

Proposed Changes to the Model City Tax Code

1 **Section I. Model City Tax Code Section 480 is amended as follows, with an**
2 **effective date of August 1, 2014.**

3 **Sec. ___-480. Utility services.**

4 (a) The tax rate shall be at an amount equal to _____ percent (___%) of
5 the gross income from the business activity upon every person engaging
6 or continuing in the business of producing, providing, or furnishing utility
7 services, including electricity, electric lights, current, power, gas (natural or
8 artificial), or water to:

9 (1) consumers or ratepayers who reside within the City.

10 (2) (Reserved)

11 **++(Local Option #GG:**

12 (2) consumers or ratepayers of this City, whether within the City or
13 without, to the extent that this City provides such persons utility
14 services, excluding consumers or ratepayers who are residents of
15 another city or town which levies an equivalent excise tax upon this
16 City for providing such utility services to such persons.)++

17 (b) Exclusion of certain sales of natural gas to a public utility. Notwithstanding
18 the provisions of subsection (a) above, the gross income derived from the
19 sale of natural gas to a public utility for the purpose of generation of power
20 to be transferred by the utility to its ratepayers shall be considered a retail
21 sale of tangible personal property subject to Sections ___-460 and ___-
22 465, and not considered gross income taxable under this Section.

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1 (c) Resale utility services. Sales of utility services to another provider of the
2 same utility services for the purpose of providing such utility services
3 either to another properly licensed utility provider or directly to such
4 purchaser's customers or ratepayers shall be exempt and deductible from
5 the cross income subject to the tax imposed by this Section, provided that
6 the purchaser is properly licensed by all applicable taxing jurisdictions to
7 engage or continue in the business of providing utility services, and further
8 provided that the seller maintains proper documentation, in a manner
9 similar to that for sales for resale, of such transactions.

10 ****((d)** Tax credit offset for franchise fees. There shall be allowed as an offset any
11 franchise fees paid to the City pursuant to the terms of a franchise
12 agreement. However, such offset shall not be allowed against taxes
13 imposed by any other Section of this Chapter. Such offsets shall not be
14 deemed in conflict with or violation of subsection ____-400(b).

15 **Model Option #13: (d) (Reserved)****

16 (Also see Sedona city page)

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

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

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- 1 (g) The tax imposed by this Section shall not apply to:
- 2 (1) revenues received by a municipally owned utility in the form of fees
- 3 charged to persons constructing residential, commercial or
- 4 industrial developments or connecting residential, commercial or
- 5 industrial developments to a municipal utility system or systems if
- 6 the fees are segregated and used only for capital expansion,
- 7 system enlargement or debt service of the utility system or
- 8 systems.
- 9 (2) revenues received by any person or persons owning a utility
- 10 system in the form of reimbursement or contribution compensation
- 11 for property and equipment installed to provide utility access to, on
- 12 or across the land of an actual utility consumer if the property and
- 13 equipment become the property of the utility. This exclusion shall
- 14 not exceed the value of such property and equipment.
- 15 (h) The tax imposed by this Section shall not apply to sales of alternative fuel
- 16 as defined in A.R.S. Section 1-215, to a used oil fuel burner who has
- 17 received a Department of Environmental Quality permit to burn used oil or
- 18 used oil fuel under A.R.S. Section 49-426 or Section 49-480.
- 19 (i) The tax imposed by this section shall not apply to sales or other transfers
- 20 of renewable energy credits or any other unit created to track energy
- 21 derived from renewable energy resources. For the purposes of this
- 22 paragraph, "renewable energy credit" means a unit created
- 23 administratively by the corporation commission or governing body of a

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1 public power utility to track kilowatt hours of electricity derived from a
2 renewable energy resource or the kilowatt hour equivalent of conventional
3 energy resources displaced by distributed renewable energy resources.

- 4 (j) The tax imposed by this section shall not apply to the portion of gross
5 proceeds of sales or gross income attributable to transfers of electricity by
6 any retail electric customer owning a solar photovoltaic energy generating
7 system to an electric distribution system, if the electricity transferred is
8 generated by the customer's system.

9 (k) (Reserved)

10 **++(Local Option #PP:**

11 (k) THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO THE
12 GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM
13 SALES OF ELECTRICITY OR NATURAL GAS TO A BUSINESS THAT IS
14 PRINCIPALLY ENGAGED IN MANUFACTURING OR SMELTING
15 OPERATIONS AND THAT USES AT LEAST FIFTY-ONE PER CENT OF
16 THE ELECTRICITY OR NATURAL GAS IN THE MANUFACTURING OR
17 SMELTING OPERATIONS. THIS PARAGRAPH DOES NOT APPLY TO
18 GAS TRANSPORTATION SERVICES. FOR THE PURPOSES OF THIS
19 PARAGRAPH:

20 (1) "GAS TRANSPORTATION SERVICES" MEANS THE SERVICES
21 OF TRANSPORTING NATURAL GAS TO A NATURAL GAS
22 CUSTOMER OR TO A NATURAL GAS DISTRIBUTION FACILITY

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1 IF THE NATURAL GAS WAS PURCHASED FROM A SUPPLIER
2 OTHER THAN THE UTILITY.

3 (2) "MANUFACTURING" MEANS THE PERFORMANCE AS A
4 BUSINESS OF AN INTEGRATED SERIES OF OPERATIONS
5 THAT PLACES TANGIBLE PERSONAL PROPERTY IN A FORM,
6 COMPOSITION OR CHARACTER DIFFERENT FROM THAT IN
7 WHICH IT WAS ACQUIRED AND TRANSFORMS IT INTO A
8 DIFFERENT PRODUCT WITH A DISTINCTIVE NAME,
9 CHARACTER OR USE. MANUFACTURING DOES NOT
10 INCLUDE PROCESSING, FABRICATING, JOB PRINTING,
11 MINING, GENERATING ELECTRICITY OR OPERATING A
12 RESTAURANT.

13 (3) "PRINCIPALLY ENGAGED" MEANS AT LEAST FIFTY-ONE PER
14 CENT OF THE BUSINESS IS A MANUFACTURING OR
15 SMELTING OPERATION.

16 (4) "SMELTING" MEANS TO MELT OR FUSE A METALLIFEROUS
17 MINERAL, OFTEN WITH AN ACCOMPANYING CHEMICAL
18 CHANGE, USUALLY TO SEPARATE THE METAL.)++

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1 **Section II. Model City Tax Code Section 660 is amended as follows, with an**
2 **effective date of August 1, 2014.**

3

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

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

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

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

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

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

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

19 (f) prosthetics.

20 (g) income-producing capital equipment.

21 (h) rental equipment and rental supplies.

22 (i) mining and metallurgical supplies.

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- 1 (j) motor vehicle fuel and use fuel which are used upon the highways of this
2 State and upon which a tax has been imposed under the provisions of
3 Article I or II, Chapter 16, Title 28, Arizona Revised Statutes.
- 4 (k) tangible personal property purchased by a construction contractor, but not
5 an owner-builder, when such person holds a valid Privilege License for
6 engaging or continuing in the business of construction contracting, and
7 where the property acquired is incorporated into any structure or
8 improvement to real property in fulfillment of a construction contract.
- 9 (l) sales of motor vehicles to nonresidents of this State for use outside this
10 State if the vendor ships or delivers the motor vehicle to a destination
11 outside this State.
- 12 (m) tangible personal property which directly enters into and becomes an
13 ingredient or component part of a product sold in the regular course of the
14 business of job printing, manufacturing, or publication of newspapers,
15 magazines or other periodicals. Tangible personal property which is
16 consumed or used up in a manufacturing, job printing, publishing, or
17 production process is not an ingredient nor component part of a product.
- 18 (n) rental, leasing, or licensing for use of film, tape, or slides by a theater or
19 other person taxed under Section ____-410, or by a radio station, television
20 station, or subscription television system.
- 21 (o) food served to patrons for a consideration by any person engaged in a
22 business properly licensed and taxed under Section ____-455, but not food
23 consumed by owners, agents, or employees of such business.

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1 (p) tangible personal property acquired by a qualifying hospital, qualifying
2 community health center or a qualifying health care organization, except
3 when the property is in fact used in activities resulting in gross income
4 from unrelated business income as that term is defined in 26 U.S.C.
5 Section 512.

6 (q) (Reserved) (See Mesa city page)

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

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

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

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

18 (4) (Reserved)

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

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

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

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

7 (1) (Reserved)

8 (2) (Reserved)

9 (3) (Reserved)

10 (4) (Reserved)**

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

12 (t) (Reserved)

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

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

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

21 (v) sales of food products by producers as provided for by A.R.S. Section 3-
22 561, 3-562 and 3-563.

23 (w) (Reserved)

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

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

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

8 (y) (Reserved)

9 **++(Local Option #HH:**

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

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

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

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

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

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1 (z) (Reserved)

2 **++(Local Option #JJ:**

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

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

6 (bb) materials that are purchased by or for publicly funded libraries including
7 school district libraries, charter school libraries, community college
8 libraries, state university libraries or federal, state, county or municipal
9 libraries for use by the public as follows:

10 (1) printed or photographic materials.

11 (2) electronic or digital media materials.

12 (cc) food, beverages, condiments and accessories used for serving food and
13 beverages by a commercial airline, as defined in A.R.S. Section 42-
14 5061(A)(49), that serves the food and beverages to its passengers,
15 without additional charge, for consumption in flight. For the purposes of
16 this subsection, "accessories" means paper plates, plastic eating utensils,
17 napkins, paper cups, drinking straws, paper sacks or other disposable
18 containers, or other items which facilitate the consumption of the food.

19 (dd) wireless telecommunication equipment that is held for sale or transfer to a
20 customer as an inducement to enter into or continue a contract for
21 telecommunication services that are taxable under Section ____-470.

22 (ee) (Reserved)

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- 1 (ff) alternative fuel as defined in A.R.S. Section 1-215, by a used oil fuel
2 burner who has received a Department of Environmental Quality permit to
3 burn used oil or used oil fuel under A.R.S. Section 49-426 or Section 49-
4 480.
- 5 (gg) food, beverages, condiments and accessories purchased by or for a public
6 educational entity pursuant to any of the provisions of Title 15, Arizona
7 Revised Statutes, including a regularly organized private or parochial
8 school that offers an educational program for grade twelve or under which
9 may be attended in substitution for a public school pursuant to A.R.S. 15-
10 802; to the extent such items are to be prepared or served to individuals
11 for consumption on the premises of a public educational entity during
12 school hours. For the purposes of this subsection, "accessories" means
13 paper plates, plastic eating utensils, napkins, paper cups, drinking straws,
14 paper sacks or other disposable containers, or other items which facilitate
15 the consumption of the food.
- 16 (hh) personal hygiene items purchased by a person engaged in the business of
17 and subject to tax under Section ___-444 of this code if the tangible
18 personal property is furnished without additional charge to and intended to
19 be consumed by the person during his occupancy.
- 20 (ii) the diversion of gas from a pipeline by a person engaged in the business
21 of operating a natural or artificial gas pipeline, for the sole purpose of
22 fueling compressor equipment to pressurize the pipeline, is not a sale of
23 the gas to the operator of the pipeline.

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- 1 (jj) food, beverages, condiments and accessories purchased by or for a
2 nonprofit charitable organization that has qualified as an exempt
3 organization under 26 U.S.C Section 501(c)(3) and regularly serves meals
4 to the needy and indigent on a continuing basis at no cost. For the
5 purposes of this subsection, "accessories" means paper plates, plastic
6 eating utensils, napkins, paper cups, drinking straws, paper sacks or other
7 disposable containers, or other items which facilitate the consumption of
8 the food.
- 9 (kk) sales of motor vehicles that use alternative fuel if such vehicle was
10 manufactured as a diesel fuel vehicle and converted to operate on
11 alternative fuel and sales of equipment that is installed in a conventional
12 diesel fuel motor vehicle to convert the vehicle to operate on an alternative
13 fuel, as defined in A.R.S. Section 1-215 .
- 14 (ll) The storage, use or consumption of tangible personal property in the city
15 or town by a school district or charter school.
- 16 (mm) renewable energy credits or any other unit created to track energy derived
17 from renewable energy resources. For the purposes of this paragraph,
18 "renewable energy credit" means a unit created administratively by the
19 corporation commission or governing body of a public power utility to track
20 kilowatt hours of electricity derived from a renewable energy resource or
21 the kilowatt hour equivalent of conventional energy resources displaced by
22 distributed renewable energy resources.

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

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1 (rr) machinery, equipment, materials and other tangible personal property
2 used directly and predominantly to construct a qualified environmental
3 technology manufacturing, producing or processing facility as described in
4 A.R.S. section 41-1514.02. This subsection applies for ten full consecutive
5 calendar or fiscal years after the start of initial construction.

6 (ss) (Reserved)

7 ++(Local Option #PP:

8 (ss) THE PURCHASE PRICE OF ELECTRICITY OR NATURAL GAS USED
9 BY A BUSINESS THAT IS PRINCIPALLY ENGAGED IN
10 MANUFACTURING OR SMELTING OPERATIONS AND THAT USES AT
11 LEAST FIFTY-ONE PER CENT OF THE ELECTRICITY OR NATURAL
12 GAS IN THE MANUFACTURING OR SMELTING OPERATIONS. THIS
13 SUBSECTION DOES NOT APPLY TO GAS TRANSPORTATION
14 SERVICES. FOR THE PURPOSES OF THIS SUBSECTION:

15 1. "GAS TRANSPORTATION SERVICES" MEANS THE SERVICES OF
16 TRANSPORTING NATURAL GAS TO A NATURAL GAS CUSTOMER
17 OR TO A NATURAL GAS DISTRIBUTION FACILITY IF THE
18 NATURAL GAS WAS PURCHASED FROM A SUPPLIER OTHER
19 THAN THE UTILITY.

20 2. "MANUFACTURING" MEANS THE PERFORMANCE AS A
21 BUSINESS OF AN INTEGRATED SERIES OF OPERATIONS THAT
22 PLACES TANGIBLE PERSONAL PROPERTY IN A FORM,
23 COMPOSITION OR CHARACTER DIFFERENT FROM THAT IN

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1 WHICH IT WAS ACQUIRED AND TRANSFORMS IT INTO A
2 DIFFERENT PRODUCT WITH A DISTINCTIVE NAME, CHARACTER
3 OR USE. MANUFACTURING DOES NOT INCLUDE PROCESSING,
4 FABRICATING, JOB PRINTING, MINING, GENERATING
5 ELECTRICITY OR OPERATING A RESTAURANT.

6 3. "PRINCIPALLY ENGAGED" MEANS AT LEAST FIFTY-ONE PER
7 CENT OF THE BUSINESS IS A MANUFACTURING OR SMELTING
8 OPERATION.

9 4. "SMELTING" MEANS TO MELT OR FUSE A METALLIFEROUS
10 MINERAL, OFTEN WITH AN ACCOMPANYING CHEMICAL
11 CHANGE, USUALLY TO SEPARATE THE METAL.)++