CITY OF TOLLESON
PUBLIC NOTICE

NOTICE OF INTENT TO ADOPT A LOCAL USE TAX PURSUANT TO A.R.S. §§ 42-6054 and 9-499.15

The Council of the City of Tolleson, Maricopa County, Arizona, will hold a public hearing to consider a proposed change to the City tax code, pursuant to A.R.S. §§ 42-6054 and 9-499.15, to adopt a use tax at a rate of 2.5%.

The Tolleson City Council will consider adopting, by Ordinance, the local use tax after the Public Hearing to be held on TUESDAY, MARCH 22, 2022 beginning at 6:00 P.M., via Zoom Conference at https://us02web.zoom.us/j/5439720804 or via telephone at 1-253-215-8782 (Meeting ID: 543 972 0804).

IF ADOPTED, THE LOCAL USE TAX RATE WILL BECOME EFFECTIVE ON JULY 1, 2022.

A copy of the written report or data supporting the adoption may be reviewed at Tolleson City Hall, 9555 West Van Buren Street, Tolleson, Arizona 85353 during normal office hours, Monday through Thursday, 7:30 A.M. – 5:30 P.M. The written report or data is also available on the Tolleson website at www.tolleson.az.gov/archive under Public Notices. Persons wishing to comment on the proposed changes may do so, in writing to cityclerk@tolleson.az.gov, prior to the public hearing to be held on the date listed above or may testify during the hearing via Zoom. After the public hearing on March 22, 2022, the City Council may adopt the use tax described above.

Dated this 11th day of January, 2022.

City of Tolleson

Crystal Zamora, City Clerk

The Notice of Intent was posted effective January 12, 2022.

Published in the Arizona Republic on January 14, 2022.

NOTICE OF INTENT TO ADOPT A LOCAL USE TAX
Supporting Report

The City Council of the City of Tolleson, Arizona will hold a public hearing to consider a proposed change to the City of Tolleson Tax code pursuant to A.R.S. 42-6054. The proposed charge will adopt a City of Tolleson Use Tax in the amount of 2.5% for Use Tax Purchases, 2% for Use Tax Purchase (single item portion over $5,000) and 2.5% Use Tax from inventory. This will complement the City's current Retail Sales Tax. Use tax applies to purchases of goods from outside of the State of Arizona for storage, use or consumption in Arizona on which no sales tax has been paid.

The City of Tolleson is adopting the Use Tax to create a mechanism for taxing property that cannot be taxed using a local sales tax since the purchase was made outside the boundaries of the municipality where the personal property is used. This will create parity between in-state and out-of-state vendors and will become effective on and after July 1, 2022.

The State of Arizona use tax rate is 5.6%. The City of Tolleson's new use tax will be the same rate as the City's sales tax.

1. Use Tax Purchases – 2.5%
2. Use Tax Purchase (Single item portion over $5,000) – 2%
3. Use Tax from Inventory – 2.5%

The new total use tax (State and City of Tolleson) will be:

1. Use Tax Purchases (5.6% + 2.5%) = 8.1%
2. Use Tax Purchase (Single item portion over $5,000)- (5.6% + 2%) =7.6%
3. Use Tax from Inventory (5.6% + 2.5%) = 8.1%

The City does not know all the sources of purchases outside the municipality so cannot project the revenue impact but the goal is to create parity between in-state and out-of-state vendors.

ORDINANCE NO. 601 N.S.

AN ORDINANCE OF THE CITY OF TOLLESON, ARIZONA, AMENDING THE CITY TAX CODE TO ADOPT A LOCAL USE TAX BY DESELECTING MODEL OPTION #15 AND ADOPTING LOCAL OPTION #JJ; PROVIDING FOR SEVERABILITY; AND DESIGNATING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TOLLESON, ARIZONA, as follows:

Section 1. The selection of Model Option #15 of the Model City Tax Code is hereby withdrawn and the City Use Tax is established at a tax rate of two and one-half percent (2.5%), and at a tax rate of two percent (2%) on that portion of the purchase price of a single item that exceeds $5,000.00.

Section 2. Local Option #JJ of the Model City Tax Code is hereby selected, exempting purchases by the City from the City Use Tax to preclude unnecessary internal transfers of funds.

Section 3. That certain document known as "The 2022 Use Tax Amendment to the Tax Code of the City of Tolleson", three copies of which are on file in the office of the City Clerk of the City of Tolleson, Arizona, which document was made a public record by Resolution No. 2482 of the City of Tolleson, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the tax code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 5. The City Clerk is hereby directed to publish this ordinance upon adoption as required by A.R.S. 9-812 and A.R.S. 9-813.

Section 6. The provisions of this ordinance shall become effective on and after July 1, 2022.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Mayor and Council of the City of Tolleson, Arizona, this 22nd day of March, 2022.

_____
Juan F. Rodriguez, Mayor

ATTEST: _____
Crystal Zamora, City Clerk

APPROVED AS TO FORM: _____
Justin Pierce, City Attorney

RESOLUTION NO. 2482

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF TOLLESON, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "THE 2022 USE TAX AMENDMENT TO THE TAX CODE OF THE CITY OF TOLLESON".

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TOLLESON, ARIZONA, as follows:

THAT certain document entitled "THE 2022 USE TAX AMENDMENT TO THE TAX CODE OF THE CITY OF TOLLESON", three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the City Clerk.

PASSED AND ADOPTED by the Mayor and Council of the City of Tolleson, Arizona, on this 22nd day of March, 2022.

_____
Juan F. Rodriguez, Mayor

ATTEST: _____
Crystal Zamora, City Clerk

APPROVED AS TO FORM: _____
Justin Pierce, City Attorney

Section I. Model City Tax Code Section 8A-270 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-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 in an amount in excess of fifteen percent (15%) of total gross revenue, as prescribed by Regulation. In the event this fifteen percent (15%) limit is exceeded, the entire gross income of such entity shall be subject to the applicable tax.

(2) Gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512, including all statutory definitions and determinations, the rules and regulations of the Commissioner of Internal Revenue, and 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 City Privilege Tax or an equivalent excise tax on its gross income from such transactions and does in fact file returns on same; and

(2) the Privilege License number of the otherwise exempt vendee; and

(3) such other information as the Tax Collector may require.

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

(f) IN ANY CASE, IF A FEDERALLY EXEMPT ORGANIZATION, PROPRIETARY CLUB, OR NON-LICENSED BUSINESS RENTS, LEASES, LICENSES, OR PURCHASES ANY TANGIBLE PERSONAL PROPERTY FOR ITS OWN STORAGE OR USE, AND NO CITY PRIVILEGE OR USE TAX OR EQUIVALENT EXCISE TAX HAS BEEN PAID ON SUCH TRANSACTION, SAID ORGANIZATION, CLUB, OR BUSINESS SHALL BE LIABLE FOR THE USE TAX UPON SUCH ACQUISITIONS OR USE OF SUCH PROPERTY.

Section II. Model City Tax Code Section 8A-300 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-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 City upon which a Transaction Privilege Tax is imposed by this Chapter.

(2) EVERY PERSON ENGAGING OR CONTINUING IN BUSINESS WITHIN THE CITY AND STORING OR USING TANGIBLE PERSONAL PROPERTY IN THIS MUNICIPALITY UPON WHICH A USE TAX IS IMPOSED BY THIS CHAPTER.

(3) (Reserved)

(b) For the purpose of determining whether a Transaction Privilege and Use Tax License is required, a person shall be deemed to be "engaging or continuing in business" within the City if:

(1) engaging in any activity as a principal or broker, the gross receipts of which may be subject to Transaction Privilege Tax under Article IV of this Chapter, or

(2) maintaining within the City directly, or if a corporation by a subsidiary, an office, distribution house, sales house, warehouse or other place of business; maintaining within the City directly, or if a corporation by a subsidiary, any real or tangible personal property; or having any agent or other representative operating within the City under the authority of such person, or if a corporation by a subsidiary, irrespective of whether such place of business, property, or agent or other representative is located here permanently or temporarily, or

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

(4) A PERSON SHALL ALSO BE DEEMED TO BE "ENGAGING OR CONTINUING IN BUSINESS" IF ENGAGING IN ANY ACTIVITY SUBJECT TO USE TAX UNDER ARTICLE VI OF THIS CHAPTER FOR BUSINESS PURPOSES. INDIVIDUALS WHO ACQUIRE ITEMS SUBJECT TO USE TAX FOR THEIR OWN PERSONAL USE OR THEIR FAMILY'S PERSONAL USE ARE NOT REQUIRED TO OBTAIN A LICENSE.

(5) (Reserved)

(c) A person engaging in more than one activity subject to Transaction Privilege Tax 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.

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

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

(f) Casual activity. For the purposes of this Chapter, individuals engaging in a “casual activity or sale” are not subject to the license requirements imposed under this Article provided that they are only engaged in private sales activities, such as the sale of a personal automobile or garage sale, on no more than three separate occasions during any calendar year.

Section III. Model City Tax Code Section 8A-415 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-415. Construction contracting: construction contractors.

(a) The tax rate shall be at an amount equal to two and one-half percent (2.5%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the City.

(1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.

(2) (Reserved)

(3) Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 8A-427.

(4) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract 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) 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 8A-465, subsections (g) and (p)

(B) SECTION 8A-660, SUBSECTIONS (G) AND (P)

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

(4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 8A-110, that is deducted from the retail classification pursuant to Section 8A-465(g) that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of

sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(A) to be incorporated into real property.

(B) to become so affixed to real property that it becomes part of the real property.

(C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

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

(6) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 8A-465, subsection (g) shall be exempt from the tax imposed under this Section.

(7) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

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

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

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

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

(C) Any other information considered to be necessary.

(10) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the Model City Tax Code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

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

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

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

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

(12) The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property is not subject to tax under this Section if the contract does not include modification activities, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax under this Section. For the purposes of this paragraph:

(a) any term not defined in this paragraph that is defined in A.R.S. Section 42-5075, has the same meaning prescribed in A.R.S. Section 42-5075.

(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 8A-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, conditionally exempt small quantity generator waste or household hazardous waste. For the purposes of this subdivision, "conditionally exempt small quantity generator waste", "household hazardous waste" and "solid waste facility" have the same meanings prescribed in A.R.S. Section 49-701, except that solid waste facility does include a site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material.

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

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

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

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

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

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

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

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

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

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

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

Section IV. Model City Tax Code Section 8A-416 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-416. Construction contracting: speculative builders.

(a) The tax shall be equal to two and one-half percent (2.5%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the City.

(1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.

(2) "Improved Real Property" means any real property:

(A) upon which a structure has been constructed; or

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

(C) which has been reconstructed as provided by Regulation; or

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

(3) "Sale of Improved Real Property" includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.

(4) "Partially Improved Residential Real Property," as used in this Section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.

(b) Exclusions.

(1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.

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

(3) (Reserved)

(4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:

(A) The speculative builder purchasing the partially improved residential real property has a valid City Privilege License for construction contracting as a speculative builder; and

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

(C) The seller also:

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

(ii) retains a copy of the written declaration provided by the buyer for the transaction; and

(iii) is properly licensed with the City as a speculative builder and provides the City with the written declaration attached to the City Privilege Tax return where he claims the exclusion.

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

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

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from Privilege or Use Tax under:

(i) Section 8A-465, subsections (g) and (p)

(ii) SECTION 8A-660, SUBSECTIONS (G) AND (P)

(ii) shall be exempt or deductible, respectively, from the tax imposed by this Section.

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

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 8A-465, subsection (g) shall be exempt from the tax imposed under this section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

(E) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the Model City Tax Code or by a contractor providing services to the taxpayer. 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 safety or other public services necessary to the development. The real property must be the subject of the development fees.

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

(F) The gross proceeds of sales or gross income that is derived from the value of existing tenant leases in place at the time of the sale shall be exempt from tax imposed under this Section. The value of the in-place leases shall be determined as of the close of escrow or transfer of title as follows:

(i) For a residential lease, the value of the in-place lease is the total value of all expected lease receipts through the end of the current lease term multiplied by a factor of 1.5. Expected lease receipts includes non-refundable deposits and excludes all refundable deposits regardless of whether the refundable deposit may be forfeited.

(ii) For a commercial lease, the value of the in-place lease is the present value of the expected lease receipts through the end of the current lease term or first option of either party to terminate the lease, whichever is less. The discount rate used to calculate the present value shall be the 100% mid-term applicable Federal Rate published by the Internal Revenue Service associated with the payment terms of the lease related to the month preceding the close of escrow plus three (3) percentage points.

A transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of or equitable ownership in improved real property, including any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term) is deemed to be a sale of improved real property pursuant to subsection (a)(3) of this Section and is not considered an in-place lease.

(2) Deductions.

(A) All 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 8A-110, that is deducted from the retail classification pursuant to Section 8A-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(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 City, as applicable, for examination.

(3) Tax credits.

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

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

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

(C) A tax credit equal to the amount of privilege taxes paid to this City by any speculative builder on the gross income derived by said person from the sale of improved real property pursuant to subsections (a)(2)(B) or (a)(2)(D) of this Section against the gross income of any speculative builder from the sale of improved real property pursuant to subsection (a)(2)(A).

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

Section V. Model City Tax Code Section 8A-417 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-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 and one-half percent (2.5%) 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 8A-415(c)(2); and

(2) the purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

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

(c) The tax liability of this Section is subject to the following provisions, relating to exemptions, deductions and tax credits:

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from Privilege or Use Tax under:

(i) Section 8A-465, subsections (g) and (p)

(ii) SECTION 8A-660, SUBSECTIONS (G) AND (P)

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

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

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 8A-465, subsection (g) shall be exempt from the tax imposed under this Section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

(E) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the Model City Tax Code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this Section. For the purposes of this paragraph:

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

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

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

(2) Deductions.

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

(B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 8A-110, that is deducted from the retail classification pursuant to Section 8A-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(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 City, 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 City Privilege or Use Tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

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

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

(d) The limitation period for the assessment of taxes imposed by this Section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25th) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 8A-540, will be based on reportable date.

(e) (Reserved)

Section VI. Model City Tax Code Section 8A-600 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-600. USE TAX: DEFINITIONS.

FOR THE PURPOSES OF THIS ARTICLE ONLY, THE FOLLOWING DEFINITIONS SHALL APPLY, IN ADDITION TO THE DEFINITIONS PROVIDED IN ARTICLE I:

"ACQUIRE (FOR STORAGE OR USE)" MEANS PURCHASE, RENT, LEASE, OR LICENSE FOR STORAGE OR USE.

"RETAILER" ALSO MEANS ANY PERSON SELLING, RENTING, LICENSING FOR USE, OR LEASING TANGIBLE PERSONAL PROPERTY UNDER CIRCUMSTANCES WHICH WOULD RENDER SUCH TRANSACTIONS SUBJECT TO THE TAXES IMPOSED IN ARTICLE IV, IF SUCH TRANSACTIONS HAD OCCURRED WITHIN THIS CITY.

"STORAGE (WITHIN THE CITY)" MEANS THE KEEPING OR RETAINING OF TANGIBLE PERSONAL PROPERTY AT A PLACE WITHIN THE CITY FOR ANY PURPOSE, EXCEPT FOR THOSE ITEMS ACQUIRED SPECIFICALLY AND SOLELY FOR THE PURPOSE OF SALE, RENTAL, LEASE, OR LICENSE FOR USE IN THE REGULAR COURSE OF BUSINESS OR FOR THE PURPOSE OF SUBSEQUENT USE SOLELY OUTSIDE THE CITY.

"USE (OF TANGIBLE PERSONAL PROPERTY)" MEANS CONSUMPTION OR EXERCISE OF ANY OTHER RIGHT OR POWER OVER TANGIBLE PERSONAL PROPERTY INCIDENT TO THE OWNERSHIP THEREOF EXCEPT THE HOLDING FOR THE SALE, RENTAL, LEASE, OR LICENSE FOR USE OF SUCH PROPERTY IN THE REGULAR COURSE OF BUSINESS.

Section VII. Model City Tax Code Section 8A-610 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-610. USE TAX: IMPOSITION OF TAX; PRESUMPTION.

(a) THERE IS HEREBY LEVIED AND IMPOSED, SUBJECT TO ALL OTHER PROVISIONS OF THIS CHAPTER, AN EXCISE TAX ON THE STORAGE OR USE IN THE CITY OF TANGIBLE PERSONAL PROPERTY, FOR THE PURPOSE OF RAISING REVENUE TO BE USED IN DEFRAYING THE NECESSARY EXPENSES OF THE CITY, SUCH TAXES TO BE COLLECTED BY THE TAX COLLECTOR.

(b) THE TAX RATE SHALL BE AT AN AMOUNT EQUAL TO TWO AND ONE-HALF PERCENT (2.5%) OF THE:

(1) COST OF TANGIBLE PERSONAL PROPERTY ACQUIRED FROM A RETAILER, UPON EVERY PERSON STORING OR USING SUCH PROPERTY IN THIS CITY.

(2) GROSS INCOME FROM THE BUSINESS ACTIVITY UPON EVERY PERSON MEETING THE REQUIREMENTS OF SUBSECTION 8A-620(B) OR (C) WHO IS ENGAGED OR CONTINUING IN THE BUSINESS ACTIVITY OF SALES, RENTALS, LEASES, OR LICENSES OF TANGIBLE PERSONAL PROPERTY TO PERSONS WITHIN THE CITY FOR STORAGE OR USE WITHIN THE CITY, TO THE EXTENT THAT TAX HAS BEEN COLLECTED UPON SUCH TRANSACTION.

(3) COST OF THE TANGIBLE PERSONAL PROPERTY PROVIDED UNDER THE CONDITIONS OF A WARRANTY, MAINTENANCE, OR SERVICE CONTRACT.

(4) COST OF COMPLIMENTARY ITEMS PROVIDED TO PATRONS WITHOUT ITEMIZED CHARGE BY A RESTAURANT, HOTEL, OR OTHER BUSINESS.

(5) COST OF FOOD CONSUMED BY THE OWNER OR BY EMPLOYEES OR AGENTS OF THE OWNER OF A RESTAURANT OR BAR SUBJECT TO THE PROVISIONS OF SECTION 8A-455 OF THIS CHAPTER.

(c) IT SHALL BE PRESUMED THAT ALL TANGIBLE PERSONAL PROPERTY ACQUIRED BY ANY PERSON WHO AT THE TIME OF SUCH ACQUISITION RESIDES IN THE CITY IS

ACQUIRED FOR STORAGE OR USE IN THIS CITY, UNTIL THE CONTRARY IS ESTABLISHED BY THE TAXPAYER.

(d) EXCLUSIONS. FOR THE PURPOSES OF THIS ARTICLE, THE ACQUISITION OF THE FOLLOWING SHALL NOT BE DEEMED TO BE THE PURCHASE, RENTAL, LEASE, OR LICENSE OF TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE WITHIN THE CITY:

(1) STOCKS, BONDS, OPTIONS, OR OTHER SIMILAR MATERIALS.

(2) LOTTERY TICKETS OR SHARES SOLD PURSUANT TO ARTICLE I, CHAPTER 5, TITLE 5, ARIZONA REVISED STATUTES.

(3) PLATINUM, BULLION, OR MONETIZED BULLION, EXCEPT MINTED OR MANUFACTURED COINS TRANSFERRED OR ACQUIRED PRIMARILY FOR THEIR NUMISMATIC VALUE AS PRESCRIBED BY REGULATION.

(e) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A) ABOVE, WHEN THE AMOUNT SUBJECT TO THE TAX FOR ANY SINGLE ITEM OF TANGIBLE PERSONAL PROPERTY EXCEEDS FIVE THOUSAND DOLLARS ($5,000.00), THE TWO AND ONE-HALF PERCENT (2.5%) TAX RATE SHALL APPLY TO THE FIRST $5,000.00. ABOVE $5,000.00, THE MEASURE OF TAX SHALL BE AT A RATE OF TWO PERCENT (2%).

(f) (RESERVED)

Section VIII. Model City Tax Code Section 8A-620 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-620. USE TAX: LIABILITY FOR TAX.

THE FOLLOWING PERSONS SHALL BE DEEMED LIABLE FOR THE TAX IMPOSED BY THIS ARTICLE; AND SUCH LIABILITY SHALL NOT BE EXTINGUISHED UNTIL THE TAX HAS BEEN PAID TO THIS CITY, EXCEPT THAT A RECEIPT FROM A RETAILER SEPARATELY CHARGING THE TAX IMPOSED BY THIS CHAPTER IS SUFFICIENT TO RELIEVE THE PERSON ACQUIRING SUCH PROPERTY FROM FURTHER LIABILITY FOR THE TAX TO WHICH THE RECEIPT REFERS:

(a) ANY PERSON WHO ACQUIRES TANGIBLE PERSONAL PROPERTY FROM A RETAILER, WHETHER OR NOT SUCH RETAILER IS LOCATED IN THIS CITY, WHEN SUCH PERSON STORES OR USES SAID PROPERTY WITHIN THE CITY.

(b) ANY RETAILER NOT LOCATED WITHIN THE CITY, SELLING, RENTING, LEASING, OR LICENSING TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE OF SUCH PROPERTY WITHIN THE CITY, MAY OBTAIN A LICENSE FROM THE TAX COLLECTOR AND COLLECT THE USE TAX ON SUCH TRANSACTIONS. SUCH RETAILER SHALL BE LIABLE FOR THE USE TAX TO THE EXTENT SUCH USE TAX IS COLLECTED FROM HIS CUSTOMERS.

(c) EVERY AGENT WITHIN THE CITY OF ANY RETAILER NOT MAINTAINING AN OFFICE OR PLACE OF BUSINESS IN THIS CITY, WHEN SUCH PERSON SELLS, RENTS, LEASES, OR LICENSES TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE IN THIS CITY SHALL, AT THE TIME OF SUCH TRANSACTION, COLLECT AND BE LIABLE FOR THE TAX IMPOSED BY THIS ARTICLE UPON THE STORAGE OR USE OF THE PROPERTY SO TRANSFERRED, UNLESS SUCH RETAILER OR AGENT IS LIABLE FOR AN EQUIVALENT EXCISE TAX UPON THE TRANSACTION.

(d) ANY PERSON WHO ACQUIRES TANGIBLE PERSONAL PROPERTY FROM A RETAILER LOCATED IN THE CITY AND SUCH PERSON CLAIMS TO BE EXEMPT FROM THE CITY PRIVILEGE OR USE TAX AT THE TIME OF THE TRANSACTION, AND UPON WHICH NO CITY PRIVILEGE TAX WAS CHARGED OR PAID, WHEN SUCH CLAIM IS NOT SUSTAINABLE.

(e) EVERY PERSON STORING OR USING TANGIBLE PERSONAL PROPERTY UNDER THE CONDITIONS OF A WARRANTY, MAINTENANCE, OR SERVICE CONTRACT.

Section IX. Model City Tax Code Section 8A-630 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-630. USE TAX: RECORDKEEPING REQUIREMENTS.

ALL DEDUCTIONS, EXCLUSIONS, EXEMPTIONS, AND CREDITS PROVIDED IN THIS ARTICLE ARE CONDITIONAL UPON ADEQUATE PROOF OF DOCUMENTATION AS REQUIRED BY ARTICLE III OR ELSEWHERE IN THIS CHAPTER.

Section X. Model City Tax Code Section 8A-640 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-640. USE TAX: CREDIT FOR EQUIVALENT EXCISE TAXES PAID ANOTHER JURISDICTION.

IN THE EVENT THAT AN EQUIVALENT EXCISE TAX HAS BEEN LEVIED AND PAID UPON TANGIBLE PERSONAL PROPERTY WHICH IS ACQUIRED TO BE STORED OR USED WITHIN THIS CITY, FULL CREDIT FOR ANY AND ALL SUCH TAXES SO PAID SHALL BE ALLOWED BY THE TAX COLLECTOR BUT ONLY TO THE EXTENT USE TAX IS IMPOSED UPON THAT TRANSACTION BY THIS ARTICLE.

Section XI. Model City Tax Code Section 8A-650 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-650. USE TAX: EXCLUSION WHEN ACQUISITION SUBJECT TO USE TAX IS TAXED OR TAXABLE ELSEWHERE IN THIS CHAPTER; LIMITATION.

THE TAX LEVIED BY THIS ARTICLE DOES NOT APPLY TO THE STORAGE OR USE IN THIS CITY OF TANGIBLE PERSONAL PROPERTY ACQUIRED IN THIS CITY, THE GROSS INCOME FROM THE SALE, RENTAL, LEASE, OR LICENSE OF WHICH WERE INCLUDED IN THE MEASURE OF THE TAX IMPOSED BY ARTICLE IV OF THIS CHAPTER; PROVIDED, HOWEVER, THAT ANY PERSON WHO HAS ACQUIRED TANGIBLE PERSONAL PROPERTY FROM A VENDOR IN THIS CITY WITHOUT PAYING THE CITY PRIVILEGE TAX BECAUSE OF A REPRESENTATION TO THE VENDOR THAT THE PROPERTY WAS NOT SUBJECT TO SUCH TAX, WHEN SUCH CLAIM IS NOT SUSTAINABLE, MAY NOT CLAIM THE EXCLUSION FROM SUCH USE TAX PROVIDED BY THIS SECTION.

Section XII. Model City Tax Code Section 8A-660 is amended as follows, with an effective date of July 1, 2022.

Sec. 8A-660. USE TAX: EXEMPTIONS.

THE STORAGE OR USE IN THIS CITY OF THE FOLLOWING TANGIBLE PERSONAL PROPERTY IS EXEMPT FROM THE USE TAX IMPOSED BY THIS ARTICLE:

(a) TANGIBLE PERSONAL PROPERTY BROUGHT INTO THE CITY BY AN INDIVIDUAL WHO WAS NOT A RESIDENT OF THE CITY AT THE TIME THE PROPERTY WAS ACQUIRED FOR HIS OWN USE, IF THE FIRST ACTUAL USE OF SUCH PROPERTY WAS OUTSIDE THE CITY, UNLESS SUCH PROPERTY IS USED IN CONDUCTING A BUSINESS IN THIS CITY.

(b) TANGIBLE PERSONAL PROPERTY, THE VALUE OF WHICH DOES NOT EXCEED THE AMOUNT OF ONE THOUSAND DOLLARS ($1,000) PER ITEM, ACQUIRED BY AN INDIVIDUAL OUTSIDE THE LIMITS OF THE CITY FOR HIS PERSONAL USE AND ENJOYMENT.

(c) CHARGES FOR DELIVERY, INSTALLATION, OR OTHER CUSTOMER SERVICES, AS PRESCRIBED BY REGULATION.

(d) CHARGES FOR REPAIR SERVICES, AS PRESCRIBED BY REGULATION.

(e) SEPARATELY ITEMIZED CHARGES FOR WARRANTY, MAINTENANCE, AND SERVICE CONTRACTS.

(f) PROSTHETICS.

(g) INCOME-PRODUCING CAPITAL EQUIPMENT.

(h) RENTAL EQUIPMENT AND RENTAL SUPPLIES.

(i) MINING AND METALLURGICAL SUPPLIES.

(j) MOTOR VEHICLE FUEL AND USE FUEL WHICH ARE USED UPON THE HIGHWAYS OF THIS STATE AND UPON WHICH A TAX HAS BEEN IMPOSED UNDER THE PROVISIONS OF ARTICLE I OR II, CHAPTER 16, TITLE 28, ARIZONA REVISED STATUTES.

(k) TANGIBLE PERSONAL PROPERTY PURCHASED BY:

(1) A CONSTRUCTION CONTRACTOR, BUT NOT AN OWNER-BUILDER, WHEN SUCH PERSON HOLDS A VALID PRIVILEGE LICENSE FOR ENGAGING OR CONTINUING IN THE BUSINESS OF CONSTRUCTION CONTRACTING, AND WHERE THE PROPERTY ACQUIRED IS INCORPORATED INTO ANY STRUCTURE OR IMPROVEMENT TO REAL PROPERTY IN FULFILLMENT OF A CONSTRUCTION CONTRACT.

(2) A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 415(B)(12) AND THAT HAS BEEN PROVIDED A COPY OF A CERTIFICATE UNDER 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 8A-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 8A-455, BUT NOT FOOD CONSUMED BY OWNERS, AGENTS, OR EMPLOYEES OF SUCH BUSINESS.

(p) TANGIBLE PERSONAL PROPERTY ACQUIRED BY A QUALIFYING HOSPITAL, QUALIFYING COMMUNITY HEALTH CENTER OR A QUALIFYING HEALTH CARE ORGANIZATION, EXCEPT WHEN THE PROPERTY IS IN FACT USED IN ACTIVITIES RESULTING IN GROSS INCOME FROM UNRELATED BUSINESS INCOME AS THAT TERM IS DEFINED IN 26 U.S.C. SECTION 512.

(q) (RESERVED)

(r) (RESERVED)

(1) (RESERVED)

(2) (RESERVED)

(3) (RESERVED)

(4) (RESERVED)

(s) GROUNDWATER MEASURING DEVICES REQUIRED BY A.R.S. SECTION 45-604.

(t) (RESERVED)

(u) AIRCRAFT ACQUIRED FOR USE OUTSIDE THE STATE, AS PRESCRIBED BY REGULATION.

(v) SALES OF FOOD PRODUCTS BY PRODUCERS AS PROVIDED FOR BY A.R.S. SECTIONS 3-561, 3-562 AND 3-563.

(w) (RESERVED)

(x) FOOD AND DRINK PROVIDED BY A PERSON WHO IS ENGAGED IN BUSINESS THAT IS CLASSIFIED UNDER THE RESTAURANT CLASSIFICATION WITHOUT MONETARY CHARGE TO ITS EMPLOYEES FOR THEIR OWN CONSUMPTION ON THE PREMISES DURING SUCH EMPLOYEES' HOURS OF EMPLOYMENT.

(y) (RESERVED)

(z) TANGIBLE PERSONAL PROPERTY USED OR STORED BY THIS CITY.

(aa) TANGIBLE PERSONAL PROPERTY USED IN REMEDIATION CONTRACTING AS DEFINED IN SECTION 8A-100 AND REGULATION 8A-100.5.

(bb) MATERIALS THAT ARE PURCHASED BY OR FOR PUBLICLY FUNDED LIBRARIES INCLUDING SCHOOL DISTRICT LIBRARIES, CHARTER SCHOOL LIBRARIES, COMMUNITY COLLEGE LIBRARIES, STATE UNIVERSITY LIBRARIES OR FEDERAL, STATE, COUNTY OR MUNICIPAL LIBRARIES FOR USE BY THE PUBLIC AS FOLLOWS:

(1) PRINTED OR PHOTOGRAPHIC MATERIALS.

(2) ELECTRONIC OR DIGITAL MEDIA MATERIALS.

(cc) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES USED FOR SERVING FOOD AND BEVERAGES BY A COMMERCIAL AIRLINE, AS DEFINED IN A.R.S. SECTION 42-5061, THAT SERVES THE FOOD AND BEVERAGES TO ITS PASSENGERS, WITHOUT ADDITIONAL CHARGE, FOR CONSUMPTION IN FLIGHT. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.

(dd) WIRELESS TELECOMMUNICATION EQUIPMENT THAT IS HELD FOR SALE OR TRANSFER TO A CUSTOMER AS AN INDUCEMENT TO ENTER INTO OR CONTINUE A CONTRACT FOR TELECOMMUNICATION SERVICES THAT ARE TAXABLE UNDER SECTION 8A-470.

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

(ff) ALTERNATIVE FUEL AS DEFINED IN A.R.S. SECTION 1-215, BY A USED OIL FUEL BURNER WHO HAS RECEIVED A DEPARTMENT OF ENVIRONMENTAL QUALITY PERMIT TO BURN USED OIL OR USED OIL FUEL UNDER A.R.S. SECTIONS 49-426 OR 49-480.

(gg) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES PURCHASED BY OR FOR A PUBLIC EDUCATIONAL ENTITY, PURSUANT TO ANY OF THE PROVISIONS OF TITLE 15, ARIZONA REVISED STATUTES, INCLUDING A REGULARLY ORGANIZED PRIVATE OR PAROCHIAL SCHOOL THAT OFFERS AN EDUCATIONAL PROGRAM FOR GRADE TWELVE (12) OR UNDER WHICH MAY BE ATTENDED IN SUBSTITUTION FOR A PUBLIC SCHOOL PURSUANT TO A.R.S. 15-802; TO THE EXTENT SUCH ITEMS ARE TO BE PREPARED OR SERVED TO INDIVIDUALS FOR CONSUMPTION ON THE PREMISES OF A PUBLIC EDUCATIONAL ENTITY DURING SCHOOL HOURS. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.

(hh) PERSONAL HYGIENE ITEMS PURCHASED BY A PERSON ENGAGED IN THE BUSINESS OF AND SUBJECT TO TAX UNDER SECTION 8A-444 OF THIS CODE IF THE TANGIBLE PERSONAL PROPERTY IS FURNISHED WITHOUT ADDITIONAL CHARGE TO AND INTENDED TO BE CONSUMED BY THE PERSON DURING HIS OCCUPANCY.

(ii) THE DIVERSION OF GAS FROM A PIPELINE BY A PERSON ENGAGED IN THE BUSINESS OF OPERATING A NATURAL OR ARTIFICIAL GAS PIPELINE, FOR THE SOLE PURPOSE OF FUELING COMPRESSOR EQUIPMENT TO PRESSURIZE THE PIPELINE, IS NOT A SALE OF THE GAS TO THE OPERATOR OF THE PIPELINE.

(jj) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES PURCHASED BY OR FOR A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED AS AN EXEMPT ORGANIZATION UNDER 26 U.S.C SECTION 501(C)(3) AND REGULARLY SERVES MEALS TO THE NEEDY AND INDIGENT ON A CONTINUING BASIS AT NO COST. FOR

THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.

(kk) SALES OF MOTOR VEHICLES THAT USE ALTERNATIVE FUEL IF SUCH VEHICLE WAS MANUFACTURED AS A DIESEL FUEL VEHICLE AND CONVERTED TO OPERATE ON ALTERNATIVE FUEL AND SALES OF EQUIPMENT THAT IS INSTALLED IN A CONVENTIONAL DIESEL FUEL MOTOR VEHICLE TO CONVERT THE VEHICLE TO OPERATE ON AN ALTERNATIVE FUEL, AS DEFINED IN A.R.S. SECTION 1-215.

(ll) THE STORAGE, USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY IN THE CITY BY A SCHOOL DISTRICT OR CHARTER SCHOOL.

(mm) RENEWABLE ENERGY CREDITS OR ANY OTHER UNIT CREATED TO TRACK ENERGY DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR THE PURPOSES OF THIS PARAGRAPH, "RENEWABLE ENERGY CREDIT" MEANS A UNIT CREATED ADMINISTRATIVELY BY THE CORPORATION COMMISSION OR GOVERNING BODY OF A PUBLIC POWER UTILITY TO TRACK KILOWATT HOURS OF ELECTRICITY DERIVED FROM A RENEWABLE ENERGY RESOURCE OR THE KILOWATT HOUR EQUIVALENT OF CONVENTIONAL ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.

(nn) MAGAZINES OR OTHER PERIODICALS OR OTHER PUBLICATIONS BY THIS STATE TO ENCOURAGE TOURIST TRAVEL.

(oo) PAPER MACHINE CLOTHING, SUCH AS FORMING FABRICS AND DRYER FELTS, SOLD TO A PAPER MANUFACTURER AND DIRECTLY USED OR CONSUMED IN PAPER MANUFACTURING.

(pp) OVERHEAD MATERIALS OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS USED IN PERFORMING A CONTRACT BETWEEN THE UNITED STATES GOVERNMENT AND A MANUFACTURER, MODIFIER, ASSEMBLER OR REPAIRER, INCLUDING PROPERTY USED IN PERFORMING A SUBCONTRACT WITH A GOVERNMENT CONTRACTOR WHO IS A MANUFACTURER, MODIFIER, ASSEMBLER OR REPAIRER, TO WHICH TITLE PASSES TO THE GOVERNMENT UNDER THE TERMS OF THE CONTRACT OR SUBCONTRACT.

(qq) COAL, PETROLEUM, COKE, NATURAL GAS, VIRGIN FUEL OIL AND ELECTRICITY SOLD TO A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR AS DEFINED IN A.R.S. SECTION 41-1514.02 AND DIRECTLY USED OR CONSUMED IN THE GENERATION OR PROVISION OF ON-SITE POWER OR ENERGY SOLELY FOR ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR PROCESSING OR ENVIRONMENTAL PROTECTION. THIS PARAGRAPH SHALL APPLY FOR TWENTY (20), FULL CONSECUTIVE CALENDAR OR FISCAL YEARS FROM THE DATE THE FIRST PAPER MANUFACTURING MACHINE IS PLACED IN SERVICE. IN THE CASE OF AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR

WHO DOES NOT MANUFACTURE PAPER, THE TIME PERIOD SHALL BEGIN WITH THE DATE THE FIRST MANUFACTURING, PROCESSING OR PRODUCTION EQUIPMENT IS PLACED IN SERVICE.

(rr) MACHINERY, EQUIPMENT, MATERIALS AND OTHER TANGIBLE PERSONAL PROPERTY USED DIRECTLY AND PREDOMINANTLY TO CONSTRUCT A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR PROCESSING FACILITY AS DESCRIBED IN A.R.S. SECTION 41-1514.02. THIS SUBSECTION APPLIES FOR TEN (10) FULL CONSECUTIVE CALENDAR OR FISCAL YEARS AFTER THE START OF INITIAL CONSTRUCTION.

(ss) (RESERVED)

Section XIII. Model City Tax Code Regulation 8A-115.1 is amended as follows, with an effective date of July 1, 2022.

Reg. 8A-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 the customer but the customer does not have the option to purchase the consultation services separately from the storage media containing the improvements or error corrections, then the charges for the maintenance contract, including the

consultation services, are deemed gross income from the transfer of the prewritten program.

(iii) 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 8A-100.2(e):

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

(A) 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) THE PURCHASE, RENTAL, LEASE, OR LICENSE FOR USE OF COMPUTER HARDWARE, STORAGE MEDIA, OR COMPUTER SOFTWARE WHICH IS NOT DEEMED CUSTOM PROGRAMMING IS DEEMED THE USE OR STORAGE OF TANGIBLE PERSONAL PROPERTY FOR THE PURPOSE OF THIS CHAPTER, AND THE AMOUNT WHICH MAY BE SUBJECT TO USE TAX SHALL BE DETERMINED IN THE SAME MANNER AS THE DETERMINATION OF THE GROSS INCOME FROM THE SALE, RENTAL, LEASE, OR LICENSE FOR USE OF SUCH.