

Proposed Changes to the Model City Tax Code

Section I. Model City Tax Code Section -120 is repealed, with an effective date of July 1, 2013.

~~** (Sec. ___-120. Definitions: food for home consumption.~~

~~(a) For the purposes of this Section only, the following definitions shall be applicable:~~

~~(1) "Eligible grocery business" means an establishment whose sales of food are such that it is eligible to participate in the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.), according to regulations in effect on January 1, 1979. An establishment is deemed eligible to participate in the Food Stamp Program if it is authorized to participate in the program by the United States Department of Agriculture Food and Nutrition Service Field Office on the effective date of this Section, or if, prior to a reporting period for which the return is filed, such retailer proves to the satisfaction of the Tax Collector that the establishment, based on the nature of the retailer's food sales, could be eligible to participate in the food stamp program established by the Food Stamp Act of 1977 according to regulations in effect on January 1, 1979.~~

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

~~(3) "Food for consumption on the premises" means any of the following:~~

~~(A) "Hot prepared food" as defined below.~~

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1 ~~(B) — Hot or cold sandwiches.~~

2 ~~(C) — Food served by an attendant to be eaten at tables, chairs,~~
3 ~~benches, booths, stools, counters, and similar conveniences and~~
4 ~~within parking areas for the convenience of in-car consumption of~~
5 ~~food.~~

6 ~~(D) — Food served with trays, glasses, dishes, or other tableware.~~

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

8 ~~(F) — Food sold by caterers.~~

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

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

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

24 ~~(5) — "Premises" means the total space and facilities in or on which a vendor~~
25 ~~conducts business and which are owned or controlled, in whole or in part,~~

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1 ~~by a vendor or which are made available for the use of customers of the~~
2 ~~vendor or group of vendors, including any building or part of a building,~~
3 ~~parking lot, or grounds.~~

4 ~~(b) — "Food for home consumption" means all food, except food for consumption on~~
5 ~~the premises, if sold by any of the following:~~

6 ~~(1) — An eligible grocery business.~~

7 ~~(2) — A person who conducts a business whose primary business is not the~~
8 ~~sale of food but who sells food which is displayed, packaged, and sold in~~
9 ~~a similar manner as an eligible grocery business.~~

10 ~~(3) — A person who sells food and does not provide or make available any~~
11 ~~facilities for the consumption of food on the premises.~~

12 ~~(4) — A person who conducts a delicatessen business either from a counter~~
13 ~~which is separate from the place and cash register where taxable sales~~
14 ~~are made or from a counter which has two cash registers and which are~~
15 ~~used to record taxable and tax exempt sales, or a retailer who conducts a~~
16 ~~delicatessen business who uses a cash register which has at least two~~
17 ~~tax computing keys which are used to record taxable and tax exempt~~
18 ~~sales.~~

19 ~~(5) — (Reserved)~~

20 ~~(6) — Vending machines and other types of automatic retailers.~~

21 ~~(7) — A person's sales of food, drink and condiment for consumption within the~~
22 ~~premises of any prison, jail or other institution under the jurisdiction of the~~
23 ~~State Department of Corrections, the Department of Public Safety, the~~
24 ~~Department of Juvenile Corrections or a county sheriff.~~

25 **Model Option #2: Sec. ____-120. (Reserved)****

Proposed Changes to the Model City Tax Code

1 **Section II. Model City Tax Code Section ____-200 is amended as follows, with an effective**
2 **date of July 1, 2013.**

3
4 **Sec. ____-200. Determination of gross income: in general.**

5 (a) Gross income includes:

6 (1) the value proceeding or accruing from the sale of property, the providing
7 of service, or both.

8 (2) the total amount of the sale, lease, license for use, or rental price at the
9 time of such sale, rental, lease, or license.

10 (3) all receipts, cash, credits, barter, exchange, reduction of or forgiveness of
11 indebtedness, and property of every kind or nature derived from a sale,
12 lease, license for use, rental, or other taxable activity.

13 (4) all other receipts whether payment is advanced prior to,
14 contemporaneous with, or deferred in whole or in part subsequent to the
15 activity or transaction.

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

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

24 ~~(e)~~(d) FOR THE PURPOSES OF THIS CHAPTER THE TOTAL AMOUNT OF GROSS
25 INCOME. GROSS RECEIPTS OR GROSS PROCEEDS OF SALES FOR

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NUCLEAR FUEL SHALL BE DEEMED TO BE THE VALUE OF THE
PURCHASE PRICE OF URANIUM OXIDE USED IN PRODUCING THE FUEL.
THE TAX IMPOSED BY THIS CHAPTER MAY BE IMPOSED ONLY ONCE FOR
ANY ONE QUANTITY OR BATCH OF NUCLEAR FUEL REGARDLESS OF THE
NUMBER OF TRANSACTIONS OR FINANCING ARRANGEMENTS WHICH
MAY OCCUR WITH RESPECT TO THAT NUCLEAR FUEL.

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Proposed Changes to the Model City Tax Code

1 Section III. Model City Tax Code Section -462 is added as follows, with an effective
2 date of July 1, 2013.

3
4 SEC. -462. RETAIL SALES: FOOD FOR HOME CONSUMPTION.

5 (a) THE TAX RATE SHALL BE AT AN AMOUNT EQUAL TO PERCENT (%) OF THE GROSS INCOME FROM THE BUSINESS ACTIVITY UPON EVERY
6 PERSON ENGAGING OR CONTINUING IN THE BUSINESS OF SELLING
7 FOOD FOR HOME CONSUMPTION AT RETAIL.

8
9 (b) FOR THE PURPOSES OF THIS SECTION ONLY, THE FOLLOWING
10 DEFINITIONS SHALL BE APPLICABLE:

11 (1) "ELIGIBLE GROCERY BUSINESS" MEANS AN ESTABLISHMENT
12 WHOSE SALES OF FOOD ARE SUCH THAT IT IS ELIGIBLE TO
13 PARTICIPATE IN THE FOOD STAMP PROGRAM ESTABLISHED BY
14 THE FOOD STAMP ACT OF 1977 (P.L. 95-113; 91 STAT. 958.7 U.S.C.
15 SECTION 2011 ET SEQ.), ACCORDING TO REGULATIONS IN EFFECT
16 ON JANUARY 1, 1979. AN ESTABLISHMENT IS DEEMED ELIGIBLE
17 TO PARTICIPATE IN THE FOOD STAMP PROGRAM IF IT IS
18 AUTHORIZED TO PARTICIPATE IN THE PROGRAM BY THE UNITED
19 STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION
20 SERVICE FIELD OFFICE ON THE EFFECTIVE DATE OF THIS
21 SECTION, OR IF, PRIOR TO A REPORTING PERIOD FOR WHICH THE
22 RETURN IS FILED, SUCH RETAILER PROVES TO THE
23 SATISFACTION OF THE TAX COLLECTOR THAT THE
24 ESTABLISHMENT, BASED ON THE NATURE OF THE RETAILER'S
25 FOOD SALES, COULD BE ELIGIBLE TO PARTICIPATE IN THE FOOD

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1 STAMP PROGRAM ESTABLISHED BY THE FOOD STAMP ACT OF
2 1977 ACCORDING TO REGULATIONS IN EFFECT ON JANUARY 1,
3 1979.

4 (2) "FACILITIES FOR THE CONSUMPTION OF FOOD" MEANS TABLES,
5 CHAIRS, BENCHES, BOOTHS, STOOLS, COUNTERS, AND SIMILAR
6 CONVENIENCES, TRAYS, GLASSES, DISHES, OR OTHER
7 TABLEWARE AND PARKING AREAS FOR THE CONVENIENCE OF IN-
8 CAR CONSUMPTION OF FOOD IN OR ON THE PREMISES ON WHICH
9 THE RETAILER CONDUCTS BUSINESS.

10 (3) "FOOD FOR CONSUMPTION ON THE PREMISES" MEANS ANY OF
11 THE FOLLOWING:

12 (A) "HOT PREPARED FOOD" AS DEFINED BELOW.

13 (B) HOT OR COLD SANDWICHES.

14 (C) FOOD SERVED BY AN ATTENDANT TO BE EATEN AT
15 TABLES, CHAIRS, BENCHES, BOOTHS, STOOLS, COUNTERS,
16 AND SIMILAR CONVENIENCES AND WITHIN PARKING AREAS
17 FOR THE CONVENIENCE OF IN-CAR CONSUMPTION OF
18 FOOD.

19 (D) FOOD SERVED WITH TRAYS, GLASSES, DISHES, OR OTHER
20 TABLEWARE.

21 (E) BEVERAGES SOLD IN CUPS, GLASSES, OR OPEN
22 CONTAINERS.

23 (F) FOOD SOLD BY CATERERS.

24 (G) FOOD SOLD WITHIN THE PREMISES OF THEATRES, MOVIES,
25 OPERAS, SHOWS OF ANY TYPE OR NATURE, EXHIBITIONS.

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1 CONCERTS, CARNIVALS, CIRCUSES, AMUSEMENT PARKS,
2 FAIRS, RACES, CONTESTS, GAMES, ATHLETIC EVENTS,
3 RODEOS, BILLIARD AND POOL PARLORS, BOWLING ALLEYS,
4 PUBLIC DANCES, DANCE HALLS, BOXING, WRESTLING AND
5 OTHER MATCHES, AND ANY BUSINESS WHICH CHARGES
6 ADMISSION, ENTRANCE, OR COVER FEES FOR EXHIBITION,
7 AMUSEMENT, ENTERTAINMENT, OR INSTRUCTION.

8 (H) ANY ITEMS CONTAINED IN SUBSECTIONS (A)(3)(A)
9 THROUGH (G) ABOVE EVEN THOUGH THEY ARE SOLD ON A
10 "TAKE-OUT" OR "TO GO" BASIS, AND WHETHER OR NOT THE
11 ITEM IS PACKAGED, WRAPPED, OR IS ACTUALLY TAKEN
12 FROM THE PREMISES.

13 (4) "HOT PREPARED FOOD" MEANS THOSE PRODUCTS, ITEMS, OR
14 INGREDIENTS OF FOOD WHICH ARE PREPARED AND INTENDED
15 FOR CONSUMPTION IN A HEATED CONDITION. "HOT PREPARED
16 FOOD" INCLUDES A COMBINATION OF HOT AND COLD FOOD
17 ITEMS OR INGREDIENTS IF A SINGLE PRICE HAS BEEN
18 ESTABLISHED.

19 (5) "PREMISES" MEANS THE TOTAL SPACE AND FACILITIES IN OR ON
20 WHICH A VENDOR CONDUCTS BUSINESS AND WHICH ARE OWNED
21 OR CONTROLLED, IN WHOLE OR IN PART, BY A VENDOR OR
22 WHICH ARE MADE AVAILABLE FOR THE USE OF CUSTOMERS OF
23 THE VENDOR OR GROUP OF VENDORS, INCLUDING ANY BUILDING
24 OR PART OF A BUILDING, PARKING LOT, OR GROUNDS.

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1 (6) "FOOD FOR HOME CONSUMPTION" MEANS ALL FOOD, EXCEPT
2 FOOD FOR CONSUMPTION ON THE PREMISES, IF SOLD BY ANY OF
3 THE FOLLOWING:

4 (A) AN ELIGIBLE GROCERY BUSINESS.

5 (B) A PERSON WHO CONDUCTS A BUSINESS WHOSE PRIMARY
6 BUSINESS IS NOT THE SALE OF FOOD BUT WHO SELLS
7 FOOD WHICH IS DISPLAYED, PACKAGED, AND SOLD IN A
8 SIMILAR MANNER AS AN ELIGIBLE GROCERY BUSINESS.

9 (C) A PERSON WHO SELLS FOOD AND DOES NOT PROVIDE OR
10 MAKE AVAILABLE ANY FACILITIES FOR THE CONSUMPTION
11 OF FOOD ON THE PREMISES.

12 (D) A PERSON WHO CONDUCTS A DELICATESSEN BUSINESS
13 EITHER FROM A COUNTER WHICH IS SEPARATE FROM THE
14 PLACE AND CASH REGISTER WHERE TAXABLE SALES ARE
15 MADE OR FROM A COUNTER WHICH HAS TWO CASH
16 REGISTERS AND WHICH ARE USED TO RECORD TAXABLE
17 AND TAX EXEMPT SALES, OR A RETAILER WHO CONDUCTS
18 A DELICATESSEN BUSINESS WHO USES A CASH REGISTER
19 WHICH HAS AT LEAST TWO TAX COMPUTING KEYS WHICH
20 ARE USED TO RECORD TAXABLE AND TAX EXEMPT SALES.

21 (E) VENDING MACHINES AND OTHER TYPES OF AUTOMATIC
22 RETAILERS.

23 (F) A PERSON'S SALES OF FOOD, DRINK AND CONDIMENT FOR
24 CONSUMPTION WITHIN THE PREMISES OF ANY PRISON,
25 JAIL OR OTHER INSTITUTION UNDER THE JURISDICTION OF

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THE STATE DEPARTMENT OF CORRECTIONS, THE
DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF
JUVENILE CORRECTIONS OR A COUNTY SHERIFF.

(c) INCOME DERIVED FROM THE FOLLOWING SOURCES IS EXEMPT FROM
THE TAX IMPOSED BY THIS SECTION:

(1) SALES OF FOOD FOR HOME CONSUMPTION TO A PERSON
REGULARLY ENGAGED IN THE BUSINESS OF SELLING SUCH
PROPERTY.

(2) OUT-OF-CITY SALES OR OUT-OF-STATE SALES.

(3) CHARGES FOR DELIVERY OR OTHER "DIRECT CUSTOMER
SERVICES" AS PRESCRIBED BY REGULATION.

(4) FOOD PURCHASED WITH FOOD STAMPS PROVIDED THROUGH
THE FOOD STAMP PROGRAM ESTABLISHED BY THE FOOD STAMP
ACT OF 1977 (P.L. 95-113; 91 STAT. 958.7 U.S.C. SECTION 2011 ET
SEQ.) OR PURCHASED WITH FOOD INSTRUMENTS ISSUED UNDER
SECTION 17 OF THE CHILD NUTRITION ACT (P.L. 95-627; 92 STAT.
3603; AND P.L. 99-669; SECTION 4302; 42 UNITED STATES CODE
SECTION 1786) BUT ONLY TO THE EXTENT THAT FOOD STAMPS
OR FOOD INSTRUMENTS WERE ACTUALLY USED TO PURCHASE
SUCH FOOD.

(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.

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1 INCLUDING A REGULARLY ORGANIZED PRIVATE OR PAROCHIAL
2 SCHOOL THAT OFFERS AN EDUCATIONAL PROGRAM FOR GRADE
3 TWELVE OR UNDER WHICH MAY BE ATTENDED IN SUBSTITUTION
4 FOR A PUBLIC SCHOOL PURSUANT TO A.R.S. 15-802 ; TO THE
5 EXTENT SUCH ITEMS ARE TO BE PREPARED OR SERVED TO
6 INDIVIDUALS FOR CONSUMPTION ON THE PREMISES OF A PUBLIC
7 EDUCATIONAL ENTITY DURING SCHOOL HOURS. FOR THE
8 PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER
9 PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS,
10 DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE
11 CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE
12 CONSUMPTION OF THE FOOD.

13 (7) SALES OF FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES
14 TO A NONPROFIT CHARITABLE ORGANIZATION THAT HAS
15 QUALIFIED AS AN EXEMPT ORGANIZATION UNDER 26 U.S.C.
16 SECTION 501(C)(3) AND REGULARLY SERVES MEALS TO THE
17 NEEDY AND INDIGENT ON A CONTINUING BASIS AT NO COST.
18 FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES"
19 MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS,
20 PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER
21 DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE
22 THE CONSUMPTION OF THE FOOD.

23 (d) REPORTING. SUCH PERSONS WHO SELL FOOD FOR HOME
24 CONSUMPTION SHALL, IN CONJUNCTION WITH THE RETURN REQUIRED
25 PURSUANT TO SECTION -520, REPORT TO THE TAX COLLECTOR IN A

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1 MANNER PRESCRIBED BY THE TAX COLLECTOR ALL SALES OF FOOD
2 FOR HOME CONSUMPTION EXEMPTED FROM TAXES IMPOSED BY THIS
3 CHAPTER.

4 (e) RECORDKEEPING.

5 (1) RETAILERS SHALL MAINTAIN ACCURATE, VERIFIABLE, AND
6 COMPLETE RECORDS OF ALL PURCHASES AND SALES OF
7 TANGIBLE PERSONAL PROPERTY IN ORDER TO VERIFY
8 EXEMPTIONS FROM TAXES IMPOSED BY THIS CHAPTER. A
9 RETAILER MAY USE ANY METHOD OF REPORTING THAT
10 PROPERLY REFLECTS ALL PURCHASES AND SALES OF FOOD FOR
11 HOME CONSUMPTION, AS WELL AS ALL PURCHASES AND SALES
12 OF ITEMS SUBJECT TO TAXES IMPOSED BY THIS CHAPTER,
13 PROVIDED THAT SUCH RECORDS ARE MAINTAINED IN
14 ACCORDANCE WITH ARTICLE III, AND REGULATIONS OF THE TAX
15 COLLECTOR.

16 ~~(1)~~(2) ANY PERSON WHO FAILS TO MAINTAIN RECORDS AS PROVIDED
17 HEREIN SHALL BE DEEMED TO HAVE HAD NO SALES OF FOOD
18 FOR HOME CONSUMPTION, AND IF UPON REQUEST BY THE TAX
19 COLLECTOR, A PERSON CANNOT DEMONSTRATE TO THE TAX
20 COLLECTOR THAT SUCH RECORDS AND REPORTS DO PROPERLY
21 REFLECT ALL SALES OF FOOD FOR HOME CONSUMPTION, THE
22 TAX COLLECTOR MAY RECOMPUTE THE AMOUNT OF TAX TO BE
23 PAID AS PROVIDED IN SECTIONS -370 AND -545(B).
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1 **Section IV. Model City Tax Code Section ____-465 is amended as follows, with an**
2 **effective date of July 1, 2013.**

3

4 **Sec. ____-465. Retail sales: exemptions.**

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

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

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

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

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

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

15 (f) sales of prosthetics.

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

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

18 (i) sales of mining and metallurgical supplies.

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

24 (k) sales of tangible personal property to a construction contractor who holds a valid
25 Privilege Tax License for engaging or continuing in the business of construction

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1 contracting where the tangible personal property sold is incorporated into any
2 structure or improvement to real property as part of construction contracting
3 activity.

4 (l) sales of motor vehicles to nonresidents of this State for use outside this State if
5 the vendor ships or delivers the motor vehicle to a destination outside this State.

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

12 (n) sales made directly to the Federal government to the extent of:

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

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

17 **++(Local Option #B:**

18 (n) (Reserved)

19 (1) (Reserved)

20 (2) (Reserved))++

21 (o) sales to hotels, bars, restaurants, dining cars, lunchrooms, boarding houses, or
22 similar establishments of articles consumed as food, drink, or condiment,
23 whether simple, mixed, or compounded, where such articles are customarily
24 prepared or served to patrons for consumption on or off the premises, where the

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1 purchaser is properly licensed and paying a tax under Section ___-455 or the
2 equivalent excise tax upon such income.

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

12 ~~**(q) sales of food for home consumption. (RESERVED) (SEE MESA CITY PAGE)~~

13 ~~Model Option #2: (q) food purchased with food stamps provided through the food stamp
14 program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7
15 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under
16 Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-
17 669; Section 4302; 42 United States Code Section 1786) but only to the extent
18 that food stamps or food instruments were actually used to purchase such
19 food.)**~~

20 ~~**(r) sales of the following to persons engaging or continuing in the business of
21 farming, ranching, or feeding livestock, poultry or ratites:~~

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

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

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

4 (4) (Reserved)

5 **++(Local Option #W:**

6 (4) neat animals, horses, asses, sheep, swine, or goats for the purpose of
7 becoming breeding or production stock, including sales of breedings or
8 ownership shares in such animals.)++

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

14 **Model Option #10:** (r) (Reserved)

15 (1) (Reserved)

16 (2) (Reserved)

17 ~~(3)~~ (Reserved)

18 ~~(3)(4)~~ **(RESERVED)****

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

20 (t) (Reserved)

21 **++(Local Option #X:**

22 (t) sales of paintings, sculptures or similar works of fine art, provided that such
23 works of fine art are sold by the original artist; and provided further that sales of
24 "art creations", such as jewelry, macrame, glasswork, pottery, woodwork,
25 metalwork, furniture, and clothing, when such "art creations" have a dual

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1 purpose, both aesthetic and utilitarian, are not exempt, whether sold by the artist
2 or by another.)++

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

4 (v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-
5 562 and 3-563.

6 (w) (Reserved)

7 ++(Local Option #Z:

8 (w) sales of textbooks that are required by any State university or community college
9 by any bookstore.)++

10 (x) sales of food and drink to a person who is engaged in business that is classified
11 under the restaurant classification and that provides such food and drink without
12 monetary charge to its employees for their own consumption on the premises
13 during such employees' hours of employment.

14 (y) (Reserved)

15 (z) (Reserved)

16 ++(Local Option #CC:

17 (z) gross income received for tangible personal property consisting of manufactured
18 items destroyed by being subjected to destructive stress, strain or similar testing,
19 for the purpose of developing engineering information or for the purpose of
20 quality control, but only to the extent that a sale of said property would otherwise
21 be exempt by the provisions of this Chapter.)++

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

24 (bb) sales of materials that are purchased by or for publicly funded libraries including
25 school district libraries, charter school libraries, community college libraries, state

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1 university libraries or federal, state, county or municipal libraries for use by the
2 public as follows:

3 (1) printed or photographic materials.

4 (2) electronic or digital media materials.

5 (cc) sales of food, beverages, condiments and accessories used for serving food and
6 beverages to a commercial airline, as defined in A.R.S. Section 42-5061(A)(49),
7 that serves the food and beverages to its passengers, without additional charge,
8 for consumption in flight. For the purposes of this subsection, "accessories"
9 means paper plates, plastic eating utensils, napkins, paper cups, drinking straws,
10 paper sacks or other disposable containers, or other items which facilitate the
11 consumption of the food.

12 (dd) in computing the tax base in the case of the sale or transfer of wireless
13 telecommunication equipment as an inducement to a customer to enter into or
14 continue a contract for telecommunication services that are taxable under
15 Section ____-470, gross proceeds of sales or gross income does not include any
16 sales commissions or other compensation received by the retailer as a result of
17 the customer entering into or continuing a contract for the telecommunications
18 services.

19 (ee) for the purposes of this Section, a sale of wireless telecommunication equipment
20 to a person who holds the equipment for sale or transfer to a customer as an
21 inducement to enter into or continue a contract for telecommunication services
22 that are taxable under Section ____-470 is considered to be a sale for resale in
23 the regular course of business.

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- 1 (ff) sales of alternative fuel as defined in A.R.S. Section 1-215, to a used oil fuel
2 burner who has received a Department of Environmental Quality permit to burn
3 used oil or used oil fuel under A.R.S. Section 49-426 or Section 49-480.
- 4 (gg) sales of food, beverages, condiments and accessories to a public educational
5 entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes,
6 INCLUDING A REGULARLY ORGANIZED PRIVATE OR PAROCHIAL SCHOOL
7 THAT OFFERS AN EDUCATIONAL PROGRAM FOR GRADE TWELVE OR
8 UNDER WHICH MAY BE ATTENDED IN SUBSTITUTION FOR A PUBLIC
9 SCHOOL PURSUANT TO A.R.S. 15-802; to the extent such items are to be
10 prepared or served to individuals for consumption on the premises of a public
11 educational entity during school hours. For the purposes of this subsection,
12 "accessories" means paper plates, plastic eating utensils, napkins, paper cups,
13 drinking straws, paper sacks or other disposable containers, or other items which
14 facilitate the consumption of the food.
- 15 (hh) sales of personal hygiene items to a person engaged in the business of and
16 subject to tax under Section ____-444 of this code if the tangible personal
17 property is furnished without additional charge to and intended to be consumed
18 by the person during his occupancy.
- 19 (ii) for the purposes of this Section, the diversion of gas from a pipeline by a person
20 engaged in the business of operating a natural or artificial gas pipeline, for the
21 sole purpose of fueling compressor equipment to pressurize the pipeline, is not a
22 sale of the gas to the operator of the pipeline.
- 23 (jj) sales of food, beverages, condiments and accessories to a nonprofit charitable
24 organization that has qualified as an exempt organization under 26 U.S.C
25 Section 501(c)(3) and regularly serves meals to the needy and indigent on a

Proposed Changes to the Model City Tax Code

1 continuing basis at no cost. For the purposes of this subsection, "accessories"
2 means paper plates, plastic eating utensils, napkins, paper cups, drinking straws,
3 paper sacks or other disposable containers, or other items which facilitate the
4 consumption of the food.

5 (kk) sales of motor vehicles that use alternative fuel if such vehicle was manufactured
6 as a diesel fuel vehicle and converted to operate on alternative fuel and sales of
7 equipment that is installed in a conventional diesel fuel motor vehicle to convert
8 the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

9 (ll) sales of solar energy devices, for taxable periods beginning from and after July 1,
10 2008. The retailer shall register with the department of revenue as a solar energy
11 retailer. By registering, the retailer acknowledges that it will make its books and
12 records relating to sales of solar energy devices available to the department of
13 revenue and city, as applicable, for examination.

14 (mm) sales or other transfers of renewable energy credits or any other unit created to
15 track energy derived from renewable energy resources. For the purposes of this
16 paragraph, "renewable energy credit" means a unit created administratively by
17 the corporation commission or governing body of a public power utility to track
18 kilowatt hours of electricity derived from a renewable energy resource or the
19 kilowatt hour equivalent of conventional energy resources displaced by
20 distributed renewable energy resources.

21 (nn) sales of magazines or other periodicals or other publications by this state to
22 encourage tourist travel.

23 (oo) sales of paper machine clothing, such as forming fabrics and dryer felts, sold to a
24 paper manufacturer and directly used or consumed in paper manufacturing.

Proposed Changes to the Model City Tax Code

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

7 (qq) sales of coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a
8 qualified environmental technology manufacturer, producer or processor as
9 defined in A.R.S. Section 41-1514.02 and directly used or consumed in the
10 generation or provision of on-site power or energy solely for environmental
11 technology manufacturing, producing or processing or environmental protection.

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

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

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Proposed Changes to the Model City Tax Code

1 Section V. Model City Tax Code Section -485 is amended as follows, with an effective
2 date of July 1, 2013.

3
4 **Sec. ___-485. ~~(Reserved) - (See Mesa, Phoenix and Scottsdale city pages)~~ WASTEWATER**
5 **REMOVAL SERVICES**

6 (a) THE TAX RATE SHALL BE AN AMOUNT EQUAL TO _____ PERCENT (_____ %)
7 OF THE GROSS INCOME FROM THE BUSINESS ACTIVITY UPON EVERY
8 PERSON ENGAGING OR CONTINUING IN THE BUSINESS OF PROVIDING
9 WASTEWATER REMOVAL SERVICES BY MEANS OF SEWER LINES OR
10 SIMILAR PIPELINES TO:

- 11 (1) CONSUMERS OR RATEPAYERS WHO RESIDE WITHIN THE CITY.
12 (2) CONSUMERS OR RATEPAYERS OF THIS CITY, WHETHER WITHIN
13 THE CITY OR WITHOUT, TO THE EXTENT THAT THIS CITY
14 PROVIDES SUCH PERSONS WASTEWATER REMOVAL SERVICES,
15 EXCLUDING CONSUMERS OR RATEPAYERS WHO ARE RESIDENTS
16 OF ANOTHER CITY OR TOWN WHICH LEVIES AN EQUIVALENT
17 EXCISE TAX UPON THIS CITY FOR PROVIDING SUCH
18 WASTEWATER REMOVAL SERVICES TO SUCH PERSONS.

19 (b) THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO GROSS
20 INCOME RELATING TO THE PROVIDING OF WASTEWATER REMOVAL
21 SERVICES FROM A QUALIFYING HOSPITAL, QUALIFYING COMMUNITY
22 HEALTH CENTER OR A QUALIFYING HEALTH CARE ORGANIZATION.

Proposed Changes to the Model City Tax Code

1 **Section VI. Model City Tax Code Section ____-660 is amended as follows, with an**
2 **effective date of July 1, 2013.**

3

4 **Sec. ____-660. Use tax: exemptions.**

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

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

11 (b) tangible personal property, the value of which does not exceed the amount of
12 one thousand dollars (\$1,000) per item, acquired by an individual outside the
13 limits of the City for his personal use and enjoyment.

14 (c) charges for delivery, installation, or other customer services, as prescribed by
15 Regulation.

16 (d) charges for repair services, as prescribed by Regulation.

17 (e) separately itemized charges for warranty, maintenance, and service contracts.

18 (f) prosthetics.

19 (g) income-producing capital equipment.

20 (h) rental equipment and rental supplies.

21 (i) mining and metallurgical supplies.

22 (j) motor vehicle fuel and use fuel which are used upon the highways of this State
23 and upon which a tax has been imposed under the provisions of Article I or II,
24 Chapter 16, Title 28, Arizona Revised Statutes.

Proposed Changes to the Model City Tax Code

- 1 (k) tangible personal property purchased by a construction contractor, but not an
2 owner-builder, when such person holds a valid Privilege License for engaging or
3 continuing in the business of construction contracting, and where the property
4 acquired is incorporated into any structure or improvement to real property in
5 fulfillment of a construction contract.
- 6 (l) sales of motor vehicles to nonresidents of this State for use outside this State if
7 the vendor ships or delivers the motor vehicle to a destination outside this State.
- 8 (m) tangible personal property which directly enters into and becomes an ingredient
9 or component part of a product sold in the regular course of the business of job
10 printing, manufacturing, or publication of newspapers, magazines or other
11 periodicals. Tangible personal property which is consumed or used up in a
12 manufacturing, job printing, publishing, or production process is not an ingredient
13 nor component part of a product.
- 14 (n) rental, leasing, or licensing for use of film, tape, or slides by a theater or other
15 person taxed under Section ___-410, or by a radio station, television station, or
16 subscription television system.
- 17 (o) food served to patrons for a consideration by any person engaged in a business
18 properly licensed and taxed under Section ___-455, but not food consumed by
19 owners, agents, or employees of such business.
- 20 (p) tangible personal property acquired by a qualifying hospital, qualifying community
21 health center or a qualifying health care organization, except when the property
22 is in fact used in activities resulting in gross income from unrelated business
23 income as that term is defined in 26 U.S.C. Section 512.
- 24 ~~*(q) food for home consumption.~~ (RESERVED) (SEE MESA CITY PAGE)

Proposed Changes to the Model City Tax Code

~~Model Option #2: (q) food purchased with food stamps provided through the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302; 42 United States Code Section 1786.)**~~

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

- (1) seed, fertilizer, fungicides, seed treating chemicals, and other similar chemicals.
- (2) feed for livestock, poultry or ratites, including salt, vitamins, and other additives to such feed.
- (3) livestock, poultry or ratites purchased or raised for slaughter, but not including livestock purchased or raised for production or use, such as milch cows, breeding bulls, laying hens, riding or work horses.
- (4) (Reserved)

++(Local Option #W:

- (4) neat animals, horses, asses, sheep, swine, or goats acquired for the purpose of becoming breeding or production stock, including the acquisition of breedings or ownership shares in such animals.)++

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

Proposed Changes to the Model City Tax Code

1 **Model Option #10:** (r) (Reserved)

2 (1) (Reserved)

3 (2) (Reserved)

4 (3) (Reserved)

5 ~~(3)~~(4) **(RESERVED)****

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

7 (t) (Reserved)

8 **++(Local Option #X:**

9 (t) paintings, sculptures, or similar works of fine art, provided that such works of fine
10 art are purchased from the original artist; and provided further that "art creations",
11 such as jewelry, macrame, glasswork, pottery, woodwork, metalwork, furniture,
12 and clothing, when such "art creations" have a dual purpose, both aesthetic and
13 utilitarian, are not exempt, whether purchased from the artist or from another.)++

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

15 (v) sales of food products by producers as provided for by A.R.S. Section 3-561, 3-
16 562 and 3-563.

17 (w) (Reserved)

18 **++(Local Option #Z:**

19 (w) textbooks required by any State university or community college, when acquired
20 from a bookstore.)++

21 (x) food and drink provided by a person who is engaged in business that is classified
22 under the restaurant classification without monetary charge to its employees for
23 their own consumption on the premises during such employees' hours of
24 employment.

25 (y) (Reserved)

Proposed Changes to the Model City Tax Code

1 ++(Local Option #HH:

2 (y) Tangible personal property donated to an organization or entity qualifying as an
3 exempt organization under 26 U.S.C Section 501(c)(3); if and only if:

4 (1) the donor is engaged or continuing in a business activity subject to a tax
5 imposed by Article IV; and

6 (2) the donor originally purchased the donated property for resale in the
7 ordinary course of the donor's business; and

8 (3) the donor obtained from the donee a letter or other evidence satisfactory
9 to the Tax Collector of qualification under 26 U.S.C. Section 501(c)(3)
10 from the Internal Revenue Service or other appropriate federal agency;
11 and

12 (4) the donor maintains, and provides upon demand, such evidence to the
13 Tax Collector, in a manner similar to other documentation required under
14 Article III.)++

15 (z) (Reserved)

16 ++(Local Option #JJ:

17 (z) tangible personal property used or stored by this City.)++

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

20 (bb) materials that are purchased by or for publicly funded libraries including school
21 district libraries, charter school libraries, community college libraries, state
22 university libraries or federal, state, county or municipal libraries for use by the
23 public as follows:

24 (1) printed or photographic materials.

25 (2) electronic or digital media materials.

Proposed Changes to the Model City Tax Code

- 1 (cc) food, beverages, condiments and accessories used for serving food and
2 beverages by a commercial airline, as defined in A.R.S. Section 42-5061(A)(49),
3 that serves the food and beverages to its passengers, without additional charge,
4 for consumption in flight. For the purposes of this subsection, "accessories"
5 means paper plates, plastic eating utensils, napkins, paper cups, drinking straws,
6 paper sacks or other disposable containers, or other items which facilitate the
7 consumption of the food.
- 8 (dd) wireless telecommunication equipment that is held for sale or transfer to a
9 customer as an inducement to enter into or continue a contract for
10 telecommunication services that are taxable under Section ____-470.
- 11 (ee) (Reserved)
- 12 (ff) alternative fuel as defined in A.R.S. Section 1-215, by a used oil fuel burner who
13 has received a Department of Environmental Quality permit to burn used oil or
14 used oil fuel under A.R.S. Section 49-426 or Section 49-480.
- 15 (gg) food, beverages, condiments and accessories purchased by or for a public
16 educational entity, pursuant to any of the provisions of Title 15, Arizona Revised
17 Statutes, INCLUDING A REGULARLY ORGANIZED PRIVATE OR PAROCHIAL
18 SCHOOL THAT OFFERS AN EDUCATIONAL PROGRAM FOR GRADE
19 TWELVE OR UNDER WHICH MAY BE ATTENDED IN SUBSTITUTION FOR A
20 PUBLIC SCHOOL PURSUANT TO A.R.S. 15-802; to the extent such items are
21 to be prepared or served to individuals for consumption on the premises of a
22 public educational entity during school hours. For the purposes of this
23 subsection, "accessories" means paper plates, plastic eating utensils, napkins,
24 paper cups, drinking straws, paper sacks or other disposable containers, or other
25 items which facilitate the consumption of the food.

Proposed Changes to the Model City Tax Code

- 1 (hh) personal hygiene items purchased by a person engaged in the business of and
2 subject to tax under Section ____-444 of this code if the tangible personal property
3 is furnished without additional charge to and intended to be consumed by the
4 person during his occupancy.
- 5 (ii) the diversion of gas from a pipeline by a person engaged in the business of
6 operating a natural or artificial gas pipeline, for the sole purpose of fueling
7 compressor equipment to pressurize the pipeline, is not a sale of the gas to the
8 operator of the pipeline.
- 9 (jj) food, beverages, condiments and accessories purchased by or for a nonprofit
10 charitable organization that has qualified as an exempt organization under 26
11 U.S.C Section 501(c)(3) and regularly serves meals to the needy and indigent on
12 a continuing basis at no cost. For the purposes of this subsection, "accessories"
13 means paper plates, plastic eating utensils, napkins, paper cups, drinking straws,
14 paper sacks or other disposable containers, or other items which facilitate the
15 consumption of the food.
- 16 (kk) sales of motor vehicles that use alternative fuel if such vehicle was manufactured
17 as a diesel fuel vehicle and converted to operate on alternative fuel and sales of
18 equipment that is installed in a conventional diesel fuel motor vehicle to convert
19 the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215 .
- 20 (ll) The storage, use or consumption of tangible personal property in the city or town
21 by a school district or charter school.
- 22 (mm) renewable energy credits or any other unit created to track energy derived from
23 renewable energy resources. For the purposes of this paragraph, "renewable
24 energy credit" means a unit created administratively by the corporation
25 commission or governing body of a public power utility to track kilowatt hours of

Proposed Changes to the Model City Tax Code

- 1 electricity derived from a renewable energy resource or the kilowatt hour
2 equivalent of conventional energy resources displaced by distributed renewable
3 energy resources.
- 4 (nn) magazines or other periodicals or other publications by this state to encourage
5 tourist travel.
- 6 (oo) paper machine clothing, such as forming fabrics and dryer felts, sold to a paper
7 manufacturer and directly used or consumed in paper manufacturing.
- 8 (pp) overhead materials or other tangible personal property that is used in performing
9 a contract between the United States government and a manufacturer, modifier,
10 assembler or repairer, including property used in performing a subcontract with a
11 government contractor who is a manufacturer, modifier, assembler or repairer, to
12 which title passes to the government under the terms of the contract or
13 subcontract.
- 14 (qq) coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified
15 environmental technology manufacturer, producer or processor as defined in
16 A.R.S. section 41-1514.02 and directly used or consumed in the generation or
17 provision of on-site power or energy solely for environmental technology
18 manufacturing, producing or processing or environmental protection. This
19 paragraph shall apply for twenty full consecutive calendar or fiscal years from the
20 date the first paper manufacturing machine is placed in service. In the case of an
21 environmental technology manufacturer, producer or processor who does not
22 manufacture paper, the time period shall begin with the date the first
23 manufacturing, processing or production equipment is placed in service.
- 24 (rr) machinery, equipment, materials and other tangible personal property used
25 directly and predominantly to construct a qualified environmental technology

Proposed Changes to the Model City Tax Code

1 manufacturing, producing or processing facility as described in A.R.S. section 41-
2 1514.02. This subsection applies for ten full consecutive calendar or fiscal years
3 after the start of initial construction.
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Proposed Changes to the Model City Tax Code

1 Section VII. Model City Tax Code Regulation ____-120.1 is repealed, with an effective date
2 of July 1, 2013.

3
4 ~~** (Reg. ____-120.1. Food for home consumption: recordkeeping and reporting~~
5 ~~requirements.~~

6 ~~(a) Reporting. Such persons who sell food for home consumption shall, in~~
7 ~~conjunction with the return required pursuant to Section ____-520, report to the~~
8 ~~Tax Collector in a manner prescribed by the Tax Collector all sales of food for~~
9 ~~home consumption exempted from taxes imposed by this Chapter.~~

10 ~~(b) Recordkeeping.~~

11 ~~(1) Retailers shall maintain accurate, verifiable, and complete records of all~~
12 ~~purchases and sales of tangible personal property in order to verify~~
13 ~~exemptions from taxes imposed by this Chapter. A retailer may use any~~
14 ~~method of reporting that properly reflects all purchases and sales of food~~
15 ~~for home consumption, as well as all purchases and sales of items~~
16 ~~subject to taxes imposed by this Chapter, provided that such records are~~
17 ~~maintained in accordance with Article III, and regulations of the Tax~~
18 ~~Collector.~~

19 ~~(2) Any person who fails to maintain records as provided herein shall be~~
20 ~~deemed to have had no sales of food for home consumption, and if upon~~
21 ~~request by the Tax Collector, a person cannot demonstrate to the Tax~~
22 ~~Collector that such records and reports do properly reflect all sales of~~
23 ~~food for home consumption, the Tax Collector may recompute the amount~~
24 ~~of tax to be paid as provided in Sections ____-370 and ____-545(b).~~

25 ~~Model Option #2: Reg. ____-120.1. (Reserved)**~~

Proposed Changes to the Model City Tax Code

1 **Section VIII. Model City Tax Code Regulation ___-270.1 is amended as follows, with an**
2 **effective date of July 1, 2013.**

3
4 **Reg. ___-270.1. Proprietary activities of municipalities are not considered activities of a**
5 **governmental entity.**

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

- 9 (a) rental, leasing, or licensing for use of real property to other than another
10 department or agency of the municipality.
- 11 (b) producing, providing, or furnishing electricity, electric lights, current, power, gas
12 (natural or artificial), or water to consumers or ratepayers.
- 13 (c) sale of tangible personal property to the public, when similar tangible personal
14 property is available for sale by other persons, as, for example, at police or
15 surplus auctions.
- 16 (d) ~~(See Phoenix & Scottsdale city pages)~~PROVIDING WASTEWATER REMOVAL
17 SERVICES TO CONSUMERS OR RATEPAYERS BY MEANS OF SEWER
18 LINES OR SIMILAR PIPELINES.

Proposed Changes to the Model City Tax Code

1 **Section IX. Model City Tax Code Regulation ___-460.1 is amended as follows, with an**
2 **effective date of July 1, 2013.**

3
4 **Reg. ___-460.1. Distinction between retail sales and certain other transfers of tangible**
5 **personal property.**

6 (a) Charges for transfer of tangible personal property included in the gross income of
7 the business activity of persons engaged in the following business activities shall
8 be deemed only as gross income from such business activity and not sales at
9 retail taxed by Section ___-460:

10 (1) tangible personal property incorporated into real property as part of
11 reconstruction or construction contracting, per Sections ___-415 through
12 ___-418.

13 (2) (Reserved)

14 **++(Local Option #P:**

15 (2) sales of feed at wholesale, per Section ___-420.)++

16 (3) job printing, per Section ___-425.

17 (4) mining, timbering, and other extraction, but not sales of sand, gravel, or
18 rock extracted from the ground, per Section ___-430.

19 (5) publication of newspapers, magazines, and other periodicals, per Section
20 ___-435.

21 (6) rental, leasing, and licensing of real or tangible personal property, per
22 Sections ___-445 or ___-450.

23 ~~(7)~~ restaurants and bars, per Section ___-455.

24 ~~(7)(8)~~ **FOOD FOR HOME CONSUMPTION, PER SECTION ___-462.**

25 ~~(8)(9)~~ telecommunications services, per Section ___-470.

Proposed Changes to the Model City Tax Code

1 | ~~(9)~~(10) utility services, per Section ____-480.

2 | ~~(10)~~(11) _____ ~~(See Phoenix & Scottsdale city pages)~~ WASTEWATER REMOVAL
3 | SERVICES, PER SECTION ____-485.

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

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

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

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

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

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

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

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

23 | (1) "Tangible personal property which has independent functional utility" must
24 | be able to substantially perform its function(s) without attachment to real

Proposed Changes to the Model City Tax Code

- 1 property. "Attachment to real property" must include more than
2 connection to water, power, gas, communication, or other service.
- 3 (2) Examples of tangible personal property which has independent functional
4 utility include artwork, furnishings, "plug-in" kitchen equipment, or similar
5 items installed by bolts or similar fastenings.
- 6 (3) Examples of tangible personal property which does not have independent
7 functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen
8 cabinets, or "built-in" dishwashers or ranges.
- 9 (4) The installation of window coverings (drapes, mini-blinds, etc.) is always a
10 retail activity.
- 11