHALF OF THE SELLER OR
13 A LENDING INSTITUTION WHICH HAS LENT AT LEAST SIXTY-FIVE
14 PERCENT (65%) OF THE ACQUISITION PRICE. (ONLY LONG-TERM LENDING -
15 NOT INTERIM OR CONSTRUCTION FINANCING WILL BE CONSIDERED.) THIS
16 ALTERNATIVE VALUE SHALL BE USED ONLY IF THE PROPERTY WAS
17 ACQUIRED BY THE RECONSTRUCTION TAXPAYER NOT MORE THAN
18 THIRTY-SIX (36) MONTHS PRIOR TO A "SALE" AS DEFINED BELOW.
- 19 (D) A "SALE" FOR THE PURPOSE OF DETERMINING "ALTERNATIVE PRIOR
20 VALUE" OR "RECONSTRUCTION" ONLY SHALL BE DEEMED TO HAVE
21 OCCURRED AS OF THE DATE OF THE EXECUTION OF A CONTRACT OF SALE
22 OR A DEED (JOINT TENANCY OR WARRANTY) WHICHEVER IS EARLIER, TO
23 A PURCHASER OR GRANTEE OF ANY SINGLE RESIDENTIAL OR OTHER

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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. 14-416.2. 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

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(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

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1 is determined by the Tax Collector, in his sole discretion, to be satisfactory. Such
2 evidence shall consist, at a minimum, of proof of the actual, arms-length acquisition
3 price, accompanied by a full appraisal of all property involved which appraisal shall have
4 been performed by a real estate broker or MAI appraiser specifically for the purpose of
5 assisting in the acquisition and further shall have been performed on behalf of the seller
6 or a lending institution which has lent at least sixty five percent (65%) of the acquisition
7 price. (Only long term lending — not interim or construction financing will be considered.)
8 This alternative value shall be used only if the property was acquired by the
9 reconstruction taxpayer not more than thirty six (36) months prior to a "sale" as defined
10 below.

11 (d) — A "sale" for the purpose of determining "alternative prior value" or "reconstruction" only
12 shall be deemed to have occurred as of the date of the execution of a contract of sale or a
13 deed (joint tenancy or warranty) whichever is earlier, to a purchaser or grantee of any
14 single residential or other occupancy unit. In addition to the foregoing, a lease with
15 option to purchase a single residential unit shall be considered a "sale" at the date of
16 execution of such lease if said option is exercisable by the lessee in not later than nine (9)
17 months. Further in the case of cooperative apartments, the sale date shall be the date of
18 execution of the contract selling (subject or not to encumbrances, liens or security
19 interests) of a share, or a sufficient number of shares which entitle the purchaser to the
20 occupancy of a residential unit. In all cases a person shall include a husband and wife as a
21 community, or any co-occupants of a single unit as joint tenants.