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TAX CODE

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CHAPTER 17 PRIVILEGE AND EXCISE TAX

Article I – GENERAL CONDITIONS AND DEFINITIONS

Sec. 17. Words of tense, number and gender; code references.

(a) For the purposes of this Chapter, all words of tense, number, and gender shall comply with A.R.S. Section 1-214 as amended.
(b) For the purposes of this Chapter, all code references, unless specified otherwise, shall:
  (1) refer to this Town Code.
  (2) be deemed to include all amendments to such code references.

Sec. 17-100. General definitions.

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

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

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

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

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

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

"Combined taxes" means the sum of all applicable Arizona Transaction Privilege and Use Taxes; all applicable transportation taxes imposed upon gross income by this County as authorized by Article III, Chapter 6, Title 42. Arizona Revised Statutes; and all applicable taxes imposed by this Chapter.

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

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

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

"Construction contractor" means a person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof. "Construction contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction project. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract.

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

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

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

"Equivalent excise tax" means either:

(1) a Privilege or Use Tax levied by another Arizona municipality upon the transaction in question, and paid either to such Arizona municipality directly or to the vendor; or

(2) an excise tax levied by a political subdivision of a state other than Arizona upon the transaction in question, and paid either to such jurisdiction directly or to the vendor; or

(3) an excise tax levied by a Native American Government organized under the laws of the federal government upon the transaction in question, and paid either to such jurisdiction directly or to the vendor.

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

"Food" means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. Section 42-5106. Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process. Under no circumstances shall "food" include an edible product, beverage, or

ingredient infused, mixed, or in any way combined with medical marijuana or an active ingredient of medical marijuana.

"Gross income" means the gross receipts of a taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property or service, or both, and without any deduction on account of losses. "Gross income" does not include goods, wares or merchandise, or value thereof, returned by customers if the sale price is refunded either in cash or by credit, nor the value of merchandise traded in on the purchase of new merchandise before completion of the sale.

"Gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, expense of any kind or losses, but cash discounts allowed and taken on sales are not included as gross income. "Gross proceeds of sales" do not include goods, wares or merchandise, or value thereof, returned by customers if the sale price is refunded either in cash or by credit, nor the value of merchandise traded in on the purchase of new merchandise when the trade-in allowance is deducted from the sales price of the new merchandise before completion of the sale.

"Gross receipts" means the total amount of the sale, lease or rental price, as the case may be, of the retail sales of retailers, including any services that are a part of the sales, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of every kind or nature, and any amount for which credit is allowed by the seller to the purchaser without any deduction from the amount on account of the cost of the property sold, materials used, labor or service performed, interest paid, losses or any other expense. Gross receipts do not include cash discounts allowed and taken nor the sale price of property returned by customers if the full sale price is refunded either in cash or by credit.

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

"Jet fuel" means jet fuel as defined in A.R.S. Section 42-5351.

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

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

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

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

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

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

"Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares, or articles for use from raw or prepared materials, imparting to those materials, new forms, qualities, properties, and combinations.

"Medical marijuana" means "marijuana" used for a "medical use" as those terms are defined in A.R.S. Section 36-2801.

"Mining and metallurgical supplies" means all tangible personal property acquired by persons engaged in activities defined in Section 17-432 for such use. This definition shall not include:

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

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

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

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

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

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

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

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

(1) The order is placed from without the State of Arizona; and

(2) the property is delivered to the buyer at a location outside the State; and
(3) the property is purchased for use outside the State.

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

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

"Prosthetic" means any of the following tangible personal property:

(1) drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.
(2) Prosthetic appliances as defined in A.R.S. Section 23-501 and as prescribed or recommended by a health professional who is licensed pursuant to Title 32, Chapter 7,8,11,13,14,15,16,17 or 29.
(3) insulin, insulin syringes, and glucose test strips.
(4) prescription eyeglasses or contact lenses.
(5) hearing aids as defined in A.R.S. Section 36-1901.
(6) durable medical equipment that has a centers for Medicare and Medicaid services common procedure code, is designated reimbursable by Medicare, is prescribed by a person who is licensed under Title 32, Chapter 7,8,13,14,15,17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.
(7) orthodontic devices dispensed by a dental professional who is licensed under Title 32, Chapter 11 to a patient as part of the practice of dentistry.
(8) under no circumstances shall "prosthetic" include medical marijuana regardless of whether it is sold or dispensed pursuant to a prescription, recommendation, or written certification by any authorized person.

"Qualifying community health center"
(1) means an entity that is recognized as nonprofit under Section 501 C (3) of the United States Internal Revenue Code, that is a community-based, Primary Care Clinic that has a community-based board of directors that is either.
    (a) the sole provider of primary care in the community.
    (b) a non-hospital affiliated clinic that is located in a federally designated medically underserved area in this State.
(2) includes clinics that are being constructed as qualifying community health centers.

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

"Qualifying health sciences educational institution" means an entity that is recognized as nonprofit under Section 501(c) of the United States internal revenue code and that solely provides graduate and postgraduate education in the health sciences. For the purpose of this paragraph, "health sciences" includes medicine, nursing, physician's assistant studies, pharmacy, physical therapy, occupational therapy, biomedical sciences, podiatry, clinical psychology, cardiovascular science, nurse anesthesia, dentistry, optometry and veterinary medicine.

"Qualifying hospital" means any of the following:

(1) a licensed hospital which is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(2) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(3) A hospital, nursing care institution or residential care institution which is operated by the Federal Government, this state or political subdivision of this state.

(4) A facility that is under construction and that on completion will be a facility under subdivision (1), (2) or (3) of this paragraph.

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

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

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

(1) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for consideration; and
(2) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

"Rental supply" means an expendable or nonexpendable repair or replacement part sold to become part of "rental equipment", provided that:
(1) the documentation relating to each purchased item so claimed specifically itemizes to the vendor the actual item of "rental equipment" to which the purchased item is intended to be attached as a repair or replacement part; and
(2) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and
(3) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

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

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

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

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

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

"Sale" means any transfer of title or possession, or both, exchange, barter, lease, rental or license for use, conditional or otherwise, in any manner or by any means whatever, including consignment transactions and auctions, of tangible personal property or other activities taxable under this chapter, for a consideration. "Sale" includes any transaction by which the possession of property is transferred but the seller retains the title as security for the payment of the price. "Sale" also includes fabricating of tangible personal property for consumers who furnish either directly or indirectly the materials used in such fabrication work. "Sale" also includes furnishing, preparing or serving for a consideration any tangible personal property consumed on the premises of the person furnishing, preparing or serving the tangible personal property.

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

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

"Speculative builder" means either:

(1) an owner-builder who sells or contracts to sell, at anytime, improved real property (as provided in Section 17-416) consisting of:
    (a) custom, model, or inventory homes, regardless of the stage of completion such homes; or
    (b) improved residential or commercial lots without a structure: or
(2) an owner-builder who sells or contracts to sell improved real property, other than improved real property specified in subsection (1) above:
    (a) prior to completion; or
    (b) before the expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete.

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

(1) has passed final inspection or its equivalent; or
(2) certificate of occupancy or its equivalent has been issued; or
(3) is ready for immediate occupancy or use.

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

"Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched or is in any other manner perceptible to the senses.

"Tax Collector" means the Town Council or its designee or agent for all purposes under this Chapter.

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

"Taxpayer Problem Resolution Officer" means the individual designated by the Town to perform the duties identified in Sections 17-515 and 17-516. In cities with a population of 50,000 or more, the Taxpayer Problem Resolution Officer shall be an employee of the City. In cities with a population of less than 50,000, the Taxpayer Problem Resolution Officer need not be an employee of the Town. Regardless of whether the Taxpayer Problem Resolution Officer is or is not an employee of the Town, the Taxpayer Problem Resolution Officer shall have substantive knowledge of taxation. The identity of and telephone number for the Taxpayer Problem Resolution Officer can be obtained from the Tax Collector.

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

"Transient" means any person who either at the person's own expense or at the expense of another obtains lodging space or the use of the lodging space on a daily or weekly basis, or on any other basis for less than thirty (30) consecutive days.

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

Sec. 17-100.1. Brokers

(a) For the purposes of proper administration of this Chapter and to prevent evasion of taxes imposed, brokers shall be wherever necessary treated as taxpayers for all purposes, and shall file a return and remit the tax imposed on the activity on behalf of the principal. No deduction shall be allowed for any commissions or fees retained by such broker, except as provided in Section 17-405, relating to advertising commissions.

(b) Brokers for vendors. A broker acting for a seller, lessor, or other similar person deriving gross income in a category upon which this Chapter imposes a tax shall be liable for such tax, even if his principal would not be subject to the tax if he conducted such activity in his own behalf, by reason of the activity being deemed a "casual" one. For example:
   (1) An auctioneer or other sales agent of tangible personal property is subject to the tax imposed upon retail sales, even if such sales would be deemed "casual" if his principal has sold such items himself.
   (2) A property manager is subject to the tax imposed upon rental, leasing, or licensing of real property, even if such rental, leasing, or licensing would be deemed "casual" if his principal managed such real property himself.

(c) Brokers for vendees. A broker acting solely for a buyer, lessee, tenant, or other similar person who is a party to a transaction which may be subject to the tax, shall be liable for such tax and for filing a return in connection with such tax only to the extent his principal is subject to the tax.'

(d) The liability of a broker does not relieve the principal of liability except upon presentation to the Tax Collector of proof of payment of the tax, and only to the extent of the correct payment. The broker shall be relieved of the responsibility to file and pay taxes upon the filing and correct payment of such taxes by the principal.

(e) (Reserved)

(f) Location of Business. Retail sales by brokers acting for another person shall be deemed to have occurred at the regular business location of the broker, in a manner similar to that used to determine "out-of-Town sales"; provided, however, that an auctioneer is deemed to be engaged in business at the site of each auction.

Sec. 17-110. 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 17-415(B)(12) and A.R.S. Section 42-5075, Subsection O, consisting of central office switching equipment; switchboards; private branch exchange equipment; microwave radio equipment, and carrier equipment including optical fiber, coaxial cable, and other transmission media which are components of carrier systems.

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

(5) pipes or valves four inches (4") in diameter or larger used to transport oil, natural gas, artificial gas, water, or coal slurry including compressor units, regulators, machinery and equipment, fittings, seals, and any other parts that are used in operating the pipes or valves.

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

(A) a person:

(i)holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(ii) that is certificated or licensed under Federal Aviation Administration Regulations (14 Code of Federal Regulations Part 121 or 135) as scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

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

(iv) operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of Federal Aviation Administration Regulations (14 Code of Federal Regulations Part 91, Subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under Part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of Federal Aviation Administration Operations Specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to A.R.S. Section 42-5009, Subsection to A.R.S. Section 42-5009, Subsection Q.

(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.

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

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

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

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

(12) groundwater measuring devices required under A.R.S. Section 45-604.

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

(14) new machinery and equipment consisting of agricultural aircraft, tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk and machinery and equipment necessary for cooling milk and

livestock, and drip irrigation lines, not already exempt under paragraph 5 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural, or floricultural crops in this State. For the purposes of this paragraph.

(A) "new machinery and equipment" means machinery and equipment that have never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(B) "agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.

(C) "self-powered implements" includes machinery and equipment that are electric-powered.

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

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

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

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

(17) machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including a person representing or working on behalf of such a person in a manner described in A.R.S. Section 42-5075, subsection O, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

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

A) any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations parts 25.

(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.

(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 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:

A) repair or replacement parts purchased for the machinery or equipment described in this paragraph.

B) machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

C) any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

(22) Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under A.R.S. Section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in A.R.S. Section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the Department of Revenue.

(b) The term "income-producing capital equipment" shall further include ancillary machinery and equipment used for the treatment of waste products created by the business activities

which are allowed to purchase "income-producing capital equipment" defined in subsection (a) above.

(c) The term "income-producing capital equipment" shall further include repair and replacement parts, other than the items in subsection (d) 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.
- (3) office equipment, furniture, and supplies.
- (4) tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection (a)(18) of this section.
- (5) motor vehicles required to be licensed by the State of Arizona, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection (a)(10) above without regard to the use of such motor vehicles.
- (6) shops, buildings, docks, depots, and all other materials of whatever kind or character not specifically included as exempt.
- (7) motors and pumps used in drip irrigation systems.
- (8) machinery and equipment or other tangible personal property used by a contractor in the performance of a contract.

(e) For the purposes of this Section:
- (1) "aircraft" includes:
  - (A) an airplane flight simulator that is approved by the Federal Aviation Administration for use as a Phase II or higher flight simulator under Appendix H, 14 Code of Federal Regulations Part 121.
  - (B) tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.
- (2) "other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

Sec. 17-115. Definitions: computer software; custom computer programming.

(a) "Computer Software" means any computer program, part of such a program, or any sequence of instructions for automatic data processing equipment. Computer software which is not "custom computer programming" is deemed to be tangible personal property for the purposes of this Chapter, regardless of the method by which title, possession, or right to use the software is transferred to the user.

(b) "Custom Computer Programming" means any computer software which is written or prepared exclusively for a customer and includes those services represented by separately stated charges for the modification of existing prewritten programs when the modifications are written or prepared exclusively for a customer.

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

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

Sec. 17-115.1. Computer hardware, software, and data services.

(a) Definitions.

(1) "Computer Hardware" (also called "computer equipment" or "peripherals") is the components and accessories which constitute the physical computer assembly, including but not limited to: central processing unit, keyboard, console, monitor, memory unit, disk drive, tape drive or reader, terminal, printer, plotter, modem, document sorter, optical reader and/or digitizer network.

(2) "Computer Software" (also called "computer program") is tangible personal property and includes:

A) "Operating Program (Software)" (also called "executive program (software)"), which is the programming system or technical language upon which or by means of which the basic operating procedures of the computer are recorded. The operating program serves as an interface with user applied programs and allows the user to access the computer's processing capabilities.

B) "Applied Program (Software)", which is the programming system or technical language (including the tape, disk, cards, or other medium upon which such language or program is recorded) designed either for application in a specialized use, or upon which or by means of which a plan for the solution of a particular problem is based. Typically, applied programs can be transferred from one computer to another via storage media. Examples of applied programs include: payroll processing, general ledger, sales data, spreadsheet, word processing, and data management programs.

(3) "Storage Medium" is any hard disk, compact disk, floppy disk, diskette, diskpack, magnetic tape, cards, or other medium used for storage of information in a form readable by a computer, but not including the memory of the computer itself.

(4) A "Terminal Arrangement" (also called "on-line' arrangement") is any agreement allowing access to a remote central processing unit through telecommunications via hardware.

(5) A "Computer Services Agreement" (also called "data services agreement") is an agreement allowing access to a computer through a third-party operator.

(b) For the purposes of this Chapter, transfer of title and possession of the following are deemed sales of tangible personal property and any other transfer of title, possession, or right to use for a consideration of the following is deemed rental, leasing, or licensing of tangible personal property:

(1) computer hardware or storage media. Rental, leasing, or licensing for use of computer hardware or storage media includes the lessee's use of such hardware or storage media on the lessor's premises.

(2) computer software which is not custom computer programming. Such prewritten ("canned") programs may be transferred to a customer in the form of punched cards, magnetic tape, or other storage medium, or by listing the program instructions on coding sheets. Transfer is deemed to have occurred whether title to the storage medium upon which the program is recorded, coded, or punched passes to the customer or the program is recorded, coded, or punched on storage medium furnished by the customer. Gross income from the transfer of such prewritten programs includes:

A) the entire amount charged to the customer for the sale, rental, lease, or license for use of the storage medium or coding sheets on which or into which the prewritten program has been recorded, coded, or punched.

B) the entire amount charged for the temporary transfer or possession of a prewritten program to be directly used or to be recorded, coded, or punched by the customer on the customer's premises.

C) license fees, royalty fees, or program design fees; any fee present or future, whether for a period of minimum use or of use for extended periods, relating to the use of a prewritten program.

D) the entire amount charged for transfer of a prewritten ("canned") program by remote telecommunications from the transferor's place of business to or through the customer's computer.

E) any charge for the purchase of a maintenance contract which entitles the customer to receive storage media on which prewritten program improvements or error corrections have been recorded or to receive telephone or on-site consultation services, provided that:

(i) if such maintenance contract is not optional with the customer, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.

(ii) if such maintenance contract is optional with customer but the customer does not have the option to purchase the consultation services separately from the storage media containing the improvements or error corrections, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.

(i) if such maintenance contract is optional with the customer and the customer may purchase the consultation services separately from the storage media containing the improvements or error corrections, then only the charges for such improvements or error corrections are deemed gross income from the transfer of a prewritten program and charges for consultation are deemed to be charges for professional services.

(c) Producing the following by means of computer hardware is deemed to be the activity of job printing for the purposes of this Chapter:

(1) statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or any other information produced or compiled by a computer; except as provided in subsection (e) below.

(2) Additional copies of records, reports, manuals, tabulations, etc. "Additional Copies" are any copies in excess to those produced simultaneously with the production of

the original and on the same printer, whether such copies are prepared by running the same program, by using multiple printers, by looping the program, by using different programs to produce the same output, or by other means.

(d) Charges for the use of communications channel in conjunction with a terminal arrangement or data services agreement are deemed gross income from the activity of providing telecommunication services.

(e) The following transactions are deemed direct customer services, provided that charges for such services are separately stated and maintained as provided by Regulation 16-1--.2(e):

(1) "Custom (Computer) Programming", which is any computer software which is written or prepared for a single customer, including those services represented by separately stated charges for the modification of existing prewritten programs.

A) Custom computer programming is deemed a professional service regardless of the form in which the programming is transferred.

B) Custom programming includes such programming performed in connection with the sale, rental, lease, or license for use of computer hardware, provided that the charges for such are separately stated from the charges for the hardware.

C) Custom computer programming includes a program prepared to the special order of a customer who will use the program to produce copies of the program for sale, rental, lease, or license. The subsequent sale, rental, lease or license of such a program is deemed the sale, rental, lease, or license of a prewritten program.

(2) Training services related to computer hardware or software, provided further that:

A) the provider of such training services is deemed the ultimate consumer of all tangible personal property used in training others or provided to such trainees without separately itemized charge for the materials provided.

B) training deemed a direct customer service does not include:

(i) training materials, books, manuals, etc. furnished to customers for a charge separate from the charge for training services.

(ii) training provided to customers without separate charge as part of the sale, rental, lease or license of computer hardware or software, or as part of a terminal arrangement or data services agreement.

(3) The use of computer time through the use of a terminal arrangement or a data service agreement, but not charges for computer hardware located at the customer's place of business (for example, the terminal, a printer attached to the terminal, a modem used to communicate with the remote central processing unit over a telephone line).

(4) Compiling and producing, as part of a terminal arrangement or computer services agreement, original copies of statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or other information for the same person who supplied the raw data used to create such reports.

(f) (Reserved)

Sec. 17-120.1. (Reserved)

ARTICLE II – DETERMINATION OF GROSS INCOME

Sec. 17-200. Determination of gross income: in general.

(a) Gross income includes:
  (1) the value proceeding or accruing from the sale of property, the providing of service, or both.
  (2) The total amount of the sale, lease, license for use, or rental price at the time of such sale, rental, lease, or license.
  (3) All receipts, cash, credits, barter, exchange, reduction of forgiveness of indebtedness and property of every kind or nature derived from a sale, lease, license for use, rental, or other taxable activity.
  (4) All other receipts whether payment is advanced prior to, contemporaneous with, or deferred in whole or in part subsequent to the activity or transaction.

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

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

Sec. 17-200.1. When deposits are includable in gross income.

(a) Refundable deposits shall be includable as gross income of the taxpayer for the month in which the deposits are forfeited by the lessee.

(b) Nonrefundable deposits for cleaning, keys, pet fees, maintenance, or for any other purpose are deemed gross income upon receipt.

Sec. 17-210. Determination of gross income: transactions between affiliated companies or persons.

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

Sec. 17-220. Determination of gross income: artificially contrived transactions.

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

Sec. 17-230. Determination of gross income based upon method of reporting.

The method of reporting chosen by a taxpayer, as provided in Section 17-520, necessitates the following adjustments to gross income for all purposes under this Chapter:

(a) Cash basis – When a person elects to report and pay taxes on a cash basis, gross income for the reporting period shall include:
    (1) the total amounts received on "paid in full" transactions, against which are allowed all applicable deductions and exclusions; and
    (2) all amounts received on accounts receivable, conditional sales contract, or other similar transactions, against which no deduction and no exclusions from gross income are allowed. Interest finance contracts may be deducted if separately itemized on all books and records.

(b) Accrual basis – When a person elects to report and pay taxes on an accrual basis, gross income for the applicable period regardless of whether receipts are for cash, credit, conditional, or partially deferred transactions, and regardless of whether or not nay security document or instrument is sold, assigned, or otherwise transferred to another. Per sons reporting on the accrual basis may deduct bad debts, provided that:
    (1) the amount deducted for the bad debt must be deducted from gross income of the month in which the actual charge-off was made, and only to the extent that such amount was actually charged-off, and also only to the extent that such amount is or was included as taxable gross income; and
    (2) if any amount is subsequently collected on such charged-off account, it shall be included in gross income for the month in which it was collected, without deduction for expense of collection.

Sec. 17-240. Exclusion of cash discounts, returns, refunds, trade-in values, vendor-issued coupons, and rebates from gross income.

(a) The following items are not included in gross income:
    (1) Cash discounts allowed by the vendor for timely payment, but only discounts allowed against taxable gross income.
    (2) The value of property returned by customers to the extent of the amount actually refunded either in cash or by credit and the amount refunded was included in taxable gross income.
    (3) The trade-in allowance for tangible personal property accepted as payment, not to exceed the full sales price for any tangible personal property sold, when the full sales price is included in taxable gross income. Trade-in allowances are not allowed for manufactured buildings taxable under Section 17-427.
    (4) When coupons issued by a vendor are later accepted by the vendor as a discount against the transaction, the discount may be excluded from gross income as a cash discount. Amounts credited or refunded by a vendor for redemption of coupons issued by any person other than the vendor may not be excluded from gross income.
    (5) Rebates issued by the vendor to a customer as a discount against the transaction may be excluded from gross income as a cash discount. Rebates issued by a person other than the vendor may not be excluded from gross income, even when the vendee assigns his right to the rebate to the vendor.
    (6) In computing the tax base, gross proceeds of sales or gross income does not include a manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

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

Sec. 17-250. Exclusion of combined taxes from gross income; itemization; notice; limitations.

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

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

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

(b) When tax has been neither separately charged nor separately collected. When the person upon whom the tax is imposed shall establish by means of invoices, sales tickets, or other reliable evidence, that no added charge was made to cover combined taxes, the taxpayer may exclude tax collected from such income by dividing such taxable gross income by 1:00 plus a decimal figure representing the effective combined tax rate expressed as a fraction of 1.00.

Sec. 17-250.1. Excess tax collected.

If a taxpayer collects taxes in excess of the combined tax from any customer in any transaction, all such excess tax shall be paid to the taxing jurisdictions in proportion to their effective rates. The right of the taxpayer to charge his customer for his own liability for tax does not allow the

taxpayer to enrich himself at the cost of his customers. Tax pain on an activity that is not subject to tax or that qualifies for an exemption, deduction, exclusion or credit is not excess tax collected.

Sec. 17-260. Exclusion of fees and taxes from gross income; limitations.

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

(b) There shall be excluded from gross income of vendors at retail of heavy trucks and trailers, the amount attributable to Federal Excise Taxes imposed by 26 U.S.C. Section 4051, but only to the extent that the provisions of Article III, relating to recordkeeping, have been met.

(c) There shall be excluded from the gross income the following fees, taxes, and lieu taxes, but only to the extent that such taxes or fees or both have been separately itemized and collected from the purchaser by the vendor, actually remitted to the proper registering, licensing, and taxing authorities, and the provisions of article III, regarding recordkeeping, are met:

(1) Emergency telecommunication services excise tax imposed pursuant to A.R.S. Section 42-5252. "Emergency telecommunication services" means telecommunication services or systems that use number 911 or a similarly designated telephone number for emergency calls;
(2) The telecommunication devices for the deaf and the severely hearing and speech impaired excise tax imposed pursuant to A.R.S. Section 42-5252;
(3) Federal excise taxes on communications services as imposed by 26 U.S.C. § 4251;
(4) Car rental surcharge imposed pursuant to A.R.S. Section 49-4234;
(5) Federal excise taxes on passenger vehicles as imposed by 26 U.S.C. § 4001(.01);
(6) Waste tire disposal fees, imposed pursuant to A.R.S. Section 44-1302.

(d) There shall be excluded from gross income of vendors of motor vehicles dealer documentation fees, but only to the extent that such fees have been separately itemized and collected from the purchaser of the motor vehicle by the vendor.

Sec. 17-265 (Reserved)

Sec. 17-266. Exclusion of motor carrier revenues from gross income.

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

(a) A motor carrier's use on the public highways in this State if the motor carrier is subject a fee prescribed in A.R.S. Title 28, Chapter 15, Article 4 or A.R.S. Title 28, Chapter 16, Article 4.
(b) Leasing, renting or licensing a motor vehicle, subject to and upon which the fee has been paid under A.R.S. Title 28, Chapter 16.
(c) The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle, to a motor carrier who is subject to a fee prescribed in A.R.S. Title 28, Chapter 16 and who is engaged in the business of leasing, renting or licensing such property.
(d) For the purposes of these exclusion, "motor carrier" includes a motor vehicle weighing 26,000 pounds or more, a lightweight motor vehicle which weighs 12,001 pounds to 26,000 pounds and a light motor vehicle weighing 12,000 pounds or less, which pay the fee prescribed in A.R.S. Title 28, Chapter 15 or A.R.S. Title 28, Chapter 16.

Sec. 17-270. Exclusion of gross income of persons deemed not engaged in business.

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

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

(c) Transactions which, if conducted by any other person, would produce gross income subject to the tax under this Chapter shall not be subject to the imposition of such tax if conducted entirely by a federally exempt organization or proprietary club with the following exceptions:
  (1) Transactions involving proprietary clubs and organizations exempt under 26 U.S.C. Section 501(c) (7), (8), and (9), where the gross revenue of the activity received from persons other than members and bona fide guests of members is an amount in excess of fifteen percent (15%) of total gross revenue, as prescribed by Regulation in the event this fifteen percent (15%) limit is exceeded, the entire gross income of such entity shall be subject to the applicable tax.
  (2) Gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512, including all statutory definitions and determinations, the rules and regulations of the Commissioner of Internal Revenue, and his administrative interpretations and guidelines.
  (3) (Reserved).

(d) Except as may be provided elsewhere in this Chapter, transactions where customers are exempt organizations, proprietary clubs, public educational entities, governmental entities, or non-licensed businesses shall be deemed taxable transactions for the purpose of the imposition of taxes under this Chapter, notwithstanding that property so acquired may in fact be resold or leased by the acquiring person to others. In the case of sales, rentals, leases, or licenses to proprietary clubs or exempt organizations, the vendor may be relieved from the responsibility for reporting and paying tax on such income only by obtaining from its vendee a verified statement that includes:
  (1) a statement that when the property so acquired is resold, rented, leased, or licensed, that the otherwise exempt vendee chooses, or is required, to pay Town Privilege Tax or an equivalent excise tax on its gross income from such transactions and does in fact file returns on same: and
  (2) the Privilege License number of the otherwise exempt vendee; and
  (3) such other information as the Tax Collector may require.

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

Sec. 17-270.1. Proprietary activities of municipalities are not considered activities of a governmental entity.

The following activities, when performed by a municipality, are considered to be activities of a person engaged in business for the purposes of this Chapter, and not excludable by reason of Section 17-270:

(a) rental, leasing, or licensing for use of real property to other than another department or agency of the municipality.

(b) Producing, providing, or furnishing electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.

(c) Sale of tangible personal property to the public, when similar tangible personal property is available for sale by other persons, as, for example, at police or surplus auctions.

Sec. 17-270.2 Proprietary clubs.

(a) Equity requirements. In order to qualify for exclusion under Section 17-270, a proprietary club must actually be owned by the members. For the purposes of qualification, a club will be deemed to be member-owned if at least eighty-five percent (85%) of the equity of the total amount of club-owned property is owned by bona fide individual members whose membership is represented in the form of shares, certificates, bonds, or other indicia of capital interest. A corporation may be considered an individual owner provided that it owns a membership solely for the benefit of one or more of its employees and it is not engaged in any business activity connected with the operation of the club.

(b) Gross revenue requirements. In computing gross revenue for the computation of this fifteen percent (15%) rule of subsection 17-270(c)(1),

(1) the following shall be excluded:

A) membership dues.

B) membership fees which relate to the general admission to the club on a periodic (or perpetual) basis.

C) assessments.

D) special fundraising events, raffles, etc.

E) donations, gifts, or bequests.

F) gate receipts, admissions, and program advertising for not more than one tournament in any calendar year.

(2) the following must be included:

A) green fees, court use fees, and similar charges for the actual use of a facility or part thereof.

B) pro shop sales if the shop is owned by the club.

C) golf cart rental if the carts are owned by the club.

D) rentals, percentages, or commissions received for permitting the use of the premises or any portion thereof by a caterer, concessionaire, professional, or any other person for sales, rental, leasing, licensing, catering, food or beverage service, or instruction.

E) all receipts from food or beverage sales, room use or rental charge, corkage and catering charges and similar receipts.

F) Locker and locker room fees and attendance charges if paid to the club.

G) Tournament entry fees other than entry fees for the one annual tournament exempt under subsection (b)(1)(F) above.

Sec. 17-285. Determination of gross income: moratorium on certain taxes relating to certain real property.

(a) A "moratorium period of "X" means that consecutive passage of time commencing upon the date when real property first qualifies for the provisions of this Section and ending at midnight (12:00 p.m.) of that same month and day "X" years thereafter.

(b) Gross income derived from construction contracting upon real property not owned by a governmental entity shall be exempt from the taxes imposed by Sections 17-415 through 16-418 for a moratorium period of seven (7) years from the date upon which such real property shall have been annexed to and become a part of the Town.

(c) (Reserved)

(d) The provisions of this Section shall be irrevocable vested in any real property that qualifies under this Section after the adoption of this Section as part of the Town Code, or upon the adoption of any substantially similar ordinance previously adopted, whichever occurs earlier.

Sec. 17-290. (Reserved)

ARTICLE III – LICENSING AND RECORDKEEPING

Sec. 17-300. Licensing requirements.

(a) The following persons shall make application to the Tax Collector for a Transaction Privilege and Use Tax License and no person shall engage or continue in business or engage in such activities until he shall have such a license:
  (1) Every person engaging or continuing in business activities within the Town upon which a Transaction Privilege Tax is imposed by this Chapter.
  (2) Every person engaging or continuing in business within the town and storing or using tangible personal property in this municipality upon which a Use Tax is imposed by this Chapter.
  (3) (Reserved)

(b) A person engaged in more than one activity subject to Town Privilege and Use Taxes at any one business location is not required to obtain a separate license for each activity; provided that, at the time such person makes application for a license, he shall list on such application each category of activity in which he is engaged. The licensee shall inform the Tax Collector of any changes in his business activities, location, or mailing address within thirty (30) days.

(c) Limitation. The issuance of a Privilege License by the Tax Collector shall in no way be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.

Sec. 17-300.1. Who must apply for a license.

(a) For the purposes of determining whether a license is required under Section 17-300, a person shall be deemed to be "engaged in or continuing in business" within the Town, if he meets any of the following conditions:
  (1) He is engaged in any activity subject to the Town's Privilege Taxes as principal or broker.

(2) He has or maintains within the Town directly, or if a corporation by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this Town under the authority of such person or if a corporation its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily or whether such person or subsidiary is authorized or licensed to do business in this State or this Town.

(3) He is soliciting sales, orders, contracts, leases, and other similar forms of business relationships, within the Town from customers, consumers, or users located within the Town, by means of salesmen, solicitors, agents, representatives, brokers, and other similar agents or by means of catalogs or other advertising, whether such orders are received or accepted within or without this Town.

(4) (Reserved)

(5) (Reserved)

(b) For the purposes of obtaining a Privilege License, a person who has less than three (3) apartments, houses, trailer spaces, or other lodging spaces available for rent, lease, or license within the State is not considered to be regularly engaged in business and need not obtain a Privilege License: provided, however, if that person is also receiving income from the activity of renting, leasing, or licensing one (1) or more commercial properties or units within a commercial property, he is considered to be regularly engaged in business and must obtain licenses for all his rental, lease, or license property.

Sec. 17-300.2. (Reserved)

Sec. 17-310.1. (Reserved)

Sec. 17-310.2. (Reserved)

Sec. 17-310.3. (Reserved)

Sec. 17-310. Licensing: special requirements.

(a) Partnerships. Application for a Transaction Privilege and Use Tax License for a partnership engaging or continuing in business in business shall provide, as a minimum, the names and addresses of all general partners. Licenses issued to persons engaged in business as partners, limited or general, shall be in the name of the partnership.

(b) Limited Liability Companies. Application of a Transaction Privilege and Use Tax License for a Limited Liability Company (LLC) engaging or continuing in business in shall provide, as a minimum, the names and addresses of all members and the manager. Licenses issued to persons engaging in business as Limited Liability Companies, shall be in the name of the LLC.

(c) Corporations. Application for a Transaction Privilege and Use Tax License for a corporation engaging or continuing in business shall provide, as a minimum, the names and addresses of both the Chief Executive Officer and Chief Financial Officer of the corporation. Licenses issued to persons engaging in business as corporations shall be in the name of the corporation.

(d) Multiple Locations or Multiple Business Names. A person engaging or continuing in one or more businesses at two (2) or more locations or under two (2) or more business names

shall procure a license for each such location or business name. A "location" is a place of a separate business establishment.

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

Sec. 17-320. License fees; annual renewal; renewal fees.

(a) The Transaction Privilege and Use Tax License shall be valid upon receipt of a non-refundable license fee of twenty five dollars ($25.00), except for a license to engage in the business activity of residential or commercial real property rental, leasing, and licensing for use as separately or commercial real property rental, leasing, and licensing for use as separately identified in this Section. The Transaction Privilege and Use Tax License shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual lice renewal fee of twenty-five dollars ($25.00) for each license, subject to the limitations in A.R.S. 42-5005. Such annual renewal fee shall be due and payable on January 1 of each year and shall be considered delinquent if not paid and received on or before the last business day of January.

(b) The Transaction Privilege and Use Tax License to engage in the business activity of residential real property rental, leasing, and licensing for use shall be valid only upon receipt of a non-refundable license fee of twenty-five dollars ($25.00). The Transaction Privilege and Use Tax License shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual license fee of twenty-five dollars ($25.00) for each license, subject to the limitations in A.R.S. 42-5005. Such fee shall be due and payable on January 1 of each year and shall be considered delinquent if not paid and received on or before the last business day of January.

Sec. 17-330. Licensing: duration; transferability; display; penalties; penalty waiver; relicensing; fees collectible as if taxes.

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

(b) The Transaction Privilege and Use Tax License shall be nontransferable between owners or locations, and shall be on display to the public in the licensee's place of business.
(c) Any person required to be licensed under this Chapter who fails to obtain a license on or before conducting any business activity requiring such license shall be subject to the license fees due each year in business plus a penalty in the amount of fifty percent (50%) of the applicable fee for each period of time of which such fee would have been imposed, from and after the date on which such activity commenced until paid. This penalty shall be in addition to any other penalty imposed under this Chapter and must be paid to the issuance of any license. License fee penalties may be waived by the Tax Collector subject to the same terms as the waiver of tax penalties as provided for in Section 17-540.
(d) Any licensee who fails to renew his license on or before the due date shall be deemed to be operating without a license following such due date, and shall be subject to all penalties imposed under this Chapter against persons required to be licensed and operating without a license. The non-licensed status may be removed by payment of the annual license fee for each year or portion of a year he operated without a license, plus a license fee penalty of 50% of the license fee due for each year. License fee penalties may be waived by the Tax Collector subject to the same terms as the waiver of tax penalties as provided for in Section 17-540.
(e) Any licensee who permits his license to expire through cancellation as provided in Section 17-340, by his request for cancellation, by surrender of the license, or by the cessation of the business activity for which the license was issued, and who thereafter applies for a license, shall be granted a new license as a new applicant and shall pay the current license fee imposed under Section 17-320.
(f) Any licensee who needs a copy of his Transaction Privilege and Use Tax License which is still in effect shall be charged the current license fee for each reissuance of a license.
(g) Any person conducting a business activity subject to licensing without obtaining a Transaction Privilege and Use Tax License shall be liable to the town for all applicable fees and penalties and shall be subject to the provisions of Sections 17-580 and 17-590, to the same extent as if such fees and penalties were taxes and penalties under such Sections.

Sec. 17-340. Licensing: cancellation; revocation.

(a) Cancellation. The tax Collector shall be authorized to cancel the Transaction Privilege and Use Tax License of any licensee as "inactive" if the taxpayer, required to report monthly to the Town, has neither filed any return nor remitted to the Town any taxes imposed by this Chapter for a period of six (6) consecutive months; or, if required to report quarterly, has neither filed any return nor remitted any taxes imposed by this Chapter for two (2) consecutive quarters; or, if required to report annually, has neither filed any return nor remitted any taxes imposed by this Chapter when such annual report and tax are due to be filed with and remitted to the Tax Collector.
(b) Revocation. If any licensee fails to pay any tax, interest, penalty, fee, or sum required to be paid to the Town under this Chapter, or if such licensee fails to comply with any other provisions of this Chapter, the Tax Collector shall be authorized to revoke the Town Transaction Privilege and Use Tax License of said licensee.
(c) Notice and Hearing. The Tax Collector shall deliver notice to such licensee of cancellation or revocation of the Transaction Privilege and Use Tax License. If within twenty (20) days the licensee so notified requests a hearing, he shall be granted a hearing before the Tax Collector.

(d) After cancellation or revocation of a taxpayer's license, the taxpayer shall not be relicensed until all reports have been filed; all fees, taxes, interest, and penalties due have been paid: and he is in compliance with the provisions of this Chapter.

Sec. 17-350. Operating without a license.

It shall be unlawful for any person who is required by this Chapter to obtain a Transaction Privilege and Use Tax License to engage in or continue in business without a license. The Tax Collector shall assess any delinquencies in tax, interest, and penalties which may apply against such person upon any transactions subject to the taxes imposed by this Chapter.

Sec. 17-350.1. Recordkeeping: income.

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

(a) the gross income of the taxpayer attributable to any activity to any activity occurring in whole or in part in the Town.
(b) the gross income taxable under this Chapter, divided into categories as stated in the official Town tax return.
(c) the gross income subject to Arizona Transaction Privilege Taxes, divided into categories as stated in the official State tax return.
(d) the gross income claimed to be exempt, and with respect to each activity or transaction so claimed:
    (1) if the transaction is claimed to be exempt as a sale for resale or as a sale, rental, lease, or license for use of rental equipment:
        A) the Town Privilege License number and State Transaction Privilege Tax License number of the customer (or the equivalent city, if applicable, and state tax numbers of the city and state where the customer resides), and
        B) the name, business address, and business activity of the customer, and
        C) evidence sufficient to persuade a reasonably prudent businessman that the transaction is believed to be in good faith a purchase for resale, or a purchase, rental, lease, or license for use of rental equipment, by the vendee in the ordinary and regular course of his business activity, as provided by Regulation.
    (2) if the transaction is claimed to be exempt for any other reason:
        A) the name, business address, and business activity of the customer, and
        B) evidence which would establish the applicability of the exemption to a reasonably prudent businessman acting in good faith. Ordinary business documentation which would reasonably indicate the applicability of an exemption shall be sufficient to relieve the person on whom the tax would otherwise be imposed from liability therein, if he acts in good faith as provided by Regulation.
(e) with respect to those allowed deductions or exclusions for tax collected or charges for delivery or other direct customer services, where applicable, evidence that the deductible income has been separately stated and shown on the records of the taxpayer and on invoices or receipts provided to the customer. All other deductions, exemptions, and exclusions shall be separately shown and substantiated.

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

(g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded income defined by this Chapter.

Sec. 17-350.2. Recordkeeping: expenditures.

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

(a) the total price of all goods acquired for use or storage in the Town.

(b) the date of acquisition and the name and business address of the seller or lessor of all goods acquired for use or storage in the Town.

(c) documentation of taxes, freight, and direct customer service labor separately charged and paid for each purchase, rental, lease or license.

(d) the gross price of each acquisition claimed as exempt from tax, and with respect to each transaction so claimed, sufficient evidence to satisfy the Tax Collector that the exemption claimed is applicable.

(e) as applicable to each taxpayer, documentation sufficient to the Tax Collector, so that he may ascertain:
    (1) all construction expenditures and all Privilege and Use Taxes claimed paid, relating to owner-builders and speculative builders.
    (2) disbursement of collected gratuities and related payroll information required of restaurants.
    (3) franchise and license fee payments and computations thereto which relate to:
        A) utility service.
        B) telecommunication service.
    (4) the validity of any claims of proof of exemption, as provided by Regulation.
    (5) a claimed alternative prior value for reconstruction.
    (6) (Reserved)
    (7) costs used to compute the "computed charge" claimed for retail service and repair.
    (8) payments of tax to the Arizona Department of Transportation and computations therefore, when a motor-vehicle transporter claims such the exemption.

(f) any additional documentation as the Tax Collector, by Regulation, shall deem necessary for any specific class of taxpayer by reason of the specialized business activity of specific exemptions afforded to that class of taxpayer.

(g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded expenditures as defined by this Chapter.

Sec. 17-350.3. Recordkeeping: out-of-Town and out-of-State sales.

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

(b) Out-of-State sales. Persons engaged in a business claiming out-of-State sales shall maintain accounting records or books indicating for each out-of-State sale the following documentation:
  (1) documentation of location of the buyer at the time of order placement; and
  (2) shipping, delivery, or freight documents showing where the buyer took delivery; and
  (3) documentation of intended location of use or storage of the tangible personal property sold to such buyer.

Sec. 17-360. Recordkeeping requirements.

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

(b) The Tax Collector may direct, by letter, a specific taxpayer to keep specific other books, records, and documents. Such letter directive shall apply:
  (1) only for future reporting periods, and
  (2) only by express determination of the Tax Collector that such specific recordkeeping is necessary due to the inability of the Town to conduct an adequate examination of the past activities of the taxpayer, which inability resulted from inaccurate or inadequate books, records, or documentation maintained by the taxpayer.

Sec. 17-360.1. Proof of exemption: sale for resale; sale, rental, lease, or license of rental equipment.

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

Sec. 17-360.2. Proof of exemption: exemption certificate.

For the purpose of proof of exemption, in transactions other than those in which the proof is set by standard documentation as detailed in Regulations 17-350.1 and 17-360.1, the minimum acceptable proof and documentation for each transaction shall be the completion, at the time of the transaction, in all material respects, of a certificate containing all the information set forth below. For the purpose of validating the vendor's claim of exemption, such certificate is sufficient if executed by any person with apparent authority to act for the customer, and the information provided validates the claim.

Sec. 17-362. Recordkeeping: income.

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

(a) The gross income of the taxpayer attributable to any activity occurring in whole or in part in the Town.

(b) The gross income taxable under this Chapter, divided into categories as stated in the official Town tax return.

(c) The gross income subject to Arizona Transaction Privilege Taxes, divided into categories as stated in the official State tax return.

(d) The gross income claimed to be exempt, and with respect to each activity or transaction so claimed:

(1) If the transaction is claimed to be exempt as a sale or as a sale, rental, lease, or license for use of rental equipment.

(A) The City Privilege License number and State Transaction Privilege Tax License number of the customer (or the equivalent town, if applicable, and state tax numbers of the town and state where the customer resides), and

(B) The name, business address, and business activity of the customer, and

(C) Evidence sufficient to persuade a reasonably prudent businessman that the transaction is believed to be in good faith a purchase for resale, or a purchase, rental equipment, by the vendee in the ordinary and regular course of his business activity, as provided by Regulation.

(2) If the transaction is claimed to be exempt for any other reason:

(A) The name, business address, and business activity of the customer, and

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

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

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

(g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded income defined by this Chapter.

Sec. 17-364. Recordkeeping: expenditures.

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

(a) The total price of all goods acquired for use or storage in the Town.
(b) The date of acquisition and the name and business address of the seller or lessor of all goods acquired for use or storage in the Town.
(c) Documentation of taxes, freight, and direct customer service labor separately charged and paid for each purchase, rental, lease, or license.
(d) The gross price of each acquisition claimed as exempt from tax, and with respect to each transaction so claimed, sufficient evidence to satisfy the Tax Collector that the exemption claimed is applicable.
(e) As applicable to each taxpayer, documentation sufficient to the Tax Collector, so that he may ascertain:
    (1) All construction expenditures and all Privilege and Use Taxes claimed paid, relating to owner-builders and speculative builders.
    (2) Disbursement of collected gratuities and related payroll information required of restaurants.
    (3) Franchise and license fee payments and computations thereto which relate to:
        (A) Utility service.
        (B) Telecommunication service.

Sec. 17-366. Recordkeeping: out-of-Town and out-of-State sales.

(a) Out-of-Town Sales. Any person engaging or continuing in a business who claims out-of-Town sales shall maintain and keep accounting records or books indicating separately the gross income from the sales of tangible personal property from such out-of-Town branches or locations.
(b) Out-of-State Sales. Persons engaged in a business claiming out-of-State sales shall maintain accounting records or books indicating for each out-of-State sale the following documentation:
    (1) documentation of location of the buyer at the time of order placement; and
    (2) shipping, deliver, or freight documents showing where the buyer took delivery; and
    (3) documentation of intended location of use or storage of the tangible personal property sold to such buyer.

Sec. 17-370. Recordkeeping: claim of exclusion, exemption, deduction, or credit; documentation; liability.

(a) All deductions, exclusions, exemptions, and credits provided in this Chapter are conditional upon adequate proof and documentation of such as may be required under A.R.S. Section 42-5022 or by this Chapter or Regulation.
(b) Any person who claims and receives an exemption, deduction, exclusion, or credit to which he is not entitled under this Chapter, shall be subject to, liable for, and pay the

tax on the transaction as if the vendor subject to the tax had passed the burden of the payment of the tax to the person wrongfully claiming the exemption. A person who wrongfully claimed such exemption shall be treated as if he is delinquent in the payment of the tax and shall be subject to interest and penalties upon such delinquency. However, if the tax is collected from the vendor on such transaction it shall not again be collected from the person claiming the exemption, or if collected from the person claiming the exemption it shall not also be collected from the vendor.

Sec. 17-372. Proof of exemption: sale for resale; sale, rental, lease, or license of rental equipment.

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

Sec. 17-380. Inadequate or unsuitable records.

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

(a) to provide such other records required by this Chapter or Regulations; or

(b) to correct or to reconstruct his records, to the satisfaction of the Tax Collector.

ARTICLE IV – PRIVILEGE TAXES

Sec. 17-400. Imposition of Privilege Taxes; presumption.

(a) There are hereby levied and imposed, subject to all other provisions of this Chapter, the following Privilege Taxes for the purpose of raising revenue to be used in defraying the necessary expenses of the Town, such taxes to be collected by the Tax Collector.

(1) a Privilege Tax upon persons on account of their business activities, to the extent provided elsewhere in this Article, to be measured by the gross income of persons, whether derived from residents of the Town or not, or whether derived from within the Town or from without.

(2) (Reserved)

(b) Taxes imposed by this Chapter are in addition to others. Except as specifically designated elsewhere in this Chapter, each of the taxes imposed by this Chapter shall be in addition to all other licenses, fees, and taxes levied by law, including other taxes imposed by this Chapter.

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

(d) Limitation of exemptions, deductions, and credits allowed against the measure of taxes imposed by this Chapter. All exemptions, deductions, and credits set forth in this Chapter shall be limited to the specific activity or transaction described and not extended to include any other activity or transaction subject to the tax.

Sec. 17-405. Advertising.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of "local advertising" by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from "local advertising". All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered "Local Advertising", except the following:

(1) the advertising of a product or service which is sold or provided both within and without the State by more than one "commonly designated business entity" within the State, and in which the advertisement names either no "commonly designated business entity". "Commonly Designated Business Entity" means any person selling or providing any product or service to its customers under a common business name or style, even though there may be more than one legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement.

(2) the advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the State.

(3) the advertising of a product which may only be purchased from an out-of-State supplier.

(4) political advertising for United States Presidential and Vice-Presidential candidates only.

(5) advertising by means of product purchase coupons redeemable at any retail establishment carrying such product but not product coupons redeemable only at a single commonly designated business entity.

(6) Advertising transportation services where a substantial portion of the transportation activity of the business entity involves interstate or foreign carriage.

(b) (Reserved)

Sec. 17-405.1. Local advertising examples.

For the purposes of illustration only, and not by way of limitation, the following are provided as examples of local advertising subject to the tax:

(1) retail sales and rental establishments doing business within the State when only one commonly designated business entity is identified by name in the advertisement.

(2) Financial institutions doing business within the State whether part of a national chain or local business only.

(3) Sales of real estate located within the State.

(4) Health care facilities located within the State.
(5) Hotels, motels, and apartments, whether a national chain or local so long as the advertisement identifies any location within the State.
(6) Brokers doing business within the State whether stockbrokers, real estate brokers, insurance brokers, etc.
(7) Nonprofit organizations, which even though tax exempt, have an office, whether national, local or branch, within the State.
(8) Political activity, except United States Presidential and Vice-Presidential candidates.
(9) Restaurants or food service establishments which have one or more branches, outlets, or franchises within the State even though the local franchisee or licensee may not be responsible for the placement of the advertisement.
(10) Services provided by individuals or entities within the State such as doctors, lawyers, architects, hairdressers, auto repair shop, counseling services, utilities, contractors, auction houses, etc.
(11) Coupons redeemable only at a single commonly designated business entity within the State.
(12) Theater, sports, and other entertainment events held at locations within the State.

Sec. 17-405.2. Advertising activity within the Town.

(a) In General. Except as provided elsewhere in this regulation, a person engaged in advertising activity shall be considered to be doing business entirely within the Town if all or a major portion of the dissemination facilities such as broadcasting studios, printing plants, or distribution centers are located within the Town limits. Remote studios patched to an in-Town studio and subject to engineering modulation or control at the in-Town studio are considered studios doing business in the Town.
(b) Billboards and other outdoor advertising companies shall be considered to be doing business within the Town to the extent they have billboards or similar displays within the Town.
(c) Publishers and distributors of newspaper and other periodicals shall be subject to the tax upon advertising imposed by Section 17-405 and such tax shall be allocated in the manner prescribed by subsection (e) of Section 17-435.

Sec. 17-407. (Reserved)

Sec. 17-407.1. (Reserved)

Sec. 17-410. Amusements, exhibitions, and similar activities.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of providing amusement that begins in the Town or takes place entirely within the Town, 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) income from golf green fees

(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 17-444, if all the following apply:

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

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

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

(4) income that is specifically included as the gross income of a business activity upon which another section of this article 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.

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

(6) exhibition events in this state sponsored, conducted or operated by a nonprofit organization this is exempt from taxation under Section 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 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 state transaction privilege tax under A.R.S. Section 42-5073.

(7) Until March 1, 2017, the gross proceeds of sales or gross income derived from entry fees paid by participants for events that consist of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

(8) The gross proceeds of sales or gross income derived from entry fees paid by participants for events that are operated or conducted by nonprofit organizations that are exempt from taxation under Section 501(C)(3) of the Internal Revenue Code and of which no part of the organization's net earnings inures to the benefit of any private shareholder or individual. If the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

(9) (Reserved)

Sec. 17-415. Construction contracting: construction contractors.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the Town.
  (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)

(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 17-465, Subsections (g) and (p)
    B) (Reserved)
    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 17-110, that is deducted from the retail classification pursuant to section 17-465(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 the purposes of this paragraph, "permanent attachment" means that 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 clean rooms that are deducted from the tax base of the retail classification pursuant to Section 17-465, 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 Town:

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

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

(C) Any other information considered to be necessary.

(10) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this 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 section 9-463.05, section 11-1102 or 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 town, 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.

(B) Tangible personal property that is incorporated or fabricated into a project described in this subsection may be subject to the amount prescribed in Section 17-415.1.

(C) Each contract is independent of any other contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this chapter. Regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract. The change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

(D) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to A.R.S. Title 28. Chapter 19, 20 or 22 or A.R.S. Title 34, Chapter 2 or 6 even if the contract also includes vertical improvements, if a city or town imposes a tax on contracts that are subject to procurement processes under those provisions. The city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with;

(i) community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts, regional attraction districts or revitalization districts.

(ii) any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

(13) The gross proceeds of sales or gross income derived from a contract entered into for the construction of a mixed waste processing facility that is located on a municipal solid waste landfill and that is constructed for the

purpose of recycling solid waste or producing renewable energy from landfill waste. For the purposes of this paragraph;

(A) "mixed waste processing facility" means a solid waste facility that is owned, operated or used for the treatment, processing or disposal of solid waste, recyclable solid waste. 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 not include a site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material.

(B) "municipal solid waste landfill" has the same meaning prescribed in A.R.S. Section 49-701.

(C) "recycling" means collecting, separating, cleansing, treating and reconstituting recyclable solid waste that would otherwise become solid waste, but does not include incineration or other similar processes.

(D) "renewable energy" has the same meaning prescribed in A.R.S. Section 41-1511.

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

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

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

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

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

C) the owner-builder has provided the contractor his Town Privilege License number.

(3) a person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and set-up; and provided the subcontractor his Town Privilege License number.

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

Sec. 17-415.1. Liability for MRRA amounts equal to Retail transaction privilege tax due.

A. A person that is either a prime contractor subject to tax under section 17-415 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 17-465(K) or was excluded from the use tax under Section 17-660(K) at the time of purchase, and that incorporates or fabricates the

tangible personal property into a project described in Section 17-460 and A.R.S. Title 42, Chapter 5 as follows:

1. The amount of liability shall be calculated and reported based on the location of the project and the taxes imposed under Section 17-460 and A.R.S. Title 42, Chapter 5.
2. All deductions, exemptions and exclusions for the cost of tangible personal property incorporated or fabricated into the project.
3. This subsection does not apply to tangible personal property that is incorporated or fabricated into any project into any project under a contract that would otherwise be excluded from the tax base under Section 17-415, without regard to Section 16-415(B)(12).
4. The amount of liability shall be reported within the reporting period that includes the person incorporates or fabricates the tangible personal property into the project.
5. The person is not liable for the amount if the contractor who hired the person executes and provides to the person a certificate stating that the contractor providing the certificate is liable for any amount due under this subsection. The Department of Revenue shall prescribe the form of the certificate. If the person has reason to believe that the information contained on the certificate is erroneous or incomplete, the Town may disregard the certificate. The contractor providing the certificate is liable for the amount that otherwise would be due from the person under this subsection.

B. A person that purchased tangible personal property, the purchase price of which was excluded from the tax base under Section 17-465(K) or was excluded from the Use Tax under Section 17-660(K) at the time of purchase, whose Transaction Privilege Tax License has been canceled and that subsequently uses, consumes, sells, or discards the tangible personal property is liable for an amount of tax determined under this Subsection. For the purposes of this subsection;

1. If the tangible personal property is incorporated or fabricated into a project described in Section 17-415(B)(12) and A.R.S. Section 42-5075, Subsection O, or otherwise used or consumed by the person. The amount of liability shall be calculated and reported based on the person's purchase price of the tangible personal property, the location of the project, use or consumption and the taxes imposed under Section 17-460 and A.R.S. Title 42, Chapter 5.
2. If the tangible personal property is sold in a manner that is not subject to tax under this Chapter or is discarded, the amount shall be calculated and reported based on the payment received by the person, the location of the person's principal place of business in this state and the taxes imposed under Section 17-460 and A.R.S. Title 42, Chapter 5.
3. The person is not liable under this subsection for any amount if the person discards the tangible personal property and does not receive payment of any kind.
4. The amount of liability shall be reported on or before the business day preceding the last business day of the month following the month in which the person uses the tangible personal property in a manner described in paragraph 1 or 2 of this subsection. No amount is due under this subsection at any time that the person stores the tangible personal property without using it in a manner described in paragraph 1 or 2 of this subsection.
5. All deductions, exemptions and exclusions for the cost of tangible personal property provided in Section 17-415 apply to the tangible personal property incorporated or fabricated into a project described in Section 17-415(B)(12) and A.R.S. Section 42-5075, Subsection O.

6. This subsection does not apply to tangible personal property that is incorporated or fabricated into any project under a contract that would otherwise be excluded from the tax base under Section 17-415 and A.R.S. Section 42-5075, without regard to Section 17-415(B)(12) and A.R.S. Section 42-5075, Subsection O.
7. The person is not liable for the amount if the contractor who hired the person executes and provides to the person a certificate stating that the contractor providing the certificate is liable for any amount due under this subsection for tangible personal property incorporated or fabricated into a project described in A.R.S. Section 42-5075, Subsection O. The department shall prescribe the form of the certificate. If the person has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. The contractor providing the certificate is liable for the amount that otherwise would be due from the person under this subsection.

C. A person that fails to report or pay any amount due under subsection A or B of this section is liable for interest in a manner consistent with A.R.S. Section 42-1123 and penalties in a manner consistent with A.R.S. Section 42-1125.

D. If a person has paid an amount described in this section on tangible personal property that the person reasonably believed to be described under Section 17-415(B)(12) and A.R.S. Section 42-5075, Subsection O and a final determination is made that Section 17-415(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.

Sec. 17-415.2. Distinction between construction contracting and certain related activities.

(a) Certain rentals, leases, and licenses for use in connection with construction contracting. Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:

(1) Rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.

(2) Rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.

(3) Rental of pumps or cranes is rental of tangible personal property, whether or not an operator is provided with the equipment rented.

(b) Distinction between construction contracting, retail, and certain direct customer service activities.

(1) When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.

(2) Items attached or installed on tangible personal property are retail sales.

(3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscaping maintenance).

(4) Demolition, earth moving, and wrecking activities are considered construction contracting.

(c) Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.

(d) Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.

(1) "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.

(2) Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.

(3) Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.

(4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

Sec. 17-415.3. Construction contracting: tax rate effective date.

A. In the event of a tax rate change, the rate imposed on gross income from construction contracting shall be computed based upon the rate in effect when the contract was executed, subject to the "enactment date" as defined in this section. Gross income from a contract executed prior to the enactment date shall not be subject to the tax rate change, provided the contract contains no provision that entitles the construction contractor to recover the amount of the tax.

B. In the event of a rate increase, in order to qualify for the lower rate, the construction contractor shall, upon request, provide sufficient documentation, in a manner and form prescribed by the tax collector, to verify that a contract was entered into before the enactment date.

C. For purposes of this section, "enactment date" shall be:

(1) In the event an election is held, the date of election.

(2) In the event no election is held, the date of final adoption by the Mayor and Council.

(3) Notwithstanding the above, nothing in this section shall be construed to prevent the Town from establishing a later enactment date.

Sec. 17-416. Construction contracting: speculative builders.

(a) The tax shall be equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the Town.

(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 substantially completed; or

(B) where improvements have been made to land containing no structure (such as paving or landscaping); or

(C) which has been reconstructed as provided by Section 17-416.2; 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 "substantially complete" subsequent improvements to the structure shall not be considered 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 Real Property", as used in this Section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale, where the 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 Section 17-416.2.

(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)

Sec. 17-416.1. Speculative builders: homeowner's bona fide non-business sale of a family residence.

(a) A sale of a home, regardless of the stage of completion of such home shall be considered a "homeowner's bona fide non-business sale" and not subject to the tax on speculative builders if:

(1) the property was actually used as the principal place of family residence or vacation residence by the immediate family of the seller for the six (6) months next prior to the offer for sale; and

(2) the seller has not sold more than two (2) such residences (or, if the residence is a vacation residence, two (2) such vacation residences) within the thirty-six (36) months immediately prior to the offer for sale; and

(3) the seller has not licensed, leased, or rented the sold premises for any period within twenty-four (24) months prior to the offer for sale.

(b) In the event that a homeowner of a family residence contracts with a licensed construction contractor for improvements to a residence, the construction contracting on a family

residence shall be presumed to be for an owner's bona fide non-business purpose and all construction contractors shall be required to report and pay the tax imposed on all such improvements.

(c) Purchases by a homeowner of tangible personal property for inclusion in any construction, alteration, or repair of his residence shall be subject to tax as retail sales to the ultimate consumer.

(d) "Owner" , "Homeowner" and "Seller" as used in this Section shall only mean an individual, and no other entity, association, or representative shall qualify; except that an administrator, executor, personal representative, or guardian in guardianship or probate proceedings, for the estate of a deceased or incompetent person or a minor, may claim "homeowner" status for such person if such person would have otherwise qualified with respect to the specific property involved.

(e) "Qualified trust" as used in this Section means any legal trust where a beneficiary of the trust is an individual that has been the resident of the property and that individual meets the criteria listed in subsection (a) of this Section.

(f) A sale of a home, regardless of the stage of completion of such home shall be considered a "homeowner's bona fide non-business sale" and not subject to the tax on speculative builders if:

(4) 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

(5) 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

(6) 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.

(g) 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.

(h) 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.

(i) "Owner" , "Homeowner" and "Seller" as used in this Section shall only mean an individual, and no other entity, association, or representative shall qualify; except that an administrator, executor, personal representative, or guardian in guardianship or probate proceedings, for the estate of a deceased or incompetent person or a minor, may claim "homeowner" status for such person if such person would have otherwise qualified with respect to the specific property involved.

(j) "Qualified trust" as used in this Section means any legal trust where a beneficiary of the trust is an individual that has been the resident of the property and that individual meets the criteria listed in subsection (a) of this Section.

Sec. 17-416.2. 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
  (3) the total cost of all construction contracting activities performed on said real property in the twenty-four (24) 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' 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 improvements 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 improvements.

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

(d) A "sale" for the purpose of determining "alternative prior value" or "reconstruction" only shall be deemed to have occurred as of the date of the execution of a contract of sale or deed (joint tenancy or warranty) whichever is earlier, to a purchaser or grantee of any single residential or other occupancy unit. In addition to the foregoing, a lease with option to purchase a single residential unit shall be considered a "sale" at the date of execution of such lease if said option is exercisable by the lessee in not later than nine (9) months. Further in the case of cooperative apartments, the sale dale 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.

Sec. 17-417. Construction contracting: owner-builders who are not speculative builders.

(a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to two percent (2%) of:
   (1) the gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in Subsection 17-415(c)(2); and
   (2) the purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

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

(b) The tax liability of this Section is subject to the FOLLOWING provisions, relating to EXEMPTIONS, deductions and tax credits:
   (1) EXEMPTIONS.
      A) the gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
         (ii) Section 17-465, Subsections (g) and (p)
         (iii) (Reserved)
      shall be exempt or deductible, respectively, from the tax imposed by this Section.
      B) the gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.
      C) the gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 16-465, 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 or 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.

(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 infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(iv) "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 Section 9-463.05, Section 11-1102 or Title 48 regardless of the jurisdiction to which the fees are paid.

(2) Deductions.

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

B) the gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 17-110, that is deducted from the retail classification pursuant to section 17-465(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 deductions 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:

(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)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 town, as applicable, for examination.

(3) Tax credits.

The following tax credits are available to owner-builders and speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

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

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

(d)The limitation period for the assessment of taxes imposed by this Section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25^{th}) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 17-540, will be based on reportable date.

(e)(Reserved)

Sec. 17-418. (Reserved).

Sec. 17-420. (Reserved).

Sec. 17-422. (Reserved).

Sec. 17-425. Job Printing

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of job printing, which includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

(b) The tax imposed by this Section shall not apply to:

(1) job printing purchased for the purpose of resale by the purchaser in the form supplied by the job printer.

(2) Out-of-Town sales.

(3) Out-of-State sales.

(4) job printing of newspapers, magazines, or other periodicals or publications for a person who is subject to the tax imposed by subsection 17-435(a) or an equivalent excise tax; provided further that said person is properly licensed by the taxing jurisdiction at the location of publication.

(5) sales of job printing to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
(6) (Reserved)

Sec. 17-425.1 Distinction between job printing and certain related activities.

(a) Computerized Printing. Computerized versions of all items which would be taxable under Section 17-425 if performed without computerized assistance are considered taxable under that Section, and therefore, are not exempt services.
(b) Book publishing. The printing of books shall be deemed job printing. Sales of books shall be deemed retail sales.
(c) Publication of newspapers, magazines, or other periodicals shall not be considered job printing for the purposes of this Chapter.

Sec. 17-427. Manufactured buildings.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income, including site preparation, moving to the site, and/or set-up, upon every person engaging or continuing in the business activity of selling manufactured buildings within the Town. Such business activity is deemed to occur at the business location of the seller where the purchaser first entered into the contract to purchase the manufactured building.
(b) Sales of used manufactured buildings are not taxable.
(c) The sale prices of furniture, furnishings, fixtures, appliances, and attachments that are not incorporated as component parts of or attached to a manufactured building are exempt from the tax imposed by this Section. Sales of such items are subject to the tax under Section 17-460.
(d) Under this Section, a trade-in will not be allowed for the purpose of reducing the tax liability.

Sec. 17-430. Timbering and other extraction.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the following businesses:
(1) felling, producing, or preparing timber or any product of the forest for sale, profit, or commercial use.
(2) extracting, refining, or producing any oil or natural gas for sale, profit, or commercial use.
(b) the rate specified in subsection (a) above shall be applied to the value of the entire product extracted, refined, produced, or prepared for sale, profit, or commercial use, when such activity occurs within the Town, regardless of the place of sale of the product or the fact that delivery may be made to a point without the Town or without the State.
(c) if any person engaging in any business classified in this Section ships or transports products, or any part thereof, out of the State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out-of-State

and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this Section.

(d) (Reserved)

Sec. 17-432. Mining.

(a) The tax rate shall be at an amount equal to one tenth of one percent (.1%), not to exceed one tenth of one percent, of the gross income from the business activity upon every person engaging or continuing in the business of mining, smelting, or producing for sale, profit, or commercial use any copper, gold, silver, or other mineral product, compound, or combination of mineral products; but not including the extraction, removal, or production of sand, gravel, or rock from the ground for sale, profit, or commercial use.

(b) The rate specified in subsection (a) above shall be applied to the value of the entire product mined, smelted or produced for sale, profit, or commercial use, when such activity occurs within the Town, regardless of the place of sale of the product or the fact that delivery may be made to a point without the Town or without the State.

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

Sec. 17-435. Publishing and periodicals distribution.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business activity of:

(1) publication of newspapers, magazines, or other periodicals when published within the Town measured by the gross income derived from notices, subscriptions, and local advertising as defined in Section 17-405. In cases where the location of publication is both within and without this State, gross income subject to the tax shall refer only to gross income derived from residents of this State or generated by permanent business locations within this State.

(2) distribution or delivery within the Town of newspapers, magazines, or other periodicals not published within the Town, measured by the gross income derived from subscriptions.

(b) "Location of Publication" is determined by:

(1) location of the editorial offices of the publisher, when the physical printing is not performed by the publisher; or

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

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

(d) "Circulation," for the purpose of measurement of gross income subject to the tax, shall be considered to occur at the place of delivery of the published items to the subscriber or

intended reader irrespective of the location of the physical facilities or personnel of the publisher. However, delivery by the United States mails shall be considered to have occurred at the location of publication.

(e) Allocation of taxes between cities and towns. In cases where publication or distribution occurs in more than one city or town, the measurement of gross income subject to tax by the Town shall include:
   (1) that portion of the gross income from publication which reflects the ratio of circulation within this Town to circulation in all incorporated cities and towns in this State having substantially similar provisions; plus
   (2) only when publication occurs within the Town, that portion of the remaining gross income from publication occurs within the Town, that portion of the remaining gross income from publication which reflects the ratio of circulation within this Town to the total circulation of all incorporated cities or towns in this State within which cities the taxpayer maintains a location of publication.

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

Sec. 17-435.1. Distinction between publishing of periodicals and certain related activities.

(a) Book publishing shall not be considered publication of newspapers, magazines, or other periodicals for purposes of this Chapter. Sales of books shall be deemed retail sales. The printing of books shall be deemed job printing.

(b) Publication of newspapers, magazines, or other periodicals shall not be considered job printing for the purposes of this Chapter.

Sec. 17-435.2. Advertising income of publishers and distributors of newspapers and other periodicals.

Publishers and distributors of newspapers and other periodicals shall be subject to the tax upon advertising imposed by Section 17-405 and such tax shall be allocated in the manner prescribed by subsection (e) of Section 17-435.

Sec. 17-440. (Reserved)

Sec. 17-444. Hotels

The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of operating a hotel charging for lodging and/or lodging space furnished to any:

(a) transient.

(b) Exclusions. The tax imposed by this section shall not include:
   (1) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this state or any other state or a political

subdivision of this state or of any other state in a privately operated prison, jail or detention facility.

(2) Gross proceeds of sales or gross income that is properly included in another business activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

(3) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person not subject to tax under this article.

(4) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under Section 17-410 or Section 17-475 due to an exclusion, exemption or deduction.

(5) Gross proceeds of sales or gross income from commissions received from a person providing services or property to the customers of the hotel. However, such commissions may be subject to tax under Section 17-445 or Section 17-450 as rental, leasing or licensing for use of real or tangible personal property.

(6) Income from providing telephone, fax or internet services to customers at an additional charge, that is separately stated to the customer and is separately maintained in the hotel's books and records. However, such gross proceeds of sales or gross income may be subject to tax under Section 17-470 as telecommunication services.

Sec. 17 -445. Rental, leasing, and licensing for use of real property.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the Town for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the Town 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 17-470.

(b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.

(c) Charges by a qualifying hospital, qualifying community health center or a qualifying health care organization to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.

(d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services 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 with 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 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) Single-unit/single-tenant rental, leasing, or licensing. A person who has only one unit of commercial property rented or available for rent, lease, or license shall be deemed not to be in the business of rental, leasing, or licensing of real property, as provided by Regulation, and further provided that both of the following conditions exist:

(1) such lessor has income from any other source; and

(2) the scope and degree of rental activity clearly indicates that it is an investment rather than a business activity of the lessor.

(h) (Reserved)

Sec. 17-445.1. When the rental, leasing, and licensing of real property is exempt as "casual".

(a) The 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 deemed not to be in the business of renting, leasing, or licensing real property, and is therefore exempt from the tax imposed by Section 17-445 on such income. However, a person who has one (1) or more units of any other real property is deemed to be in the business of renting, leasing, or licensing real property, and subject to the tax imposed by Section 17-445 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 within the State.

(b) For the purposes of this subsection (b) only, the term "rent" shall include "lease" and "license for use." For the purposes of determining if a single-unit/single-tenant commercial rental is "casual,"
the following provisions shall apply:

(1) A "unit" of real property means any single real property location, or any portion, rented to a single tenant. For example:

A) a three-story office building leased to a company as sole and single tenant is considered one unit of property.

B) a building where individual spaces are rented to two (2) or more individuals even though members of the same profession or business, on separate leases, is deemed two (2) or more units.

C) a building owner who leases out a portion of that building to another has two (2) units of property rented or available for rent.

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

(3) If a person has one (1) unit of commercial property rented or available for rent, and has one or more "lodging spaces" also rented or available for rent, he shall be considered in the business of rental of real property, and may not claim the rental of his single unit of commercial property as "casual".

(4) Income from a source in connection with the rental of real property, such as income for maintenance or service charges to the tenant, is not "income from another source."

(5) "Income from another source" must be of an amount to indicate that the property is clearly held for investment. Minimal amounts received as interest from savings accounts, and the like, do not qualify.

(6) A corporation, or a partnership comprising other than individual members of the same immediate family, is considered to be in business, and therefore even if it has only one unit of real property rented or available for rent, it cannot be deemed to have made a non-business investment, and cannot claim such rental as "casual".

(7) Note that there are four (4) conditions for rental of commercial real property to be deemed "casual activity," which must all be met. They are, in brief:

A) the lessor has only one unit of commercial property rented or available for rent, counting any commercial property he occupies, if any; and

B) the lessor has no lodging rented or available for rent: and

C) the lessor has significant income from another source; and

D) the scope of the rental activity is clearly a non-business investment.

Sec. 17-445.3. Rental, leasing, and licensing of real property as lodging: room and board; furnished lodging.

(a) Room and board.

(1) Rooming houses, lodges, or other establishments providing both lodging and meals, shall maintain a record of the separate charges made for the lodging and the meals.

(2) The charge for lodging shall be subject to the tax imposed by Section 17-444 or Section 17-445. The charge for meals is subject to the tax upon restaurants and bars prescribed by Section 17-455.

(b) Furnished lodging. A person who provides lodging with furnishings shall be deemed to be only in the business of rental, leasing, and licensing of lodging, and not in the business of rental, leasing, and licensing of such furnishings as tangible personal property, unless:

(1) any tenant of any lodging space may choose to rent, lease, or license such lodging space either furnished or unfurnished; and

(2) the lessor separately charges tenants for lodging and for furnishings: and

(3) the lessor separately maintains his gross income from lodging and from furnishings separately in his accounting books and records.

If all of the above conditions are met, such person shall report both sources of income separately to the Town.

Sec. 17-446. (Reserved)

Sec. 17-447.1 (Reserved)

Sec. 17-450. Rental, leasing, and licensing for use of tangible personal property.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing, licensing for use, or renting tangible personal property for a consideration, including that which is semi-permanently or permanently installed within the Town as provided by Regulation.

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

(c) Gross income derived from the following transactions shall be exempt from Privilege Taxes imposed by this Section:

(1) rental, leasing, or licensing for use of tangible personal property to persons engaged or continuing in the business of leasing, licensing for use, or rental of such property.

(2) rental, leasing, or licensing for use of tangible personal property that is semi-permanently or permanently installed within another city or town that levies an equivalent excise tax on the transaction.

(3) rental, leasing, or licensing for use of film, tape, or slides to a theater or other person taxed under Section 17-410, 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.

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

(6) separately billed charges for delivery, installation, repair, and/or maintenance as provided by Regulation.

(7) charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services or that is a cable operator, or charges for joint pole usage to a person engaged in the business of providing or furnishing utility or telecommunication services or that is a cable operator. "Cable Operator" has the same meaning as prescribed by A.R.S. Section 9-505.

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

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

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

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

Sec. 17-450.1 Distinction between rental, leasing, and licensing for use of tangible personal property and certain related activities.

(a) Certain rentals, leases, and licenses for use in connection with construction contracting. Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:

(1) rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.

(2) rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.

(3) rental of pumps or cranes is rental of tangible personal property, regardless of whether or not an operator is included with the equipment rented.

(b) Distinction between equipment rental, leasing, or licensing for use and transporting for hire. The hiring of mobile equipment (cranes, airplanes, limousines, etc.) is considered rental, leasing, or licensing of tangible personal property whenever the charge is for a fixed sum or hourly rate. By comparison, the activity of a common carrier conveying goods or persons for a fee based upon distance, and not time, shall be considered transporting for hire.

Sec. 17-450.2 Rental, leasing, and licensing for use of tangible personal property: membership fees; other charges.

(a) Membership, admission, or other fees charged by any rental club or limited access lessor are considered part of taxable gross income.
(b) Gross income from rental, leasing, or licensing for use of tangible personal property must include all charges by the lessor to the lessee for repair, maintenance, or other service upon the tangible personal property rented, leased, or licensed.
(c) Sale of warranty, maintenance, or service contract as a requirement of, or in conjunction with, a rental, leasing, or licensing contract is EXEMPT.

Sec. 17-450.3. Rental, leasing, and licensing of use of equipment with operator.

In cases where the tangible personal property is rented, leased, or licensed with an operator provided by the lessor, the charge for the operator shall not be includable in the gross income from the rental, lease, or license of such tangible personal property if the charge for the operator and the charge for the use of the equipment are separately itemized to the lessee and separately maintained on the books and records of the lessor.

Sec. 17-450.4. Rental, leasing, and licensing for use of tangible personal property: semi-permanently or permanently installed tangible personal property.

(a) The term "semi-permanently installed" means that the item of tangible personal property has and is expected to have at the time of installation a permanent location at the site installed, as under a long-term lease agreement, except that the person using or applying said property may eventually replace it because it has become worn out or has become obsolete or the person ceases to have the right to possession of said property.
(b) An item of tangible personal property is deemed permanently installed if its installation requires alterations to the premises.
(c) Examples of "semi-permanently or permanently installed tangible personal property" include, but are not limited to: computers, duplicating machines, furniture not of portable design, major appliances, store fixtures.
(d) The term does not include mobile transportation equipment or tangible personal property designed for regular use at different locations or customarily used at different locations, as under numerous short-term rental, lease, or license agreements, whether or not such property is in fact so used.
    (1) For example, use of a mobile crane, trencher, automobile, or other similar equipment shall be considered a rental, lease, or license transaction subject to taxation only by the city or town in which such business office of the lessor is based.

(2) Other similar examples include, but are not limited to: camping equipment, contracting equipment chain saw, forklift, household items, invalid needs, janitorial equipment, reducing equipment, furniture of portable design, trucks or trailers, tools, tow bars, sump pumps, arc welders.

(e) A rental, lease, or license agreement which specifies that the item in question shall remain, under the terms of the agreement, located within the same city or town for more than one hundred eighty (180) consecutive days shall be sufficient evidence that such rented, leased, or licensed item is "permanently or semi-permanently installed" in said city or town, except when the item is mobile transportation equipment or one of the other types of portable equipment or property described in subsection (d) above.

Sec. 17-450.5. Rental, leasing, and licensing for use of tangible personal property: delivery, installation, repair, and maintenance charges.

(a) Delivery and installation charges in connection with the rental, leasing, and licensing of tangible personal property are exempt from the tax imposed by Section 17-450; provided that the provisions of Regulation 17-100.2 have been met.

(b) Gross income from the sale of a warranty, maintenance, or similar service contract in connection with the rental, leasing, and licensing of tangible personal property shall be EXEMPT.

(c) Separately stated charges for repair not included as part of a warranty, maintenance, or similar service contract relating to the rental, leasing, or licensing of tangible personal property are exempt from the tax imposed by Section 17-450; however, such income is subject to the provisions of Sections 17-460 and 17-465, and the provisions of Regulation 17-465.1.

Sec. 17-452. (Reserved)

Sec. 17-455. Restaurants and Bars.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of 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. § 42-5061(A)49, that serves the food and beverages to its passengers, without additional charge, for consumption in flight.

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

(F) The tax imposed by this section shall not apply to sales of low or reduced cost articles of food or drink to eligible elderly or homeless persons or persons with a disability by a business subject to tax under A.R.S. Section 42-5074 that contracts with the Department of Economic Security and that is approved by the Food and Nutrition Service of the United States Department of Agriculture pursuant to the Supplemental Nutrition Assistance Program established by the Food and Nutrition Act of 2008 (P.L. 110-246; 122 Stat. 1651;7 United States Code Sections 2011 through 2036a), if the purchases are made with the benefits issued pursuant to the Supplemental Nutrition Assistance Program.

(G) The tax imposed by this section shall not apply to sales by a nonprofit organization that is exempt from taxation under Section501(C)(3), 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 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.

Sec. 17-460. Retail sales: measure of tax; burden of proof; exclusions.

(a) The tax rate shall be at an equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of selling tangible personal property at retail.

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

(c) Exclusions. For the purposes of this Chapter, sales of tangible personal property shall not include:

(1) sales of stocks, bonds, options, or other similar materials.

(2) sales of lottery tickets or shares pursuant to Article I, Chapter 5, Title 5, Arizona Revised Statutes.

(3) sales of platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by Regulation.

(4) gross income derived from the transfer of tangible personal property which is specifically included as the gross income of a business activity upon which another Section of this Article imposes a tax, shall be considered gross income of that business activity, and are not includable as gross income subject to the tax imposed by this Section.

(5) sales by professional or personal service occupations where such sales are inconsequential elements of the service provided.

(6) sales of cash equivalents. The gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this article is subject to the tax. "cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

(A) items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

(B) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection (g) of this section.

(d) (Reserved)

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

(f) The appropriate tax liability for any retail sale where the order is received at a permanent business location of the seller located in this Town 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.

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

(h) Membership, admission, or other fees charged by limited access retailers are considered part of taxable gross income of the business activity of selling tangible personal property at retail.

(i) Sales of merchandise acquired on consignment are taxable as retail sales. In cases where the merchant is acting as an agent on behalf of another dealer, sales of the consigned merchandise are taxable to the principal, provided the merchant makes full disclosure to customers that he is acting only as an agent for the named principal. However, when the

principal is not deemed to be a dealer, such sales are considered to be those of the merchant and are taxable to him.

(j) A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to:

(1) Agricultural producers who are owners, proprietors or tenants of agricultural lands, orchards, farms or gardens where agricultural products are grown, raised or prepared for market and who are marketing their own agricultural products.

(2) Businesses classified under the:

(A) Advertising classification.
(B) Construction contracting classifications.
(C) Job printing classification.
(D) Manufactured buildings classification.
(E) Publishing and periodical distribution classification.
(F) Restaurants and bars classification.
(G) Telecommunications classification.
(H) Transporting for hire classification.
(I) Utility services classification.
(J) Wastewater removal services classification.

Sec. 17-460.1. Distinction between retail sales and certain other transfers of tangible personal property.

(a) Charges for transfer of tangible personal property included in the gross income of the business activity of persons engaged in the following business activities shall be deemed by only as gross income from such business activity and <u>not</u> sales at retail taxed by Section 16-460:

(1) tangible personal property incorporated into real property as part of reconstruction or contracting, per Sections 17-415 through 17-418.
(2) (Reserved)
(3) job printing, per Section 17-425.
(4) mining, timbering, and other extraction, but not sales of sand, gravel, or rock extracted from the ground per Section 17-430.
(5) publication of newspapers, magazines, and other periodicals, per Section 17-435.
(6) rental, leasing, and licensing of real or tangible personal property, per Sections 17-445 or 17-450.
(7) restaurants and bars, per Section 17-455.
(8) telecommunications services, per Section 17-470.
(9) utility services, per Section 17-480.

(b) <u>Distinction between construction contracting, retail, and certain direct customer service activities.</u>

(1) When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.
(2) Items attached or installed on tangible personal property are retail sales.

(3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscape maintenance).

(4) Demolition, earth moving, and wrecking activities are considered construction contracting.

(c) The sale of sand, rock, and gravel extracted from the ground shall be deemed a sale of tangible personal property and not mining or metallurgical activity.

(d) Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.

(e) Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.

(1) "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.

(2) Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.

(3) Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.

(4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

Sec. 17-460.2. Retail sales: trading stamp company transactions.

A trading stamp transaction is defined as follows: the trading stamp company issues stamps to a vendor: the vendor then provides them to its customers; and the customer then exchanges the stamps for merchandise from the trading stamp company.

The exchange transaction for the merchandise shall be deemed a retail sale and the trading stamp company a retailer. All taxes imposed by this Chapter applicable to retail transactions are therefore applicable to such exchange transactions.

The rate of tax shall be the retail rate based upon the retail dollar value of the redeemed merchandise as expressed in the redemption dollar value per book of stamps or portion thereof. The tax imposition described herein is in lieu of any Privilege or Use Tax upon the business of issuing stamps, redeeming the same, or using or storing property redeemed.

Sec. 17-460.4. Retail sales: professional services.

(a) "Professional Services" refer to services rendered by such persons as doctors, lawyers, accountants, architects, etc. for their customers or clients where the services meet particular needs of a specific client and only apply in the factual context of the client and the final product has no retail value in itself. For example, opinion letters, workpapers, reports, etc. are not in a form which would be subject to retail sales to customers.

However, transfer of items in a form which would not be considered professional services. The issue is one of fact which must be resolved in each situation.

(b) Creative ("idea") labor and design labor that do not result in tangible personal property that will be or can be sold are deemed professional services and, if charged separately and maintained separately in the taxpayer's books and records, are not includable in gross income.

(c) "Professional services" shall be deemed to include those items of tangible personal property which are incidental to the services rendered, provided such tangible personal property is "inconsequential."

(1) Incidental transfers of tangible personal property shall be regarded as "inconsequential" if,

A) the purchase price of the tangible personal property to the person rendering the professional services represents less than fifteen percent (15%) of the charge, billing, or statement rendered to the purchaser in connection with the transaction, and

B) the tangible personal property transferred is not itself in a form which is subject to retail sale.

(2) In cases where the tangible personal property transferred is deemed inconsequential, the provider of the tangible personal property so transferred is deemed the ultimate consumer of such tangible personal property, and subject to all applicable taxes imposed by this Chapter upon such transfer.

(d) Examples:

(1) The transfer of paper embodying the result or work product of the services rendered by an attorney or certified public accountant is regarded as inconsequential to the charges for professional services.

(2) An appraisal report issued by an appraiser, reflecting such appraiser's efforts to appraise real estate, is regarded inconsequential.

(3) Use of a hair care product on a client's hair by a barber or beautician in connection with performing professional services the customer with a bottle of the product for the client's use thereafter and without the professional's assistance, the transfer of the bottle hair care product is deemed not inconsequential.

(4) If a mortician properly segregates his professional services from other taxable activities on his bill (invoice, contract), his gross income would include only the income derived from the sale of tangible personal property (casket, cards, flowers, etc.) and rental, leasing, or licensing of real and tangible personal property. His charges for professional services (embalming, cosmetic work, etc.) would not be includable in gross income.

Sec. 17-460.5. Retail sales: monetized bullion; numismatic value of coins.

(a) "Monetized Bullion" means coins or other forms of money manufactured or minted from precious metals or other metals and issued as legal tender or a medium of exchange by or for any government authorized to do so.

(b) Any coin shall be considered to have been transferred or acquired primarily for its "Numismatic value" if the sale or acquisition price:

(1) is equal to or greater than twice (2 times) the value of the metallic content of the coin as of the date of transfer or acquisition; and

(2) is equal to or greater than twice (2 times) its face value, in the case of a coin which, at the time of transfer or acquisition, was legal tender or a medium of exchange of the government issuing or authorizing its issuance.

Sec. 17-462. Retail sales: food for home consumption.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business or selling food for home consumption at retail.

(b) For the purpose 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.

(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.

(E) Beverages sold in cups, glasses, or open containers.

(F) Food sold by caterers.

(G) Food sold within the premises of theatres, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, fairs, races, contests, games, athletic events, rodeos, billiard and pool parlors, bowling alleys, public dances, dance halls, boxing, wrestling and other matches, and any business which charges admission, entrance, or cover fees for exhibition, amusement, entertainment, or instruction.

(H) Any item contained in subsections (a)(3)(A) through (G) above even though they are sold on a "take-out" or "to go" basis, and whether or not the item is packaged, wrapped, or is actually taken from the premises.

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

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

(6) "Food for home consumption" means all food, except food for consumption on the premises, if sold by any of the following:
  (A) An eligible grocery business.
  (B) A person who conducts a business whose primary business is not the sale of food but who sells food which is displayed, packaged, and sold in a similar manner as an eligible grocery business.
  (C) A person who sells food and does not provide or make available any facilities for the consumption of food on the premises.
  (D) A person who conducts a delicatessen business either from a counter which is separate from the place and cash register where taxable sales are made or from a counter which has two 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.
  (2) Out-of-town sales or out-of-state sales.
  (3) Charges for delivery or other "direct customer services" as prescribed in Section 17-100.2.
  (4) Items purchased with United States Department of Agriculture coupons issued under the Supplemental Nutrition Assistance Program pursuant to the Food and Nutrition Act of 2008 (P.L. 88-525; 78 Stat 703; 7 United States Code sections 2011 through 2036b) by the United States Department of Agriculture Food and Nutrition Service or food instruments issued under Section 17 of the Child Nutrition Act (P.L. 111-296; 42 United States Code Section 1786.
  (5) Sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.
  (6) Sales of food, beverages, condiments and accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, including a regularly organized private or parochial school that offers an educational program for grade twelve or under which may be attended in substitution for a public school pursuant to A.R.S. Section 15-802; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours, for the purpose of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
  (7) Sales of food, beverages, condiments and accessories to a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C. Section 501(C)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost, for the purposes of this subsection, "accessories" means paper plates,

plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(d) Reporting. Such persons who sell food for home consumption shall, in conjunction with the return required pursuant to Section 17-520, 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 property 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.

(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 re-compute the amount of tax to be paid as provided in Sections 17-370 and 17-545(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 of fee differential may not be assessed or applied with respect to any specific food item.

Sec. 17-465. Retail sales: exemptions.

Income derived from the following sources is exempt from the tax imposed by Section 17-460:

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

(b) Out-of-Town sales or out-of-State sales, including tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the constitution of the United States or the constitution of this state.

(c) charges for delivery, installation, or other direct customer services as prescribed in Section 17-100.2.

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

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

(f) sales of prosthetics.

(g) sales of income-producing capital equipment.

(h) Tangible personal property sold to a person engaged in the business of renting, leasing or licensing for use such property under the rental, leasing, and licensing for use of tangible personal property classification if such property is to be rented, leased or licensed for use by such person.

(i) sales of mining and metallurgical supplies.

(j) sales of:

(1) motor vehicle fuel and use fuel which are subject to a tax imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes;
(2) use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. Section 28-5739.
(3) natural gas or liquefied petroleum gas used to propel a motor vehicle.
(4) motor vehicle fuel and use fuel to a qualified business under A.R.S. Sections 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in A.R.S. Section 41-1516.
(5) repair parts installed in equipment used directly by a qualified business under A.R.S. Section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying forest products removed from qualifying projects as defined in A.R.S. Section 41-1516.

(k) sales of tangible personal property to:
(1) a construction contractor who holds a valid Privilege Tax License for engaging or continuing in the business of construction contracting where the tangible personal property sold is incorporated into any structure or improvement to real property as part of construction contracting activity.
(2) a person that is not subject to tax under Section 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 motor vehicle dealer ships or delivers the motor vehicle to a destination outside this State.

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

(n) the following shall be deducted from the tax base for the retail classification:
(1) the gross proceeds of sales or gross income derived from sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.
(2) the gross proceeds of sales or gross income derived from sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.
(3) the gross proceeds of sales or gross income derived from overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.
(4) the gross proceeds of sales or gross income derived from sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph (3) of the subsection.

(5) fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under paragraphs (1) through (4) of this subsection.

(6) for the purposes of this subsection:

(A) "overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be included in the retail classification, and that are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

(B) "subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

(o) sales of hotels, bars, restaurants, dining cars, lunchrooms, boarding houses, or similar establishments of articles consumed as food, drink, or condiment, whether simple, mixed, or compounded, where such articles are customarily prepared or served to patrons for consumption on or off the premises, where the purchaser is properly licensed and paying a tax under Section 17-455 or the equivalent excise tax upon such income.

(p) Tangible personal property sold to:

(1) a qualifying hospital;

(2) a qualifying health care organization if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services;

(3) a qualifying health care organization if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one;

(4) a qualifying community health center;

(5) a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost;

(6) for taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy;

(7) a qualifying health sciences educational institution;

(8) any person representing or working on behalf of another person described in subdivisions (1) through (7) of this paragraph if the tangible personal property is

incorporated or fabricated into a project described in A.R.S. Section 42-5075, subsection O.

(q) (Reserved).

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

(1) livestock and poultry to persons engaging in the businesses of farming, ranching or producing livestock or poultry.

(2) livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons for use or consumption by their own livestock or poultry, for use or consumption in the businesses of farming, ranching and producing or feeding livestock, poultry, or livestock or poultry products or for use or consumption in noncommercial boarding of livestock. For the purposes of this paragraph, "poultry" includes ratites.

(3) implants used as growth promotants and injectable medicines, not already exempt under the definition of "prosthetic", for livestock or poultry owned by or in possession of persons who are engaged in producing livestock, poultry, or livestock or poultry products or who engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

(4) neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

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

(t) sales of paintings, sculptures or similar works of fine art, provided that such works of fine art are sold by the original artist; and provided further that sales or "art creations", such as jewelry, macramé, glasswork, pottery, woodwork, metalwork, furniture, and clothing, when such "art creations" have a dual purpose, aesthetic and utilitarian, are not exempt, whether sold by the artist or by another.

(u) seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

(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 commercially.

(3) Persons who are engaged in the business of feeding livestock or poultry commercially or who board livestock noncommercially.

(w) (Reserved)

Sec. 17-465.1. Retail sales: repair services.

(a) Fair market value of parts and labor charges. The Tax Collector may examine the reporting of all transactions covered by this Section to determine if an "arms-length" price is charged for the parts and materials. The applicable tax may not be avoided by pricing a part, which ordinarily sells to the customer at $10, at $5 and including the difference as "service" or "labor". In the absence of satisfactory evidence supplied by the taxpayer as to

industry or business practice, the Tax Collector may use the cost of the part or materials to the taxpayer marked up by a reasonable profit, to estimate the gross income subject to tax.

(b) Notwithstanding Regulation 17-350.1(e),

(1) in the case where the taxpayer does not normally and regularly sell items of tangible personal property apart from a repair transaction, the taxpayer may determine the sale price of the tangible personal property transferred by means of a "computed charge". The "computed charge" shall be the sum of the cost of the item of tangible personal property transferred, plus a "reasonable markup." The "reasonable markup" shall be that amount needed to achieve a representative retail price for which such items of tangible personal property are normally sold at retail by comparable businesses within the State (not under circumstances involving the combination of such sale with the providing of repair services). The taxpayer shall have the initial responsibility of determining such reasonable markup, and providing to the Tax Collector, if requested, the basis for his determination.

(2) in the event that there is a disagreement between the Tax Collector and the taxpayer as to the proper determination of the "computed charges", the burden shall be upon the taxpayer to satisfy the Tax Collector, the Hearing Officer in the event of a hearing, or the court in any subsequent court action involving an assessment, of the validity of the taxpayer's method of determination of such "computed charges". The determination by the Tax Collector as to the proper "computed charge" shall be considered valid, and shall be sustained unless it is proven by the taxpayer that such determination is arbitrary and unreasonable.

Sec. 17-465.2. Retail sales: warranty, maintenance, and similar service contracts.

(a) Gross income from sales of warranty, maintenance, and service contracts is exempt from the tax imposed by Section 17-460.

(b) Transfers of tangible personal property in connection with a service, warranty, guaranty, or maintenance agreement between a vendor and a vendee shall be subject to tax under Section 17-460 only to the extent of gross income received from separately itemized charges made for the items of property transferred.

(c) The gross income derived from a maintenance insurance agreement, which agreement is entered into between the purchaser and any person other than the seller is not subject to tax imposed by Section 17-460. If the provider of the maintenance insurance agreement pays for tangible personal property on behalf of the insured in the performance of the agreement, such sales are subject to all applicable taxes imposed by this Chapter.

(d) Charges for tangible personal property provided under the terms of a warranty, maintenance, or service contract exempted under Section 17-465 are subject to tax as retail sales.

(e) However, gross income received by a dealer from a manufacturer for work performed under a manufacturer's warranty is not taxable under Section 17-460.

Sec. 17-465.3. Retail sales: sale of containers, paper products, and labels.

(a) The sale of a container or similar packaging material which contains personal property and which is transferred to the customer with the sale of the product is not taxable as a sale for resale. Examples of such nontaxable containers include but are not limited to:

(1) packaging materials sold to a manufacturer of video equipment for containment of the product during shipment.
(2) Cellophane-type wrap sold to a meat department or butcher for containment of the individually wrapped or contained meat.
(3) bags used to contain loose fungible goods such as fruits, vegetables, and other products sold in bulk, where such bags or containers are used to contain and measure the amount purchased by the customer.
(4) shopping bags and similar merchandising bags sold to grocery stores, department stores or other retailers.
(5) gift wrappings and gift boxes sold to department stores or other retailers.

(b) Sales of non-returnable or disposable paper (and similar products such as plastic or styrofoam) cups, lids, plates, bags, napkins, straws, knives, forks, and other similar food accessories to a restaurant or others taxable under Section 17-455 for transfer by the restaurant to its customer to contain or facilitate the consumption of the food, drink or condiment are sales for resale and not taxable.

(c) Where a retailer imposes a charge for gift wrapping and the charge includes the container, paper and other appropriate materials, the wrapping charge shall be considered a sale.

(d) Charges for returnable containers, where the charges are imposed on the customer, are subject to tax at the time of the transaction. A credit may be taken for the amount of refund after such refund is made.

(e) The sale of labels to a purchaser who affixes them to a primary container is a sale for resale and not taxable. Directional or instructional material included with products sold are considered to be part of the product and a sale for resale. However, the sale of items such as price tags, shipping tags, and advertising matter delivered to the customer in connection with the retail sale is taxable to the retailer as a retail sale to it, and is not exempt as a sale for resale.

Sec. 17-465.4. Retail sales: aircraft acquired for use outside the State.

"Aircraft acquired for use outside the state" means aircraft, navigational and communication instruments, and other accessories and related equipment sold to:

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

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

Sec. 17-470. Telecommunication services.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of providing telecommunication services to consumers within this Town.
(1) Telecommunication services shall include:
A) two-way voice, sound, and/or video communication over a communications channel.
B) one-way voice, sound, and/or video transmission or relay over a communications channel.
C) facsimile transmissions.

D) providing relay or repeater service.
E) providing computer interface services over a communications channel.
F) time-sharing activities with a computer accomplished through the use of a communications channel.

(2) Gross income from the business activity of providing telecommunication services to consumers within this Town shall include:
A) all fees for connection to a telecommunication system.
B) toll charges, charges for transmissions, and charges for other telecommunications services; provided that such charges relate to transmissions originating in the Town and terminating in this State.
C) fees charged for access to or subscription to or membership in a telecommunication system or network.
D) charges for telephone, fax, or internet access services provided at an additional charge by a hotel business subject to taxation under section 17-444.

(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 Town to engage in such business.

(c) Interstate transmission. Charges by a provider of telecommunication services for transmissions originating in the Town 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 Town 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 17-400(b).

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

(f) Prepaid calling cards. Telecommunications services purchased with a prepaid calling card that are taxable under Section 17-460 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 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 a 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.

Sec. 17-475. Transporting for hire.

The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of providing the following forms of transportation for hire from this Town 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. 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) transporting of persons or property by motor vehicle, including towing and the operation of private car companies, as such are defined in Article VII, Chapter 14, Title 42, Arizona Revised Statutes; provided, however, that the tax imposed by this subsection shall not apply to:

(1) gross income subject to the tax imposed by Article IV, Chapter 16, Title 28, Arizona Revised Statutes.

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

(3) (Reserved)

(4) (Reserved)

(e) (Reserved)

(f) Deductions or exemptions. The gross proceeds of sales or gross income derived from the following sources is exempt from the tax imposed by this Section:

(1) income that is specifically included as the gross income of a business activity upon which 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.
(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.

Sec. 17-475.1. Distinction between transporting for hire and certain related activities.
The hiring of mobile equipment (cranes, airplanes, limousines, etc.) is deemed rental, leasing, or licensing for use of tangible personal property whenever the charge is for a fixed sum or hourly rate. By comparison, the activity of a common carrier conveying goods or persons for a fee based upon distance, and not time, shall be considered transporting for hire.

Sec. 17-480. Utility services.

(a) The tax rate shall be at an amount equal to two percent (2%) of the gross income from the business activity upon every person engaging or continuing in the business of 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 with the Town.
(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 17-460 and 17-465, 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 applicable taxing jurisdictions to engage or continue in the business of providing utility services, and further provided that the seller maintains proper documentation, in a manner similar to that for sales for resale of such transactions.

(d) (Reserved)

(e) The tax imposed by this Section shall not apply to sales of utility services to a qualifying hospital, qualifying community health center or a qualifying health care organization,

except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(f) The tax imposed by this Section shall not apply to sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

(g) The tax imposed by this Section shall not apply to:

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

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

(h) The tax imposed by this section shall not apply to sales of alternative fuel as defined in A.R.S. § 1-215, to a used oil fuel burner who has received a department of environmental quality permit to burn used oil or used oil fuel under A.R.S. § 49-426 or § 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.

(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)

Sec. 17-485. (Reserved)

ARTICLE V - ADMINISTRATION

Sec. 17-500. Administration of this Chapter; rule making.

(a) The administration of this Chapter is vested in and exercised by the Town of Duncan, and except as otherwise provided, and all payments shall be made to the Town of Duncan. The Town may, pursuant to an intergovernmental agreement, contract with the State of Arizona Department of Revenue for the administration of the tax. In such cases, "Tax Collector" shall also mean the Arizona Department of Revenue, when acting as agent in administering this tax.

(b) The Tax Collector shall prescribe the forms and procedures necessary for the administration of the taxes imposed by this Chapter.

(c) Except where such Regulations would conflict with administrative regulations adopted by the Town Council or with provisions of this Chapter, all regulations on the Transaction

Privilege Tax adopted by the Arizona Department of Revenue under the authority of A.R.S. Section 42-105 shall be considered Regulations of this Chapter and enforceable as such.

(d) Taxpayers shall be subject to the State Taxpayer Bill of Rights (A.R.S. § 42-139 ET SEQ.).

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

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

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

Sec. 17-510. Divulging of information prohibited; exceptions allowing disclosure.

(a) Except as specifically provided, it shall be unlawful for any official or employee of the Town to make known information obtained pursuant to this Chapter concerning the business financial affairs or operations of any person.

(b) The Town Council may authorize an examination of any return or audit of a specific taxpayer made pursuant to this Chapter by authorized agents of the Federal Government, the State of Arizona, or any political subdivisions.

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

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

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

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

(g) The Tax Collector may provide information to authorized agents of any other Arizona governmental agency involving the allocation of taxes imposed by Section 17-435 upon publishing and distribution of periodicals.

(h) The Tax Collector may provide information regarding the enforcement and collection of taxes imposed by this Chapter to any governmental agency with which the Town has an agreement.

Sec. 17-515. (Reserved)

Sec. 17-516. (Reserved)

Sec. 17-517. (Reserved)

Sec. 17-520. Reporting and payment of tax.

(a) The taxpayer shall be required to use the report form authorized by the Tax Collector and shall mail or deliver the same, together with remittance for the amount of tax due, payable to the Town of Duncan, to the Tax Collector or any Town representative or agent authorized to receive such payment. The tax return shall be signed by the taxpayer or his authorized agent, and such signature shall be evidence that the person signing the return verifies the accuracy of the information supplied in the return.

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

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

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

(1) Taxpayers must report all gross income subject to the tax using the same basis of reporting.

(2) Taxes imposed upon construction contracting shall be reported as follows:

A) Construction contractors shall report on either a progressive billing ("accrual") basis or cash receipts basis.

B) Speculative builders shall report the gross income derived from sale of improved real property at close of escrow or at transfer of title or possession, whichever occurs earlier.

C) Owner-builders who are not speculative builders shall report taxable amounts as provided in Section 17-417.

Sec. 17-520.1. (Reserved)

Sec. 17-520.2. Change of method of reporting.

(a) Any taxpayer electing to change his reporting method shall be permitted to do so only upon filing a written request to the Tax Collector and after receiving written approval of the Tax Collector. The approval shall state the effective date of the change.

(b) The Tax Collector may postpone such approval to allow for examination of the records of the taxpayer and may further require that all tax liability be satisfied up to the effective date of the change.

(c) Failure of the taxpayer to notify the Tax Collector and await approval before changing the method of reporting will subject the taxpayer to interest and penalties if his original method of reporting would produce higher taxes due the Town. When a person makes such change without the consent of the Tax Collector, the Tax Collector may audit his books and records to verify the tax liability as of the date of the change.

(d) Any taxpayer who has failed to indicate a choice of reporting method upon the application for a Privilege License shall be deemed to have chosen the accrual method of reporting.

Sec. 17-530. When tax due; when delinquent; verification of return; extensions.

(a) Except as otherwise specified in this Section, the taxes levied under this Chapter shall be due and payable monthly on or before the twentieth (20^{th}) 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 authorize such taxpayer to pay such taxes on a quarterly basis. The department, for any taxpayer who estimated annual liability for taxes imposed or administered by A.R.S. Title 42, Chapter 5, Article I or A.R.S. Title 42, Chapter 6 is less than two thousand dollars shall authorize such taxpayer to pay such taxes on an annual basis.

(d) Delinquency Date. The taxes levied under this chapter will be considered delinquent in accordance with A.R.S. Section 42-5014, as follows:
   (1) For Taxpayers that are required or elect to file and pay electronically in any month, if not received by the department on or before the last business day of the month.
   (2) For all other taxpayers, if not received by the department on or before the business day preceding the last day of the month.

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

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

Sec. 17-540. Interest and civil penalties.

Any taxpayer who shall have failed to timely pay any taxes imposed by this Chapter, or file a report for the same in a timely manner, or fail or refuse to allow examination of records by the Tax Collector, shall be subject to any interest or civil penalties on such tax in like manner as such interest and penalties are provided in A.R.S. Sections 42-134 and 42-136 for the State Transaction Privilege Tax.

(a) (Reserved)

(b) (Reserved)

(c) (Reserved)

(d) (Reserved)

(e) (Reserved)
(f) (Reserved)
(g) (Reserved)
(h) (Reserved)
(i) (Reserved)

Sec. 17-541. (Reserved)

Sec. 17-542. Prospective application of new law or interpretation or application of law.

(a) Unless expressly authorized by law, the Tax Collector shall not apply any newly enacted legislation retroactively or in a manner that will penalize a taxpayer for complying with prior law.
(b) If the Tax Collector adopts a new interpretation or application of any provision of this chapter or determines that any provision applies to a new or additional category or type of business and the change in interpretation or application is not due to a change in the law:
    (1) The changes in interpretation or application applies prospectively only unless it is favorable to taxpayers.
    (2) The Tax Collector shall not assess any tax, penalty or interest retroactively based on the change in interpretation or application.
(c) For purposed of subsection (b), "new interpretation or application" includes policies and procedures which differ from established interpretations of this chapter.
(d) (Reserved)

Sec. 17-545. Deficiencies; when inaccurate return is filed; when no return is filed; estimates.

(a) If a taxpayer has failed to file a return or if the Tax Collector is not satisfied with the return or payment of tax required, the Tax Collector may re-determine the tax due, plus penalties and interest, and notify the taxpayer, as provided and prescribed by A.R.S. Sections 42-117 and 42-118.
    (1) (Reserved)
    (2) (Reserved)
(b) Estimates by the Tax Collector. Any estimate made by the Tax Collector is to be made on a reasonable basis. The existence of another reasonable basis of estimation does not, in any way, invalidate the Tax Collector's estimate. It is the responsibility of the taxpayer to prove that the Tax Collector's estimate is not reasonable and correct, by providing sufficient documentation of the type and form required by this Chapter or satisfactory to the Tax Collector.

Sec. 17-546. (Reserved)

Sec. 17-550. Limitation periods.

(a) Except as provided elsewhere in this Chapter, deficiency assessments for the taxes imposed by this Chapter must be issued within the limitation periods prescribed in A.R.S. Section 42-113, and must meet the provisions of A.R.S. Section 42-117.

(b) (Reserved)
(c) In cases of failure to file a return or a false or fraudulent return, the limitation period shall be as prescribed in A.R.S. Section 42-118.
(d) Special provisions relating to owner-builders. The limitation for an owner-builder subject to the tax as prescribed in Section 17-417 shall be based upon the date such tax liability is reportable or was reported, as provided in Section 17-417.

Sec. 17-555. Tax Collector may examine books and other records; failure to provide records.

(a) The Tax Collector may require the taxpayer to provide and may examine any books, records, or other documents of any person who, in the opinion of the Tax Collector, might be liable for any tax under this Chapter, for any periods available to him under Section 17-550.
(b) (Reserved)
(c) (Reserved)
(d) The Tax Collector may use any generally accepted auditing procedures, including sampling techniques, to determine the correct tax liability of any taxpayer. The Tax Collector shall ensure that the procedures used are in accordance with generally accepted auditing standards.
(e) The fact that the taxpayer has not maintained or provided such books and records which the Tax Collector considers necessary to determine the tax liability of any person does not preclude the Tax Collector from making any assessment. In such cases, the Tax Collector is authorized to use estimates, projections, or samplings, to determine the correct tax. The provisions of Section 17-545(b), concerning estimates, shall apply.
(f) (Reserved)

Sec. 17-555.1. (Reserved)

Sec. 17-556. (Reserved)

Sec. 17-560. Erroneous payment of tax; credits and refunds; limitations.

(a) Except as provided in Section 17-565, the period within which a claim, meeting the requirements of subsection (c) of this section, for credit may be filed, or refund allowed or made if no claim is filed, shall be as provided in A.R.S. Sections 42-1106 and 42-1118. For purposes of this section, "claimant" means a taxpayer that has paid a tax imposed under this article and has submitted a credit or refund claim under this section. Except where the taxpayer has granted a customer a power of attorney to pursue a credit or refund claim on the taxpayer's behalf, claimant does not include any customer of such taxpayer, whether or not the claimant collected the tax from the customers by separately stated itemization.
(b) (Reserved)
(c) A credit or refund claim submitted by a claimant for credit or refund of any taxes, penalties, or interest paid must be in writing and:
    (1) identify the name, address and city tax identification number of the taxpayer; and
    (2) identify the dollar amount of the credit or refund requested; and
    (3) identify the specific tax period involved; and

(4) identify the specific grounds upon which the claim is based.

(d) (Reserved)

(e) (Reserved)

(f) Interest shall be allowed on the overpayment of tax for any credit or refund authorized pursuant to this section at the rate and in the manner set forth in Section 17-540(a). Interest shall be calculated from the date the tax collector receives the claimant's written claim meeting the requirements of subsection (c) of this section.

(g) The denial of a refund by the tax collector is subject to the provisions of A.R.S. Section 42-1119.

(h) Claimants shall be subject to the State Taxpayer Bill of Rights (A.R.S. Section 42-2051 et.seq.), except that reasonable fees and other costs may be awarded and are not subject to the monetary limitations of A.R.S. Section 42-2064 if the tax collector's position was not substantially justified or was brought for the purpose of harassing the claimant, frustrating the credit or refund process or delaying the credit or refund. For the purposes of this section, "reasonable fees and other costs" means fees and other costs that are based on prevailing market rates for the kind and quality of the furnished services, not to exceed the amounts actually paid for expert witnesses, the cost of any study, analysis, report, test, project or computer program that is found to be necessary to prepare the claimant's case and necessary fees for attorneys or other representatives.

(i) (Reserved)

(j) Any refund paid under the provisions of this section shall be paid from the privilege tax revenue accounts.

Sec. 17-565. Payment of tax by the incorrect taxpayer or the incorrect Arizona city or town.

(a) When it is determined that taxes have been reported and paid to the Town by the wrong taxpayer, any taxes erroneously paid shall be transferred by the Town to the Privilege Tax Account of the person who actually owes and should have paid such taxes, provided that the town receives an assignment and waiver signed by both the person who actually paid the tax and the person who should have paid the tax.

(b) An assignment and waiver provided under this Section, must:

(1) identify the name and town privilege license number of the person who erroneously paid the tax and the person who should have paid the tax.

(2) provide that the person who erroneously paid the tax waives any right such person may have to a refund of the taxes erroneously paid.

(3) authorize the Town treasurer to transfer the erroneously paid tax to the privilege tax account of the person who should have paid the tax.

(c) When it is determined that taxes have been reported and paid to the wrong Arizona city or town, such taxes shall be remitted to the correct city or town; provided that the city or town to whom the taxes were erroneously paid receives an assignment and waiver signed by both the person who actually paid the tax and the person who should have paid the tax are one and the same, no assignment and waiver need be provided. The Town shall neither pay nor charge any interest or penalty on any overpayment or underpayment except such interest and penalty actually paid by the taxpayer relating to such tax.

(d) This section in no way limits or restricts the applicability of any remedies which may otherwise be available under A.R.S. Section 42-1452. The limitations and procedures set forth in A.R.S. Section 42-1452 shall apply to all payments under this Section.

(e) When reference is made in this Section to this Town or an Arizona city or town, and payments made to or requested from this town or an Arizona city or town, the provisions shall be applicable to the Arizona Department of Revenue when it is acting for or on behalf of this Town or an Arizona city or town.

Sec. 17-567 (Reserved)

Sec. 17-570 Administrative review; petition for hearing or for redetermination; finality of order.

(a) Closing agreements between the Tax Collector and a taxpayer have no force of law unless made in accordance with the provisions of A.R.S. Section 42-123.
(b) Administrative review.
  (1) Petitions of appeal shall be made to, and hearings shall be conducted by, the Arizona Department of Revenue, in accordance with the provisions of A.R.S. Section 42-122, as modified by Section 17-571.
  (2) (Reserved)
  (3) (Reserved)
  (4) (Reserved)
  (5) Hearings shall be held by the Arizona Department of Revenue in accordance with the provisions of A.R.S. Section 42-122. The Department's decision may be appealed to the State Board of Tax Appeals, in accordance with the provisions of A.R.S. Section 42-124.
  (6) (Reserved)
  (7) (Reserved)
  (8) (Reserved)
(c) (Reserved)
(d) (Reserved)
(e) Taxpayers shall be subject to the state taxpayer bill of rights (A.R.S. Section 42-139 ET. SEQ.).

Sec. 17-571. Jeopardy assessments.

(a) If the Tax Collector believes that collection of any amounts imposed by this Chapter will be jeopardized by delay, he shall issue notice to the taxpayer in accordance with the provisions of A.R.S. Section 42-120.
(b) In cases where such jeopardy notice has been issued, the taxpayer must meet the provisions of A.R.S. Section 42-120, concerning appeals of jeopardy assessments, before any request for administrative review shall be honored. Any bond or collateral that may be required shall meet the provisions of A.R.S. Section 42-112.
(c) (Reserved)
(d) (Reserved)
(e) (Reserved)

Sec. 17-571.1. Collection of tax in jeopardy.

Evidence that collection of tax due is in jeopardy shall include documentation that:

(a) the taxpayer is going out of business.
(b) the taxpayer has no Town Privilege License or has no permanent business location in the State.
(c) the taxpayer has failed to timely pay any tax (or penalties and interest thereon) due to the Town on three (3) or more occasions within the previous thirty-six (36) calendar months.
(d) the taxpayer has remitted payment by check, which has been dishonored.
(e) the taxpayer has failed to comply with a formal written request of the Tax Collector made pursuant to Regulation 17-555.1.

Sec. 17-572. (Reserved)

Sec. 17-575. Judicial review.

(a) Appeal of a State Board of Tax Appeals decision to the courts is valid only if all the provisions of A.R.S. Section 42-124 are met.
(b) (Reserved)
(c) (Reserved)
(d) (Reserved)
(e) The Town has the burden of proof by a preponderance of the evidence in any court proceeding regarding any factual issue relevant to ascertaining the tax liability of a taxpayer. This subsection does not abrogate any requirement of this chapter that requires a taxpayer to substantiate an item of gross income, exclusion, exemption, deduction, or credit. This subsection applies to a factual issue if a preponderance of the evidence demonstrates that:
    (1) the taxpayer asserts a reasonable dispute regarding the issue.
    (2) the taxpayer has fully cooperated with the tax collector regarding the issue, including providing within a reasonable period of time, access to and inspection of all witnesses, information and documents within the taxpayer's control, as reasonably requested by the tax collector.
    (3) the taxpayer has kept and maintained records as required by the Town.
(f) The issuance of an adjusted or corrected assessment or notice of refund due to the taxpayer, where made by the Tax Collector pursuant to the decision of the Hearing Officer, shall not be deemed an acquiescence by the Town or the Tax Collector in said decision, nor shall it constitute a bar or estoppel to the institution of an action or counterclaim by the Town to recover any amounts claimed to be due to it by virtue of the original assessment.
(g) After the initiation of any action in the appropriate court by either party, the opposite party may file such counterclaim as would be allowed pursuant to the Arizona Rules of Civil Procedure.

Sec. 17-577. (Reserved)

Sec. 17-578. (Reserved)

Sec. 17-580. Criminal penalties.

(a) It is unlawful for any person to knowingly or willfully:
    (1) fail or refuse to make any return required by this Chapter.

(2) fail to remit as and when due the full amount of any tax or additional tax or penalty and interest thereon.
(3) make or cause to be made a false or fraudulent return.
(4) Make or cause to be made a false or fraudulent statement in a return, in written support of a return, or to demonstrate or support entitlement to a deduction, exclusion, or credit or to entitle the person to an allocation or apportionment or receipts subject to tax.
(5) fail or refuse to permit any lawful examination of any book, account, record, or other memorandum by the Tax Collector.
(6) fail or refuse to remit any tax collected by such person from his customer to the Tax Collector before the delinquency date next following such collection.
(7) advertise or hold out to the public in any manner, directly or indirectly, that any tax imposed by this Chapter, as provided in this Chapter, is not considered as an element in the price to the consumer.
(8) fail or refuse to obtain a Privilege License or to aid or abet another in any attempt to intentionally refuse to obtain such a license or evade the license fee.
(9) reproduce, forge, falsify, fraudulently obtain or secure, an exemption from taxes imposed by this Chapter.

(b) The violation of any provision of subsection (a) above shall constitute a Class One Misdemeanor.

(c) In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of perjury and on conviction thereof shall be punished in the manner provided by law.

Sec. 17-590. Civil actions.

(a) Liens.
(1) Any tax, penalty, or interest imposed under this Chapter which has become final, as provided in this Chapter, shall become a lien when the Town perfects a notice and claim of lien setting forth the name of the taxpayer, the amount of the tax, penalty, and interest, the period or periods for which the same is due, and the date of accrual thereof, the amount of the recording costs by the county recorder in any county in which the taxpayer owns real property and the documentation and lien processing fees imposed by the Town council and further, stating that the town claims a lien therefor.
(2) The notice of claim of lien shall be signed by the tax collector under his official seal or the official seal of the Town, and, with respect to real property, shall be recorded in the office of the County Recorder of any county in which the taxpayer owns real property, and with respect to personal property shall be filed in the office of the Secretary of State. After the notice and claim of lien is recorded or filed, the taxes, penalties, interest and recording costs and lien processing fees referred to above in the amounts specified therein shall be a lien on all real property of the taxpayer within the State, superior to all other liens and assessments recorded or filed subsequent to the recording or filing of the notice and claim of lien.
(3) Every tax and any increases, interest, penalties, and recording costs and lien processing fees referred to above, shall become from the time the same is due and payable a personal debt from the person liable to the Town, but shall be payable to

and recoverable by the Tax Collector and which may be collected in the manner set forth in subsection (b) below.

(4) Any lien perfected pursuant to this Section shall, upon payment of the taxes, penalties, interest, recording costs and lien processing fees referred to above and lien release fees imposed by the county recorder in any county in which the lien was recorded, thereby, be released by the Tax Collector in the same manner as mortgages and judgments are released by the Tax Collector in the same manner as mortgages and judgments are released. The Tax Collector may, at his sole discretion, release a lien in part, that is, against only specified property, for partial payment of moneys due the Town.

(b) Actions to recover tax. The Arizona Department of Revenue, or any agent or representative authorized by that Department, may bring action, in the name of the Town, to recover taxes as provided in A.R.S. Section 42-125.

Sec. 17-595. Collection of taxes when there is succession in and/or cessation of business.

(a) In addition to any remedy provided elsewhere in this Town Code that may apply, the Tax Collector may apply the provisions of subsections (b) through (d) below concerning the collection of taxes when there is succession in and/or cessation of business.

(b) The taxes imposed by this Chapter are a lien of the property of any person subject to this Chapter who sells his business or stock of goods, or quits his business, if the person fails to make a final return and payment of the tax within fifteen (15) days after selling or quitting his business.

(c) Any person who purchases, or who acquires by foreclosure, by sale under trust deed or warranty deed in lieu of foreclosure, or by any other method, improved real property or a portion of improved real property for which the Privilege Tax imposed by this Chapter has not been paid shall be responsible for payment of such tax as a speculative builder or owner builder, as provided in Sections 17-416 and 17-417.

(1) Any person who is a creditor or an affiliate of creditor. Who acquires improved real property directly or indirectly from the creditor's debtor by any means set forth in this subsection, shall pay the tax based on the amount received by the creditor or its affiliate in a subsequent sale of such improved real property to a party unrelated to the creditor, regardless of when such subsequent sale takes place. Such tax shall be due in the month following the month in which the sale of the improved real property by the creditor or its affiliate occurs. Notwithstanding the foregoing, if the real property meets the definition of partially improved residential real property in Section 17-416 (A)(4) and all of the requirements of Section 17-416(B)(4) are met by the parties to the subsequent sale transaction, then the tax shall not apply to the subsequent sale.

(2) In the event a creditor or its affiliate uses the acquired improved real property for any business purpose, other than operating the property in the manner in which it was operated, or was intended to be operated. Before the acquisition or in any other manner unrelated to selling the property, the tax shall be due. The gross income upon which the tax shall be determined pursuant to Sections 17-416 and 17-417 shall be the fair market value of the improved real property as of the date of acquisition. The tax shall be due in the month following the

month in which such first business use occurs. When applicable, the credit bid shall be deemed to be the fair market value of the property as of the date of acquisition.

(3) Once the subsequent sale by the creditor or its affiliate has occurred and the creditor or its affiliate has paid the tax due from it pursuant to this subsection. Neither the creditor nor its affiliate, nor any future owner, shall be liable for any outstanding tax, penalties or interest that may continue to be due from the debtor based on the transfer from the debtor to the creditor or its affiliate.

(4) If the tax liability imposed by either Section 17-416 or Sections 17-417 on the transfer of the improved real property to the creditor or its affiliate, or any part thereof, is paid to the tax collector by the debtor subsequent to payment of the tax by the creditor or its affiliate. The amount so paid may constitute a credit. As equitably determined by the tax collector in good faith. Against the tax imposed on the creditor or its affiliate by either paragraph 1 or paragraph 2 of this subsection.

(5) Notwithstanding anything in this chapter to the contrary, if a creditor or its affiliate is subject to tax as described in paragraph 1 or paragraph 2 of this subsection and such creditor or affiliate has not previously been required to be licensed, such creditor or affiliate shall become licensed no later than the date on which the tax is due.

(d) A person's successors or assignees shall withhold from the purchase money an amount sufficient to cover the taxes required to be paid, and interest or penalties due and payable, until the former owner produces a receipt from the Tax Collector showing that all Town tax has been paid or a certificate stating that no amount is due as then shown by the records of the Tax Collector. The Tax Collector shall respond to a request from the seller for a certificate within fifteen (15) days by either providing the certificate or a written notice stating why the certificate cannot be issued.

(1) If a subsequent audit shows a deficiency arising before the sale of the business, the deficiency is an obligation of the seller and does not constitute a liability against a buyer who has received a certificate from the Tax Collector.

(2) If the purchaser of a business or stock of goods fails to obtain a certificate as provided by this Section, he is personally liable for payment of the amount of taxes required to be paid by the former owner on account of the business so purchased, with interest and penalties accrued by the former owner or assignees.

ARTICLE VI – USE TAX

Sec. 17-600. (Reserved)

Sec. 17-601. (Reserved)

Sec. 17-602. (Reserved)

Sec. 17-610. (Reserved)

Sec. 17-620. (Reserved)

Sec. 17-630. (Reserved)

Sec. 17-640. (Reserved)

Sec. 17-650. (Reserved)

Sec. 17-660. Use tax: exemptions.

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

(a) tangible personal property brought into the Town by an individual who was not a resident of the Town at the time the property was acquired for his own use, if the first actual use of such property was outside the Town, unless such property is used in conducting a business in Town.
(b) tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.
(c) charges for delivery, installation, or other customer services, as prescribed in Section 17-100.2.
(d) charges for repair services, as prescribed by Regulation.
(e) separately itemized charges for warranty, maintenance, and service contracts.
(f) prosthetics.
(g) income-producing capital equipment.
(h) tangible personal property acquired by a person engaged in the business of renting, leasing or licensing for use such property under the rental, leasing, and licensing for use of tangible personal property classification if such property is to be rented, leased or licensed for use by such person.
(i) mining and metallurgical supplies.
(j) purchases of:
    (1) motor vehicle fuel and use fuel which are used upon the highways of this State and upon which a tax has been imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes.
    (2) Use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. Section 28-5739;
    (3) natural gas or liquefied petroleum gas used to propel a motor vehicle;
    (4) motor vehicle fuel and use fuel to a qualified business under A.R.S. Section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in A.R.S. Section 41-1516;
    (5) repair parts installed in equipment used directly by a qualified business under A.R.S. Section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in A.R.S. Section 41-1516.
(k) tangible personal property purchased by:
    (1) a construction contractor, but not an owner-builder, when such person holds a valid Privilege License for engaging or continuing in the business of construction contracting, and where the property acquired is incorporated into any structure or improvement to real property in fulfillment of a construction contract.
    (2) a person that is not subject to tax under Section 415(B)(12) and 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) 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 17-410, 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 17-455, but not food consumed by owners, agents, or employees of such business.

(p) tangible personal property purchased by:

(1) a qualifying hospital;

(2) a qualifying health care organization if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services;

(3) a qualifying health care organization if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one;

(4) a qualifying community health center;

(5) a nonprofit charitable organization that has qualified under section 501(c)(3) of the internet revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost;

(6) for taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy;

(7) a qualifying health sciences educational institution;

(8) any person representing or working on behalf of another person described in subdivisions (1) through (7) of this paragraph if the tangible personal property is incorporated or fabricated into a project described in A.R.S. Section 42-5075, subsection O.

(q) (Reserved).

ARTICLE VII. ACCESS TO CARE PROGRAM

SEC. 17-700 Legislative Intent.

This ordinance is adopted for the purpose of promoting the health, safety and general welfare of the residents of the Town of Duncan by:

(A) Establishing a funding source for the non-federal share of Arizona Health Care Cost Containment System (AHCCCS) payments to acute care hospitals within the Town of Duncan that provide significant amounts of uncompensated care to uninsured and low-income patients, pursuant to S.B. 1357;
(B) Establishing a funding source for the non-federal share of the cost of an expansion of coverage through the AHCCCS Program to uninsured individuals, pursuant to S.B. 1357;
(C) Promoting access to health care for residents of the Town of Duncan, including low-income, uninsured and otherwise vulnerable populations, by ensuring the financial stability and viability of acute care hospital systems in the town; and
(D) Promoting economic development and protecting and expanding jobs in the health sector and related fields within the Town of Duncan.

SEC. 17-701. Definitions.

For the purposes of this article only, the following definitions shall apply:
"Access to Care Fund" means the fund established pursuant to Section 17-705.

"Access to Care Tax (ATC TAX")" means the tax imposed pursuant to Section 17-710.

"Access To Care Program" means the program consisting of the ATC tax. The uncompensated care payments, and related expanded AHCCCS coverage, to be established by AHCCCS and approved by CMS.

"Administrative Costs" means the costs to the tax collector of collecting, administering, enforcing and transferring the ATC tax, which may include: time, materials, overhead, and litigation costs.

"AHCCCS" means the Arizona Health Care Cost Containment System, an agency of the state, which administers the Medicaid Program in Arizona under Title XIX of the SSA.

"CFR" means the Code of Federal Regulations.

"CMS" means the Centers for Medicare and Medicaid Services, a federal agency within the U.S. Department of Health and Human Services.
"Coverage Amount" means an amount specified by AHCCCS to pay for the non-federal share of the expanded coverage that is part of the Access to Care Program.

"Delinquency Date" means the day after the due date.

"Due Date" means that day that is 30 days prior to the end of each quarter during the UC Payment Period, unless otherwise specified pursuant to Section 17-715(E).

"Effective Date" means 30 days after the date of passage of this ordinance.

"Inpatient Discharges" means the annual number of days of inpatient hospital care provided to patients, calculated pursuant to Sections 17-710.

"Medicare Cost Report" means the hospital cost report required for hospitals participating in the Medicare Program under Title XVII of the SSA, using CMS form 2552-96.

"Non-federal Share" means the portion of AHCCCS expenditures that are not reimbursed by the state or local sources, pursuant to Section 1902(A)(2) of the SSA.

"Participating Hospital" means a health care institution located in the Town of Duncan that is licensed as a hospital by the Arizona Department of Health Services under Arizona Revised Statutes Title 36, Chapter 4, Article 2.

"Quarter" means a three-month period from January to March, April to June, July to September, or October to December.

"S.B. 1357" means Senate Bill 1357, enacted by the Arizona Legislature, during its fiftieth legislature, first regular session of 2011.

"Safety Net Care Pool" means the funding pool established pursuant to the AHCCCS Demonstration Project authorized under Section 1115 of the SSA.

"Shortfall Amount" means the amount of any ATC tax payment that a participating hospital owes but does not pay by the due date.

"SSA" means the Social Security Act.

"Transfer Date" means the date that is 15 days prior to the end of each quarter during the UC Payment Period, unless AHCCCS specifies a different date, for transfer of funds from the Town to AHCCCS pursuant to Section 17-725.

"Transfer Funds" means the funds to be transferred to AHCCCS as specified in Section 17-725(B).

"Uncompensated Care Payments" means payments to be administered by AHCCCS and approved by CMS, to participating hospitals to reimburse some or all of their uncompensated care costs of treating AHCCCS and uninsured patients.

"UC payment transfer amount" means the ATC Fund remainder minus the coverage amount. To be used to pay for the non-federal share of uncompensated care payments to participating hospitals for the current quarter, except that the UC Payment transfer amount shall not exceed the amount specified by AHCCCS as required to fund uncompensated care payments for the quarter.

"UC payment period" means the period beginning on the first day of the period for which CMS approves uncompensated care payments for participating hospitals and ending on the last day of the period for which AHCCCS is authorized by state statute and CMS to make uncompensated care payments to participating hospitals.

Sec. 17-705. Creation of Access to Care Fund.

(A) An access to care fund is created as a restricted sub fund with the town. The fund shall be used to account for the access to care program monies and shall contain only the following:
  (1) Proceeds from ATC Tax Payments;
  (2) Penalties and interest for late ATC Tax Payments; and
  (3) Monies repaid to the town by AHCCCS in connection with the ATC Tax or the uncompensated care payments.

(B) No monies in the access to care fund shall revert to, or lapse into any other fund, including the Town General Fund, except the amounts for administrative costs as provided for in Section 17-720(A) and amounts from penalties and interest as provided for in Section 17-720(E).

Sec. 17-710. Imposition of Access To Care Tax and Rate.

(A) As of the effective date, there is hereby levied and imposed an ATC Tax equal to $_____ per inpatient discharge for each participation hospital.

(B) In patient discharges for each participating hospital is calculated as the sum of the following lines from worksheet S-3, Part 1, Column 15, of the participating hospital's Medicare Cost Report Lines 12, 14 & 14.01.

(C) All data required to calculate the ATC Tax and its application shall be derived from each participating hospital's Medicare Cost Reports for the hospital fiscal year ending between April 1, 2010 and March 31, 2011.

Sec. 17-715. Collection of Tax.

(A) Except as specified in (E) and section 17-735, the ATC Tax shall be due and payable on the due date on a quarterly basis with a tax payment for each quarter within the UC payment period. Each tax payment shall equal one-fourth of the total amount calculated pursuant to section 17-710(A), except that the tax payment amount shall be prorated if the UC Payment period begins on a day other than the first day of a quarter or ends on a day other than the last day of a quarter, based on the number of days in such quarter that are within the UC Payment period.

(B) If the UC Payment period is longer than one-year additional quarterly tax payments shall be due, calculated in the manner specified in (A).

(C) Each participating hospital shall file an ATC Tax Form with the town in such form and on such date as the tax collector shall specify, providing the data required to determine the amount of the ATC Tax Payment due. The tax collector may require the tax form to be submitted prior to the date on which all conditions specified in Section 17-735 have occurred.

(D) If any participating hospital fails to remit the full amount of the tax payment owed by the due date, the tax collector shall promptly notify the participating hospital of the shortfall amount. The participating hospital shall remit to the tax collector forthwith the shortfall amount along with penalties and interest due pursuant to Section 17-750.

(E) The tax collector shall adjust the due date(s) for any ATC Tax Payments due within the UC Payment period prior to CMS approval as necessary to implement the Access To Care Program as soon as practicable after CMS approval described in Section 17-735 and as agreed to with AHCCCS. The tax collector shall provide written notice to the

participating hospitals indicating the due date(s) for the applicable tax payments at least 5 days prior to such due date(s).

(F) The tax collector shall account for all ATC Tax payments and all shortfall amounts remitted pursuant to section 17-715(D) in the access to care fund.

Sec. 17-720. Use of Access to Care Tax Fund.

Monies in the Access to Care Fund may be utilized for the following purposes:

(A) Up to $ of the collected tax payments each quarter may be used by the town to cover the administrative costs, such amount may be increased by the town upon written notice to the participating hospitals 30 days prior to the next transfer date if the town incurs unanticipated costs including costs for administration, litigation or bankruptcy proceedings related to the tax.

(B) To transfer funds to AHCCS pursuant to Section 17-725 and an intergovernmental agreement for the purpose of providing local funding for the non-federal share of;
(1) Uncompensated care payments to participating hospitals; and
(2) Expanded health care coverage to individuals through AHCCCS.

(C) To refund to participating hospitals any ATC Tax overpayment or amounts otherwise collected in error.

(D) To refund to participating hospitals pursuant to Section 17-745 any amounts repaid by AHCCCS to the tax collector after recoupment of uncompensated care payments funded by tax proceeds transferred by the town.

(E) With respect only to penalties and interest collected pursuant to Section 17-750, to transfer to the town's general fund to be used for any town-authorized purpose or any budgeted purpose consistent with the general fund rules.

Sec. 17-725. Transfer to AHCCCS.

(A) From the ATC Tax payments collected each quarter, the tax collector shall retain the administrative costs.

(B) From the ATC Fund remainder, the tax collector shall transfer to AHCCCS each quarter on the transfer date the transfer funds, except as provided under Subsections (C) or (D). The transfer funds are equal to the sum of; coverage amount + UC payment transfer amount.

(C) Under no circumstances shall the tax collector be required to transfer a total amount of transfer funds greater than the ATC fund remainder. If the transfer fund equals the ATC fund remainder.

(D) In the event that the ATC fund remainder is greater than the transfer funds such that there are amounts remaining in the fund after a quarterly transfer, the tax collector shall return to the participating hospitals with 15 days after the transfer date their pro rata share of the ATC fund remainder based on the ATC quarterly tax amounts paid under Section 17-715(A). The pro-rata share shall be based on the prior quarter. Additionally, in the event a participating hospital owes the tax collector monies for the previous or current quarter. The tax collector shall offset that participating hospital's pro-rata share by the amount owed.

(E) In the event that a participating hospital owes a shortfall amount pursuant to Section 17-715(D). The tax collector shall not transfer to AHCCCS any such shortfall amounts paid until 95 business days after receipt of the shortfall amount from the participating hospital. The tax collector shall transfer shortfall amounts to AHCCCS on the next transfer date after the 95-day period along with the transfer funds for the then-

applicable quarter. In case of shortfall amounts from the last ATC Tax payment owed before the ATC Tax terminates. The tax collector shall transfer the shortfall amounts within 15 days after the 95 day period.

Sec. 17-730. No Impact on Patients or Payers.

Participating hospitals shall not pass the cost of the tax on to patients or third-party payers liable to pay for the care on a patient's behalf.

Sec. 17-735. Requirements for Implementation.

The tax shall not be due or payable unless and until all of the following occurs:

(A) CMS approves the uncompensated care payments and the ATC Tax; and

(B) AHCCCS agrees to return to the town the non-federal share of any uncompensated care payments recouped by AHCCCS from participating hospitals, unless such recouped payments are redistributed by AHCCCS to other participating hospitals pursuant to the terms and conditions of the federal approval of the uncompensated care payments; and

(C) The town enters into an intergovernmental agreement with AHCCCS.

Sec. 17-740. Termination.

(A) The ATC Tax shall terminate on September 30, 2013, unless the UC payment period extends beyond that date due to an extension of AHCCCS' authorization to make uncompensated care payments to participating hospitals and AHCCCS' authorization to accept town funds for the non-federal share of AHCCCS payments pursuant to S.B 1357, in the event that the ATC Tax extends beyond September 30, 2013, the ATC Tax shall terminate on the earlies of:

(1) The date on which AHCCCS' authorization to make uncompensated care payments to participating hospitals ends; or

(2) The date on which AHCCCS' authorization to accept town funds for the non-federal share of AHCCCS payments pursuant to S.B. 1357 expires; or

(3) December 31, 2013.

(B) The ATC Tax shall terminate prior to the date in subsection (A) upon any of the following conditions:

(1) The ATC Tax is determined not to be a permissible source of non-federal share funding; or

(2) The ATC Tax is otherwise determined to be unlawful under town, state or federal law; or

(3) A statewide hospital tax or other assessment is adopted and takes effect.

Sec. 17-745. Impact of Termination or Recoupment.

(A) In the event that the AHCCCS refunds all or part of any transfers made to it pursuant to Section 17-725(B). The town shall return to the participating hospitals, within 15 days of return of the funds from AHCCCS, their pro-rata share of the returned funds based on ATC Tax amounts paid under Section 17-710.

(B) In the event that the ATC Tax terminates under Section 17-740, the tax collector shall refund to each participating hospital within 15 days of termination the pro rata portion of any monies remaining in the ATC Fund that have not been spent or irrevocably allocated for their designated purposes.

Sec. 17-750. Interest and Penalties.

(A) In the event a participating hospital owes a shortfall amount to the tax collector pursuant to Section 17-715(D). The participating hospital must pay interest on such shortfall amount from the delinquency date until it is remitted to the tax collector. The interest rate shall be determined pursuant to Section 17-540.
(B) In addition to interest being assessed under subsection (A), any participating hospital that fails to pay any of the ATC Tax imposed by this Article which were due or found to be due before the delinquency date shall be subject to and shall pay two (2) percent civil penalties on the shortfall amount.
(C) Penalties provided for under Section 17-540 are not applicable.
(D) Penalties provided for under Section are due and payable upon notice by the tax collector.

Sec. 17-755. Examination of Books and Records; Failure to provide records.

(A) The tax collector and the participating hospitals shall have all the rights and obligations as stated in Section 17-510.
(B) Nothing in this ordinance may be read as a waiver of any rights the tax collector may have under the code or by town charter with regards to the ability to enforce and/or collect all monies owed by the participating hospitals except where expressly stated.
(C) All other provisions in the code or town charter are applicable unless expressly stated otherwise.

CHAPTER 17

TAX CODE