

**Proposed Changes to the Model City Tax Code:
"2019 Retail Conformity Amendment"**

1 **Section I. Model City Tax Code Section 100 is amended as follows. This amendment**
2 **shall not become effective unless either of the following becomes law: 1. House Bill 2702,**
3 **fifty-fourth legislature, first regular session, relating to TPT; marketplace facilitators;**
4 **nexus; or 2. Any similar legislation enacting standards for imposing economic nexus on**
5 **remote sellers consistent with the Supreme Court of the United States decision in *South***
6 ***Dakota v. Wayfair, Inc., 138 S. Ct. 2080 (2018).* If such legislation is enacted, this**
7 **amendment shall become effective from and after the effective date of the legislation.**

8
9 **Sec. ___-100. General definitions.**

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

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

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

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

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

23 "Casual Activity activity or Salesale" means a transaction of an isolated nature made by a
24 person who neither represents himself to be nor is engaged in a business subject to a tax
25 imposed by this Chapter. However, no sale, rental, license for use, or lease transaction

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1 concerning real property nor any activity entered into by a business taxable by this Chapter shall
2 be treated, or be exempt, as casual. This definition shall include sales of used capital assets,
3 provided that the volume and frequency of such sales do not indicate that the seller regularly
4 engages in selling such property.

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

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

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

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

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

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

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1 "~~Delivery, Installation~~~~installation~~, or ~~Other D~~~~direct C~~~~customer S~~~~services~~" means services or
2 labor, excluding repair labor, provided by a taxpayer to or for his customer at the time of transfer
3 of tangible personal property; provided further that the charge for such labor or service is
4 separately billed to the customer and maintained separately in the taxpayer's books and
5 records.

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

8 "Equivalent ~~Excise~~~~excise~~ ~~Tax~~~~tax~~" means either:

- 9 (1) a Privilege or Use Tax levied by another Arizona municipality upon the
10 transaction in question, and paid either to such Arizona municipality directly or to
11 the vendor; or
- 12 (2) an excise tax levied by a political subdivision of a state other than Arizona upon
13 the transaction in question, and paid either to such jurisdiction directly or to the
14 vendor; or
- 15 (3) an excise tax levied by a Native American Government organized under the laws
16 of the federal government upon the transaction in question, and paid either to
17 such jurisdiction directly or to the vendor.

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

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

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

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

10 "Gross proceeds of sales" means the value proceeding or accruing from the sale of tangible
11 personal property without any deduction on account of the cost of property sold, expense of any
12 kind or losses, but cash discounts allowed and taken on sales are not included as gross income.

13 "Gross proceeds of sales" do not include goods, wares or merchandise, or value thereof,
14 returned by customers if the sale price is refunded either in cash or by credit, nor the value of
15 merchandise traded in on the purchase of new merchandise when the trade-in allowance is
16 deducted from the sales price of the new merchandise before completion of the sale.

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

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

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

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

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

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

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

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

21 "Manufactured Buildings~~buildings~~" means a manufactured home, mobile home or factory built
22 building, as defined in A.R.S. Section 41-2142.

23 "Manufacturer" means a person ~~who is principally engaged or continuing~~ in the ~~fabrication,~~
24 ~~production or manufacture of business of fabricating, producing, or manufacturing~~ products,

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1 wares, or articles for use from ~~other forms of tangible personal property~~ raw or prepared
2 materials, imparting to ~~such those materials~~ new forms, qualities, properties, and combinations.

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

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

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

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

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

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

18 "Out-of-City city Salesale" means the sale of tangible personal property and job printing if all of
19 the following occur:

- 20 (1) transference of title and possession occur without the City; and
- 21 (2) the stock from which such personal property was taken was not within the
22 corporate limits of the City; and
- 23 (3) the order is received at a permanent business location of the seller located
24 outside the City; which location is used for the substantial and regular conduct of

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1 such business sales activity. In no event shall the place of business of the buyer
2 be determinative of the situs of the receipt of the order.

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

7 "Out-of-~~State~~ ~~state~~ ~~Sale~~ ~~sale~~" means the sale of tangible personal property and job printing if all
8 of the following occur:

- 9 (1) The order is placed from without the State of Arizona; and
- 10 (2) the property is delivered to the buyer at a location outside the State; and
- 11 (3) the property is purchased for use outside the State.

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

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

22 "Prosthetic" means any of the following tangible personal property ~~if such items are prescribed~~
23 ~~or recommended by a licensed podiatrist, chiropractor, dentist, physician or surgeon,~~
24 ~~naturopath, optometrist, osteopathic physician or surgeon, psychologist, hearing aid dispenser,~~
25 ~~physician assistant, nurse practitioner or veterinarian:~~

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- 1 (1) Drugs and medical oxygen, including delivery hose, mask or tent, regulator and
2 tank, on the prescription of a member of the medical, dental or veterinarian
3 profession who is licensed by law to administer such substances. ~~any man-made~~
4 ~~device for support or replacement of a part of the body, or to increase acuity of~~
5 ~~one of the senses. Such items include: prescription eyeglasses; contact lenses;~~
6 ~~hearing aids; artificial limbs or teeth; neck, back, arm, leg, or similar braces.~~
- 7 ~~(1)~~(2) Prosthetic appliances as defined in A.R.S. Section 23-501 and as prescribed or
8 recommended by a health professional who is licensed pursuant to Title 32,
9 Chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 10 (23) insulin, insulin syringes, and glucose test strips ~~sold with or without a~~
11 ~~prescription.~~
- 12 (34) Prescription eyeglasses or contact lenses. ~~hospital beds, crutches, wheelchairs,~~
13 ~~similar home health aids, or corrective shoes.~~
- 14 (45) Hearing aids as defined in A.R.S. Section 36-1901. ~~drugs or medicine, including~~
15 ~~oxygen.~~
- 16 (5) ~~equipment used to generate, monitor, or provide health support systems, such as~~
17 ~~respiratory equipment, oxygen concentrator, dialysis machine.~~
- 18 (6) durable medical equipment ~~which that~~ has a ~~centers for Medicare and Medicaid~~
19 ~~services federal health care financing administration~~ common procedure code, is
20 designated reimbursable by Medicare, ~~is prescribed by a person who is licensed~~
21 ~~under Title 32, Chapter 7, 8, 13, 14, 15, 17 or 29,~~ can withstand repeated use, is
22 primarily and customarily used to serve a medical purpose, is generally not
23 useful to a person in the absence of illness or injury and is appropriate for use in
24 the home.

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1 (7) Orthodontic devices dispensed by a dental professional who is licensed under
2 Title 32, Chapter 11 to a patient as part of the practice of dentistry.

3 (8) Under no circumstances shall "prosthetic" include medical marijuana regardless
4 of whether it is sold or dispensed pursuant to a prescription, recommendation, or
5 written certification by any authorized person.

6 "Qualifying ~~Community Health Center~~community health center"

7 (1) means an entity that is recognized as nonprofit under 501(c)(3) of the United
8 States Internal Revenue Code, that is a community-based, primary care clinic
9 that has a community-based board of directors and that is either:

10 (a) the sole provider of primary care in the community.

11 (b) a nonhospital affiliated clinic that is located in a federally designated
12 medically underserved area in this State.

13 (2) includes clinics that are being constructed as qualifying community health
14 centers.

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

24 "Qualifying health sciences educational institution" means an entity that is recognized as
25 nonprofit under section 501(c) of the United States internal revenue code and that solely

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1 provides graduate and postgraduate education in the health sciences. For the purposes of this
2 paragraph, "health sciences" includes medicine, nursing, physician's assistant studies,
3 pharmacy, physical therapy, occupational therapy, biomedical sciences, podiatry, clinical
4 psychology, cardiovascular science, nurse anesthesia, dentistry, optometry and veterinary
5 medicine.

6 "Qualifying ~~Hospital~~hospital" means any of the following:

- 7 (1) a licensed hospital which is organized and operated exclusively for charitable
8 purposes, no part of the net earnings of which inures to the benefit of any private
9 shareholder or individual.
- 10 (2) a licensed nursing care institution or a licensed residential care institution or a
11 residential care facility operated in conjunction with a licensed nursing care
12 institution or a licensed kidney dialysis center, which provides medical services,
13 nursing services or health related services and is not used or held for profit.
- 14 (3) a hospital, nursing care institution or residential care institution which is operated
15 by the federal government, this State or a political subdivision of this State.
- 16 (4) a facility that is under construction and that on completion will be a facility under
17 subdivision (1), (2) or (3) of this paragraph.

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

21 "Remediation" means those actions that are reasonable, necessary, cost-effective and
22 technically feasible in the event of the release or threat of release of hazardous substances into
23 the environment such that the waters of the State are or may be affected, such actions as may
24 be necessary to monitor, assess and evaluate such release or threat of release, actions of
25 remediation, removal or disposal of hazardous substances or taking such other actions as may

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1 be necessary to prevent, minimize or mitigate damage to the public health or welfare or to the
2 waters of the State which may otherwise result from a release or threat of release of a
3 hazardous substance that will or may affect the waters of the State. Remediation activities
4 include the use of biostimulation with indigenous microbes and bioaugmentation using microbes
5 that are nonpathogenic, nonopportunistic and that are naturally occurring. Remediation activities
6 may include community information and participation costs and providing an alternative drinking
7 water supply.

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

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

16 "Rental Supplysupply" means an expendable or nonexpendable repair or replacement part sold
17 to become part of "rental equipment", provided that:

- 18 (1) the documentation relating to each purchased item so claimed specifically
19 itemizes to the vendor the actual item of "rental equipment" to which the
20 purchased item is intended to be attached as a repair or replacement part; and
- 21 (2) the vendee is regularly engaged in the business of renting, leasing, or licensing
22 such property for a consideration; and
- 23 (3) the item so claimed as "rental equipment" is not used by the person claiming the
24 exemption for any purpose other than rental, lease, or license for compensation,
25 to an extent greater than fifteen percent (15%) of its actual use.

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

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

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

11 "Retail Sale-sale (Sale-sale at Retailretail)" means the sale of tangible personal property, except
12 the sale of tangible personal property to a person regularly engaged in the business of selling
13 such property.

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

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

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

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

12 "Speculative Builder~~builder~~" means either:

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

23 "Substantially Complete~~complete~~" means the construction contracting or reconstruction
24 contracting:

- 25 (1) has passed final inspection or its equivalent; or

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1 (2) certificate of occupancy or its equivalent has been issued; or

2 (3) is ready for immediate occupancy or use.

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

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

10 "Tax Collector" means the _____ or his designee or agent for all
11 purposes under this Chapter.

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

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

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

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

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

6
7 **Section II. Model City Tax Code Section 100.1 is added as follows, repealing and**
8 **replacing Regulation 100.1. This amendment shall not become effective unless either of**
9 **the following becomes law: 1. House Bill 2702, fifty-fourth legislature, first regular**
10 **session, relating to TPT; marketplace facilitators; nexus; or 2. Any similar legislation**
11 **enacting standards for imposing economic nexus on remote sellers consistent with the**
12 **Supreme Court of the United States decision in *South Dakota v. Wayfair, Inc.*, 138 S. Ct.**
13 **2080 (2018). If such legislation is enacted, this amendment shall become effective from**
14 **and after the effective date of the legislation.**

15
16 **Sec. -100.1. Brokers**

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

23 (b) Brokers for vendors. A broker acting for a seller, lessor, or other similar person
24 deriving gross income in a category upon which this Chapter imposes a tax shall
25 be liable for such tax, even if his principal would not be subject to the tax if he

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1 conducted such activity in his own behalf, by reason of the activity being deemed
2 a "casual" one. For example:

3 (1) An auctioneer or other sales agent of tangible personal property is subject
4 to the tax imposed upon retail sales, even if such sales would be deemed
5 "casual" if his principal had sold such items himself.

6 (2) A property manager is subject to the tax imposed upon rental, leasing, or
7 licensing of real property, even if such rental, leasing, or licensing would
8 be deemed "casual" if his principal managed such real property himself.

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

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

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

23
24 **Reg. ~~100.1~~-100.1. Brokers**

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3 ~~all purposes, and shall file a return and remit the tax imposed on the activity on~~
4 ~~behalf of the principal. No deduction shall be allowed for any commissions or~~
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6 ~~advertising commissions.~~

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8 ~~deriving gross income in a category upon which this Chapter imposes a tax shall~~
9 ~~be liable for such tax, even if his principal would not be subject to the tax if he~~
10 ~~conducted such activity in his own behalf, by reason of the activity being deemed~~
11 ~~a "casual" one. For example:~~

12 ~~(1) — An auctioneer or other sales agent of tangible personal property is subject~~
13 ~~to the tax imposed upon retail sales, even if such sales would be deemed~~
14 ~~"casual" if his principal had sold such items himself.~~

15 ~~(2) — A property manager is subject to the tax imposed upon rental, leasing, or~~
16 ~~licensing of real property, even if such rental, leasing, or licensing would~~
17 ~~be deemed "casual" if his principal managed such real property himself.~~

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

22 ~~(d) — The liability of a broker does not relieve the principal of liability except upon~~
23 ~~presentation to the Tax Collector of proof of payment of the tax, and only to the~~
24 ~~extent of the correct payment. The broker shall be relieved of the responsibility~~

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1 ~~to file and pay taxes upon the filing and correct payment of such taxes by the~~
2 ~~principal.~~

3 ~~(e) (Reserved) (See Prescott city page)~~

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

9
10 **Section III. Model City Tax Code Section 100.2 is added as follows, repealing and**
11 **replacing Regulation 100.2. This amendment shall not become effective unless either of**
12 **the following becomes law: 1. House Bill 2702, fifty-fourth legislature, first regular**
13 **session, relating to TPT; marketplace facilitators; nexus; or 2. Any similar legislation**
14 **enacting standards for imposing economic nexus on remote sellers consistent with the**
15 **Supreme Court of the United States decision in *South Dakota v. Wayfair, Inc.*, 138 S. Ct.**
16 **2080 (2018). If such legislation is enacted, this amendment shall become effective from**
17 **and after the effective date of the legislation.**

18
19 **Sec. ~~100.2~~ -100.2. Delivery, installation, or other direct customer services.**

20 (a) "Delivery charges" exist only when the total charges to the ultimate customer or
21 consumer include, as separately charged to the ultimate customer, charges for
22 delivery to the ultimate consumer, whether the place of delivery is within or
23 without the City, and when the taxpayer's books and records show the separate
24 delivery charges.

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1 (1) Identification to the customer or consumer that the listed price has
2 "delivery included" or other similar expression is insufficient to show the
3 delivery as a separate charge. Only the separately stated charge for the
4 delivery shall be deemed a "delivery charge".

5 (2) Freight in. Charges for delivery from place of production or the
6 manufacturer to the vendor either directly or through a chain of
7 wholesalers or jobbers or other middlemen are deemed "freight -in" and
8 are not considered delivery.

9 (b) "Installation" as used in this definition relates only to attachment to tangible
10 personal property. Installation to real property is deemed construction contracting
11 in this Chapter. Examples of installation relating to tangible personal property
12 include installing a radio in an automobile; applying sun screens on the windows
13 of a boat; installing cabinets, carpeting, or "built-in appliances" to a camper or
14 motorized recreational vehicle, or similar activities.

15 (c) Repair of tangible personal property is not included in this definition.

16 (d) "Direct customer services" means services other than repair rendered directly to
17 the customer. Services or labor provided by any person prior to the transfer of
18 tangible personal property to the customer or consumer are not included in this
19 definition. In the following examples, the requirements of subsection (e) below
20 are referred to by the words "identify" or "identification".

21 (1) A retailer sells a customer a \$100 "plug-in" appliance, with a \$25 delivery
22 and installation charge. If the retailer identifies the \$25 delivery and
23 installation charge, it is a charge for direct customer services.

24 (2) A caterer charges his customer \$1,000 for the food and drink served,
25 \$300 for setup and site cleanup, and \$500 for bartender and waiters. If all

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1 charges are properly identified, only the \$300 for set up and cleanup is a
2 charge for direct customer services, and the \$1,500 for food and service
3 is considered Restaurant gross income.

4 (3) Persons engaged in engraving on wood, metal, stone, etc. or persons
5 engaged in retouching photographs or paintings may consider such
6 charges for labor as direct customer services.

7 (4) All charges by a photographer resulting in the sale of a photograph
8 (sitting fees, developing, making enlargements, retouching, etc.) for
9 services that occur prior to transfer of tangible personal property are not
10 direct customer services.

11 (5) An equipment rental company charging \$25 for delivery may consider
12 such delivery charge as a charge for direct customer service only if such
13 charge is properly identified.

14 (6) Even if identified, charges for labor incurred in the production of any
15 manufactured article or of a custom-made article (jewelry, artwork,
16 tailoring, draperies, etc.) are not included in this definition, as such labor
17 occurs prior to the transfer of property.

18 (e) Recordkeeping requirements.

19 (1) Any person who engages in transactions involving these services must:

20 (A) Separately bill, invoice, or charge the customer for such services
21 in a manner by which the customer or consumer may readily
22 identify the specific dollar amount of the service charge; and

23 (B) Maintain business books and records in a manner in which the
24 separate charge for such services can be clearly identified, to the
25 satisfaction of the Tax Collector.

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1 ~~(c) — Repair of tangible personal property is not included in this definition. See~~
2 ~~Regulation _____465.1.~~

3 ~~(d) — "Direct Customer Services" means services other than repair rendered directly to~~
4 ~~the customer. Services or labor provided by any person prior to the transfer of~~
5 ~~tangible personal property to the customer or consumer are not included in this~~
6 ~~definition. In the following examples, the requirements of subsection (e) below~~
7 ~~are referred to by the words "identify" or "identification."~~

8 ~~(1) — A retailer sells a customer a \$100 "plug-in" appliance, with a \$25 delivery~~
9 ~~and installation charge. If the retailer identifies the \$25 delivery and~~
10 ~~installation charge, it is a charge for direct customer services.~~

11 ~~(2) — A caterer charges his customer \$1,000 for the food and drink served,~~
12 ~~\$300 for setup and site cleanup, and \$500 for bartender and waiters. If~~
13 ~~all charges are properly identified, only the \$300 for set up and cleanup is~~
14 ~~a charge for direct customer services, and the \$1,500 for food and service~~
15 ~~is restauranting gross income.~~

16 ~~(3) — Persons engaged in engraving on wood, metal, stone, etc. or persons~~
17 ~~engaged in retouching photographs or paintings may consider such~~
18 ~~charges for labor as direct customer services.~~

19 ~~(4) — All charges by a photographer resulting in the sale of a photograph~~
20 ~~(sitting charges, developing, making enlargements, retouching, etc.) for~~
21 ~~services that occur prior to transfer of tangible personal property~~
22 ~~are not direct customer services.~~

23 ~~(5) — An equipment rental company charging \$25 for delivery may consider~~
24 ~~such delivery charge as a charge for direct customer service only if such~~
25 ~~charge is properly identified.~~

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1 **2080 (2018). If such legislation is enacted, this amendment shall become effective from**
2 **and after the effective date of the legislation.**

3
4 **Sec. ____-100.3. Retailers.**

5 When in the opinion of the Tax Collector it is necessary for efficient administration of this
6 Chapter, he may regard any salesman, representative, peddler, canvasser, or agent of any
7 dealer, distributor, supervisor, or employer under whom he operates or from whom he obtains
8 tangible personal property for sale, rental, lease, or license as a retailer for the purposes of this
9 Chapter, irrespective of whether he is making sales, rentals, leases, or licenses on his own
10 behalf or on behalf of others. The Tax Collector may also regard such dealer, distributor,
11 supervisor, or employer as a retailer for the purposes of this Chapter.

12
13 **~~Reg. ____-100.3. Retailers.~~**

14 ~~When in the opinion of the Tax Collector it is necessary for efficient administration of this~~
15 ~~Chapter, he may regard any salesman, representative, peddler, canvasser, or agent of any~~
16 ~~dealer, distributor, supervisor, or employer under whom he operates or from whom he obtains~~
17 ~~tangible personal property for sale, rental, lease, or license as a retailer for the purposes of this~~
18 ~~Chapter, irrespective of whether he is making sales, rentals, leases, or licenses on his own~~
19 ~~behalf or on behalf of others. The Tax Collector may also regard such dealer, distributor,~~
20 ~~supervisor, or employer as a retailer for the purposes of this Chapter.~~

21
22 **Section V. Model City Tax Code Section 100.4 is added as follows, repealing and**
23 **replacing Regulation 100.4. This amendment shall not become effective unless either of**
24 **the following becomes law: 1. House Bill 2702, fifty-fourth legislature, first regular**
25 **session, relating to TPT; marketplace facilitators; nexus; or 2. Any similar legislation**

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1 **enacting standards for imposing economic nexus on remote sellers consistent with the**
2 **Supreme Court of the United States decision in *South Dakota v. Wayfair, Inc.*, 138 S. Ct.**
3 **2080 (2018). If such legislation is enacted, this amendment shall become effective from**
4 **and after the effective date of the legislation.**

5
6 **Sec. _____-100.4. Out-of-City/Out-of-State Sales: Sales to Native Americans.**

7 Sales to Native Americans or tribal councils by vendors located within the City shall be deemed
8 sales within the City, unless all of the following conditions exist:

- 9 (a) The vendor has properly accounted for such sales in a manner similar to the
10 recordkeeping requirements for out-of-City sales; and,
- 11 (b) All of the following elements of the sale exist:
- 12 (1) solicitation and placement of the order occurs on the reservation; and
13 (2) delivery is made to the reservation; and
14 (3) payment originates from the reservation.

15
16 ~~**Reg. _____-100.4. Out-of-City/Out-of-State Sales: Sales to Native Americans.**~~

17 ~~Sales to Native Americans or tribal councils by vendors located within the City shall be deemed~~
18 ~~sales within the City, unless all of the following conditions exist:~~

- 19 ~~(1) The vendor has properly accounted for such sales, in a manner similar to the~~
20 ~~recordkeeping requirements for out-of-City sales; and,~~
- 21 ~~(2) All of the following elements of the sale exist:~~
- 22 ~~(a) solicitation and placement of the order occurs on the reservation; and~~
23 ~~(b) delivery is made to the reservation; and~~
24 ~~(c) payment originates from the reservation.~~

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1 **Section VI. Model City Tax Code Section 100.5 is added as follows, repealing and**
2 **replacing Regulation 100.5. This amendment shall not become effective unless either of**
3 **the following becomes law: 1. House Bill 2702, fifty-fourth legislature, first regular**
4 **session, relating to TPT; marketplace facilitators; nexus; or 2. Any similar legislation**
5 **enacting standards for imposing economic nexus on remote sellers consistent with the**
6 **Supreme Court of the United States decision in *South Dakota v. Wayfair, Inc.*, 138 S. Ct.**
7 **2080 (2018). If such legislation is enacted, this amendment shall become effective from**
8 **and after the effective date of the legislation.**

9

10 **Sec. -100.5. Remediation Contracting.**

11 The following activities are considered remediation contracting and are exempt:

- 12 (a) excavation, transportation, treatment, and/or disposal of contaminated soil for
- 13 purposes of site remediation (rather than characterization);
- 14 (b) installation of groundwater extraction and/or injection wells for purposes of
- 15 groundwater remediation;
- 16 (c) installation of pumps and piping into groundwater extraction wells for remediation
- 17 purposes;
- 18 (d) installation of vapor extraction wells for the purpose of soil or groundwater
- 19 remediation;
- 20 (e) construction of remediation systems, such as groundwater treatment plants,
- 21 vapor extraction systems, or air injection systems;
- 22 (f) connection of remediation systems to utilities;
- 23 (g) abandonment of groundwater or vapor extraction wells;
- 24 (h) removal/demolition of remediation systems;
- 25 (i) capping/closure construction activities;

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1 (j) service or handling charges for subcontracted remediation contracting activities.

2
3 ~~Reg. _____~~ **100.5. Remediation Contracting**

4 ~~The following activities are considered remediation contracting and are exempt:~~

5 ~~(1) — excavation, transportation, treatment, and/or disposal of contaminated soil for~~
6 ~~purposes of site remediation (rather than characterization);~~

7 ~~(2) — installation of groundwater extraction and/or injection wells for purposes of~~
8 ~~groundwater remediation;~~

9 ~~(3) — installation of pumps and piping into groundwater extraction wells for remediation~~
10 ~~purposes;~~

11 ~~(4) — installation of vapor extraction wells for the purpose of soil or groundwater~~
12 ~~remediation;~~

13 ~~(5) — construction of remediation systems, such as groundwater treatment plants,~~
14 ~~vapor extraction systems, or air injection systems;~~

15 ~~(6) — connection of remediation systems to utilities;~~

16 ~~(7) — abandonment of groundwater or vapor extraction wells;~~

17 ~~(8) — removal/demolition of remediation systems;~~

18 ~~(9) — capping/closure construction activities; and~~

19 ~~(10) — service or handling charges for subcontracted remediation contracting activities.~~

20
21 **Section VII. Model City Tax Code Section 110 is amended as follows. This amendment**
22 **shall not become effective unless either of the following becomes law: 1. House Bill 2702,**
23 **fifty-fourth legislature, first regular session, relating to TPT; marketplace facilitators;**
24 **nexus; or 2. Any similar legislation enacting standards for imposing economic nexus on**
25 **remote sellers consistent with the Supreme Court of the United States decision in *South***

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1 **Dakota v. Wayfair, Inc., 138 S. Ct. 2080 (2018). If such legislation is enacted, this**
2 **amendment shall become effective from and after the effective date of the legislation.**

3

4 **Sec. ___-110. Definitions: Income-producing capital equipment.**

5 (a) The following tangible personal property, other than items excluded in subsection
6 (d) below, shall be deemed "income-producing capital equipment" for the
7 purposes of this Chapter:

8 (1) machinery or equipment used directly in manufacturing, processing,
9 fabricating, job printing, refining or metallurgical operations. The terms
10 "manufacturing", "processing", "fabricating", "job printing", "refining", and
11 "metallurgical" as used in this paragraph refer to and include those
12 operations commonly understood within their ordinary meaning.

13 "Metallurgical operations" includes leaching, milling, precipitating,
14 smelting and refining.

15 (2) mining machinery, or equipment, used directly in the process of extracting
16 ores or minerals from the earth for commercial purposes, including
17 equipment required to prepare the materials for extraction and handling,
18 loading or transporting such extracted material to the surface. "Mining"
19 includes underground, surface and open pit operations for extracting ores
20 and minerals.

21 (3) tangible personal property, sold to persons engaged in business
22 classified under the telecommunications classification, including a person
23 representing or working on behalf of such a person in a manner described
24 in section ___-415(b)(12) and A.R.S. Section 42-5075, subsection O,
25 consisting of central office switching equipment; switchboards; private

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1 branch exchange equipment; microwave radio equipment, and carrier
2 equipment including optical fiber, coaxial cable, and other transmission
3 media which are components of carrier systems.

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

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

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

15 (A) a person:

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

21 (ii) that is certificated or licensed under Federal Aviation
22 Administration regulations (14 Code of Federal
23 Regulations Part 121 or 135) as a scheduled or
24 unscheduled carrier of persons for hire for use as or in
25 conjunction with or becoming part of an aircraft to be used

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1 to transport persons for hire in intrastate, interstate or
2 foreign commerce.

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

7 (iv) operating an aircraft to transport persons in any manner for
8 compensation or hire, or for use in a fractional ownership
9 program that meets the requirements of Federal Aviation
10 Administration regulations (14 Code of Federal
11 Regulations Part 91, Subpart K), including as an air carrier,
12 a foreign air carrier or a commercial operator or under a
13 restricted category, within the meaning of 14 Code of
14 Federal Regulations, regardless of whether the operation
15 or aircraft is regulated or certified under Part 91, 119, 121,
16 133, 135, 136 or 137, or another part of 14 Code of
17 Federal Regulations.

18 (v) that will lease or otherwise transfer operational control,
19 within the meaning of Federal Aviation Administration
20 Operations Specification A008, or its successor, of the
21 aircraft, instruments or accessories to one or more persons
22 described in item (i), (ii), (iii) or (iv) of this subdivision,
23 subject to A.R.S. Section 42-5009, subsection **NQ**.

24 (B) any foreign government.

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

8 (7) machinery, tools, equipment and related supplies used or consumed
9 directly in repairing, remodeling or maintaining aircraft, aircraft engines or
10 aircraft component parts by or on behalf of a certificated or licensed
11 carrier of persons or property.

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

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

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

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

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

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

20 ~~(14) —(Reserved)~~

21 ~~++(Local Option #A:~~

22 (14) new machinery and equipment consisting of agricultural aircraft, tractors,
23 tractor-drawn implements, self-powered implements, machinery and
24 equipment necessary for extracting milk, and machinery and equipment
25 necessary for cooling milk and livestock, and drip irrigation lines, ~~acquired~~

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1 ~~by persons engaged or continuing in business for use in the~~ not already
2 exempt under paragraph 5 of this subsection and that are used for
3 commercial production of agricultural, horticultural, viticultural, or
4 floricultural crops in this State. For the purposes of this paragraph:

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

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

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

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

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

9 Cleanroom:

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

17 (B) does not include the building or other permanent, nonremovable
18 component of the building that houses the cleanroom
19 environment.

20 (17) ~~machinery and equipment that are purchased by or on behalf of the~~
21 ~~owners of a soundstage complex and primarily used for motion picture,~~
22 ~~multimedia or interactive video production in the complex. This paragraph~~
23 ~~applies only if the initial construction of the soundstage complex begins~~
24 ~~after June 30, 1996 and before January 1, 2002 and the machinery and~~

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1 ~~equipment are purchased before the expiration of five years after the start~~
2 ~~of initial construction. For purposes of this paragraph:~~

3 ~~(A) "motion picture, multimedia or interactive video production"~~

4 ~~includes products for theatrical and television release, educational~~
5 ~~presentations, electronic retailing, documentaries, music videos,~~
6 ~~industrial films, cd-rom, video game production, commercial~~
7 ~~advertising and television episode production and other genres~~
8 ~~that are introduced through developing technology.~~

9 ~~(B) "soundstage complex" means a facility of multiple stages including~~

10 ~~production offices, construction shops and related areas, prop and~~
11 ~~costume shops, storage areas, parking for production vehicles~~
12 ~~and areas that are leased to businesses that complement the~~
13 ~~production needs and orientation of the overall facility.~~

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

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

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- 1 (A) any direct broadcast satellite television or data transmission
2 service that operates pursuant to 47 Code of Federal Regulations
3 parts ~~25 and 100~~.
- 4 (B) any satellite television or data transmission facility, if both of the
5 following conditions are met:
- 6 (i) over two-thirds of the transmissions, measured in
7 megabytes, transmitted by the facility during the test period
8 were transmitted to or on behalf of one or more direct
9 broadcast satellite television or data transmission services
10 that operate pursuant to 47 Code of Federal Regulations
11 parts ~~25 and 100~~.
- 12 (ii) over two-thirds of the transmissions, measured in
13 megabytes, transmitted by or on behalf of those direct
14 broadcast television or data transmission services during
15 the test period were transmitted by the facility to or on
16 behalf of those services.

17 For purposes of subdivision (B) of this paragraph, "test period"
18 means the three hundred sixty-five day period beginning on the
19 later of the date on which the tangible personal property is
20 purchased or the date on which the direct broadcast satellite
21 television or data transmission service first transmits information
22 to its customers.

- 23 (19) machinery and equipment that is used directly in the feeding of poultry,
24 the environmental control of housing for poultry, the movement of eggs
25 within a production and packaging facility or the sorting or cooling of

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1 eggs. This exemption does not apply to vehicles used for transporting
2 eggs.

3 (20) machinery or equipment, including related structural components, that is
4 employed in connection with manufacturing, processing, fabricating, job
5 printing, refining, mining, natural gas pipelines, metallurgical operations,
6 telecommunications, producing or transmitting electricity or research and
7 development that is used directly to meet or exceed rules or regulations
8 adopted by the Federal Energy Regulatory Commission, the United
9 States Environmental Protection Agency, the United States Nuclear
10 Regulatory Commission, the Arizona Department of Environmental
11 Quality or a political subdivision of this state to prevent, monitor, control or
12 reduce land, water or air pollution.

13 (21) machinery or equipment that enables a television station to originate and
14 broadcast or to receive and broadcast digital television signals and that
15 was purchased to facilitate compliance with the Telecommunications Act
16 of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code Section 336)
17 and the Federal Communications Commission Order issued April 21,
18 1997, 47 Code of Federal Regulations Part 73. This paragraph does not
19 exempt any of the following:

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

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

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1 (C) any machinery or equipment purchased after the television station
2 has ceased analog broadcasting, or purchased after November 1,
3 2009, whichever occurs first.

4 (22) qualifying equipment that is purchased from and after June 30, 2004
5 through June 30, 2024 by a qualified business under A.R.S. Section 41-
6 1516 for harvesting or processing qualifying forest products removed from
7 qualifying projects as defined in A.R.S. Section 41-1516. To qualify for
8 this deduction, the qualified business at the time of purchase must
9 present its certification approved by the Department of Revenue.

10 (b) The term "income-producing capital equipment" shall further include ancillary
11 machinery and equipment used for the treatment of waste products created by
12 the business activities which are allowed to purchase "income-producing capital
13 equipment" defined in subsection (a) above.

14 (c) The term "income-producing capital equipment" shall further include repair and
15 replacement parts, other than the items in subsection (d) below, where the
16 property is acquired to become an integral part of another item itemized in
17 subsections (a) or (b) above.

18 (d) The tangible personal property defined as income-producing capital equipment in
19 this Section shall not include:

20 (1) expendable materials. For purposes of this paragraph, expendable
21 materials do not include any of the categories of tangible personal
22 property specified in subsections (a), (b) or (c) of this Section regardless
23 of the cost or useful life of that property.

24 (2) janitorial equipment and hand tools.

25 (3) office equipment, furniture, and supplies.

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1 (4) tangible personal property used in selling or distributing activities, **other**
2 **than the telecommunications transmissions described in subsection**
3 **(a)(18) of this section.**

4 (5) motor vehicles required to be licensed by the State of Arizona, except
5 buses or other urban mass transit vehicles specifically exempted
6 pursuant to subsection (a)(10) above without regard to the use of such
7 motor vehicles.

8 (6) shops, buildings, docks, depots, and all other materials of whatever kind
9 or character not specifically included as exempt.

10 (7) motors and pumps used in drip irrigation systems.

11 (8) ~~(Reserved)~~ **machinery and equipment or other tangible personal property**
12 **used by a contractor in the performance of a contract.**

13 (e) For the purposes of this Section:

14 (1) "aircraft" includes:

15 (A) an airplane flight simulator that is approved by the Federal
16 Aviation Administration for use as a Phase II or higher flight
17 simulator under Appendix H, 14 Code of Federal Regulations Part
18 121.

19 (B) tangible personal property that is permanently affixed or attached
20 as a component part of an aircraft that is owned or operated by a
21 certificated or licensed carrier of persons or property.

22 (2) "other accessories and related equipment" includes aircraft accessories
23 and equipment such as ground service equipment that physically contact
24 aircraft at some point during the overall carrier operation.

25

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1 **Section VIII. Model City Tax Code Section 280 is repealed with an effective date of April**

2 **1, 2019.**

3
4 ~~Sec. ____-280. (Reserved)~~

5 ~~++(Local Option #B:~~

6 ~~Sec. ____-280. Exclusion of transactions with specified governmental agencies.~~

7 ~~Notwithstanding provisions contained elsewhere in this Chapter, "gross income" derived from~~
8 ~~transactions that would be deemed taxable, if conducted with or for other customers or~~
9 ~~consumers, shall be deemed exempt from the taxes imposed by this Chapter when the~~
10 ~~customer or consumer is:~~

11 ~~(1) — the Federal Government.~~

12 ~~(2) — the State of Arizona, its departments and agencies, including the State~~
13 ~~universities maintained by the State Board of Regents; but not including State-~~
14 ~~chartered or State-insured banks, savings and loan institutions, and credit~~
15 ~~unions.~~

16 ~~(3) — any county of this State, its departments and agencies, including, but not limited~~
17 ~~to, public school districts.~~

18 ~~(4) — any other incorporated city or town in this State.~~

19 ~~(5) — this City.)++~~

20
21 **Section IX. Model City Tax Code Section 460 is amended as follows and Regulations**

22 **460.3 and 460.6 are repealed. This amendment shall not become effective unless either of**

23 **the following becomes law: 1. House Bill 2702, fifty-fourth legislature, first regular**

24 **session, relating to TPT; marketplace facilitators; nexus; or 2. Any similar legislation**

25 **enacting standards for imposing economic nexus on remote sellers consistent with the**

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1 **Supreme Court of the United States decision in *South Dakota v. Wayfair, Inc.*, 138 S. Ct.**
2 **2080 (2018). If such legislation is enacted, this amendment shall become effective from**
3 **and after the effective date of the legislation.**
4

5 **Sec. ____-460. Retail sales: measure of tax; burden of proof; exclusions.**

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

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

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

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

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

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

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

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

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

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

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

21 (d) (Reserved)

22 **++(Local Option #V:**

23 (d) Notwithstanding the provisions of subsection (a) above, when the gross income
24 from the sale of a single item of tangible personal property exceeds _____
25 dollars (\$_____), the _____ percent (___%) tax rate shall apply to the first

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1 \$_____. Above \$_____, the measure of tax shall be at a rate of _____
2 percent (___%).)++

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

8 (f) The appropriate tax liability for any retail sale where the order is received at a
9 permanent business location of the seller located in this City or in an Arizona city
10 or town that levies an equivalent excise tax shall be at the tax rate of the city or
11 town of such seller's location.

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

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

18 (i) Sales of merchandise acquired on consignment are taxable as retail sales. In
19 cases where the merchant is acting as an agent on behalf of another dealer,
20 sales of the consigned merchandise are taxable to the principal, provided the
21 merchant makes full disclosure to customers that he is acting only as an agent
22 for the named principal. However, when the principal is not deemed to be a
23 dealer, such sales are considered to be those of the merchant and are taxable to
24 him.

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

7 to:

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

12 2. Businesses classified under the:

13 (A) Advertising classification.

14 (B) Construction contracting classifications

15 (C) Job printing classification.

16 (D) Manufactured buildings classification.

17 (E) Publishing and periodical distribution classification.

18 (F) Restaurants and bars classification.

19 (G) Telecommunications classification.

20 (H) Transporting for hire classification.

21 (I) Utility services classification.

22 (J) Wastewater removal services classification.

23
24 ~~Reg. ___-460.3. Retail sales: membership fees of retailers.~~

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

Reg. ___-460.6. Retail sales: consignment sales.

~~Sales of merchandise acquired on consignment are taxable as retail sales. In cases where the merchant is acting as an agent on behalf of another dealer, sales of the consigned merchandise are taxable to the principal, provided the merchant makes full disclosure to customers that he is acting only as an agent for the named principal. However, when the principal is not deemed to be a dealer, such sales are considered to be those of the merchant and are taxable to him.~~

Section X. Model City Tax Code Section 462 is amended as follows. This amendment shall not become effective unless either of the following becomes law: 1. House Bill 2702, fifty-fourth legislature, first regular session, relating to TPT; marketplace facilitators; nexus; or 2. Any similar legislation enacting standards for imposing economic nexus on remote sellers consistent with the Supreme Court of the United States decision in *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018). If such legislation is enacted, this amendment shall become effective from and after the effective date of the legislation.

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

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

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

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

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- 1 (B) A person who conducts a business whose primary business is not
2 the sale of food but who sells food which is displayed, packaged,
3 and sold in a similar manner as an eligible grocery business.
- 4 (C) A person who sells food and does not provide or make available
5 any facilities for the consumption of food on the premises.
- 6 (D) A person who conducts a delicatessen business either from a
7 counter which is separate from the place and cash register where
8 taxable sales are made or from a counter which has two cash
9 registers and which are used to record taxable and tax exempt
10 sales, or a retailer who conducts a delicatessen business who
11 uses a cash register which has at least two tax computing keys
12 which are used to record taxable and tax exempt sales.
- 13 (E) Vending machines and other types of automatic retailers.
- 14 (F) A person’s sales of food, drink and condiment for consumption
15 within the premises of any prison, jail or other institution under the
16 jurisdiction of the state department of corrections, the department
17 of public safety, the department of juvenile corrections or a county
18 sheriff.
- 19 (c) Income derived from the following sources is exempt from the tax imposed by
20 this Section:
- 21 (1) Sales of food for home consumption to a person regularly engaged in the
22 business of selling such property.
- 23 (2) Out-of-city sales or out-of-state sales.
- 24 (3) Charges for delivery or other “direct customer services” as prescribed ~~by~~
25 ~~regulation~~ in Section ___-100.2.

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- 1 (4) Items purchased with United States Department of Agriculture coupons
2 issued under the Supplemental Nutrition Assistance Program pursuant to
3 the Food and Nutrition Act of 2008 (P.L. 88-525; 78 Stat 703; 7 United
4 States Code sections 2011 through 2036b) by the United States
5 Department of Agriculture Food and Nutrition Service or food instruments
6 issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat.
7 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
8 section 1786). ~~Food purchased under the Supplemental Nutrition
9 Assistance Program (SNAP) established by the Food and Nutrition Act of
10 2008 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011
11 through 2036a) by the United States Department of Agriculture Food and
12 Nutrition Service but only to the extent that SNAP benefits using an
13 electronic benefits transfer (EBT) card or other method of conveying
14 SNAP benefits was actually used to purchase such food.~~
- 15 (5) Sales of food products by producers as provided for by A.R.S. Sections 3-
16 561, 3-562 and 3-563.
- 17 (6) Sales of food, beverages, condiments and accessories to a public
18 educational entity, pursuant to any of the provisions of Title 15, Arizona
19 Revised Statutes, including a regularly organized private or parochial
20 school that offers an educational program for grade twelve or under which
21 may be attended in substitution for a public school pursuant to A.R.S.
22 Section 15-802 ; to the extent such items are to be prepared or served to
23 individuals for consumption on the premises of a public educational entity
24 during school hours. for the purposes of this subsection, "accessories"
25 means paper plates, plastic eating utensils, napkins, paper cups, drinking

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1 straws, paper sacks or other disposable containers, or other items which
2 facilitate the consumption of the food.

3 (7) Sales of food, beverages, condiments and accessories to a nonprofit
4 charitable organization that has qualified as an exempt organization
5 under 26 U.S.C. Section 501(c)(3) and regularly serves meals to the
6 needy and indigent on a continuing basis at no cost. for the purposes of
7 this subsection, "accessories" means paper plates, plastic eating utensils,
8 napkins, paper cups, drinking straws, paper sacks or other disposable
9 containers, or other items which facilitate the consumption of the food.

10 (d) Reporting. such persons who sell food for home consumption shall, in
11 conjunction with the return required pursuant to Section ___-520, report to the
12 tax collector in a manner prescribed by the tax collector all sales of food for home
13 consumption exempted from taxes imposed by this Chapter.

14 (e) Recordkeeping.

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

23 (2) Any person who fails to maintain records as provided herein shall be
24 deemed to have had no sales of food for home consumption, and if upon
25 request by the tax collector, a person cannot demonstrate to the tax

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1 collector that such records and reports do properly reflect all sales of food
2 for home consumption, the tax collector may recompute the amount of tax
3 to be paid as provided in Sections ___-370 and ___-545(b).

- 4 (f) If a city, town or other taxing jurisdiction imposes a transaction privilege, sales,
5 use, franchise or other similar tax or fee, however denominated, on the sale of
6 food items intended for human consumption as defined by rule adopted pursuant
7 to A.R.S. Section 42-5106 or items prescribed by A.R.S. Section 42-5106,
8 subsection D for home consumption, the tax must be applied uniformly with
9 respect to all food, and an additional tax or fee differential may not be assessed
10 or applied with respect to any specific food item.

11
12 **Section XI. Model City Tax Code Section 465 is amended as follows. This amendment**
13 **shall not become effective unless either of the following becomes law: 1. House Bill 2702,**
14 **fifty-fourth legislature, first regular session, relating to TPT; marketplace facilitators;**
15 **nexus; or 2. Any similar legislation enacting standards for imposing economic nexus on**
16 **remote sellers consistent with the Supreme Court of the United States decision in *South***
17 ***Dakota v. Wayfair, Inc., 138 S. Ct. 2080 (2018).* If such legislation is enacted, this**
18 **amendment shall become effective from and after the effective date of the legislation.**

19
20 **Sec. ___-465. Retail sales: exemptions.**

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

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

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- 1 (b) out-of-City sales or out-of-State sales, including tangible personal property sold
- 2 in interstate or foreign commerce if prohibited from being so taxed by the
- 3 constitution of the United States or the constitution of this state .
- 4 (c) charges for delivery, installation, or other direct customer services as prescribed
- 5 ~~by Regulation~~ in Section ____-100.2.
- 6 (d) charges for repair services as prescribed by Regulation, when separately
- 7 charged and separately maintained in the books and records of the taxpayer.
- 8 (e) sales of warranty, maintenance, and service contracts, when separately charged
- 9 and separately maintained in the books and records of the taxpayer.
- 10 (f) sales of prosthetics.
- 11 (g) sales of income-producing capital equipment.
- 12 (h) tangible personal property sold to a person engaged in the business of renting,
- 13 leasing or licensing for use such property under the rental, leasing, and licensing
- 14 for use of tangible personal property classification if such property is to be rented,
- 15 leased or licensed for use by such person ~~sales of rental equipment and rental~~
- 16 ~~supplies.~~
- 17 (i) sales of mining and metallurgical supplies.
- 18 (j) sales of:
- 19 (1) 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
- 21 Statutes. ~~or sales of~~
- 22 (2) use fuel to a holder of a valid single trip use fuel tax permit issued under
- 23 A.R.S. Section 28-5739. ~~or sales of~~
- 24 (3) natural gas or liquefied petroleum gas used to propel a motor vehicle.

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1 (4) motor vehicle fuel and use fuel to a qualified business under A.R.S.
2 Section 41-1516 for off-road use in harvesting, processing or transporting
3 qualifying forest products removed from qualifying projects as defined in
4 A.R.S. Section 41-1516.

5 (5) repair parts installed in equipment used directly by a qualified business
6 under A.R.S. Section 41-1516 in harvesting, processing or transporting
7 qualifying forest products removed from qualifying projects as defined in
8 A.R.S. Section 41-1516.

9 (k) sales of tangible personal property to:

10 (1) a construction contractor who holds a valid Privilege Tax License for
11 engaging or continuing in the business of construction contracting where
12 the tangible personal property sold is incorporated into any structure or
13 improvement to real property as part of construction contracting activity.

14 (2) a person that is not subject to tax under Section 415(b)(12) and that has
15 been provided a copy of a certificate under A.R.S. Section 42-5009,
16 subsection L, if the property so sold is incorporated or fabricated by the
17 person into the real property, structure, project, development or
18 improvement described in the certificate.

19 (l) sales of motor vehicles to nonresidents of this State for use outside this State if
20 the ~~vendor~~-motor vehicle dealer ships or delivers the motor vehicle to a
21 destination outside this State.

22 (m) sales of tangible personal property which directly enters into and becomes an
23 ingredient or component part of a product sold in the regular course of the
24 business of job printing, manufacturing, or publication of newspapers,
25 magazines, or other periodicals. Tangible personal property which is consumed

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1 or used up in a manufacturing, job printing, publishing, or production process is
2 not an ingredient nor component part of a product.

3 (n) ~~sales made directly to the Federal government to the extent of:~~the following shall
4 be deducted from the tax base for the retail classification:

5 (1) ~~one hundred percent (100%) of the gross income derived from retail sales~~
6 ~~made by a manufacturer, modifier, assembler, or repairer.~~the gross
7 proceeds of sales or gross income derived from sales made directly to the
8 United States government or its departments or agencies by a
9 manufacturer, modifier, assembler or repairer.

10 (2) the gross proceeds of sales or gross income derived from sales made
11 directly to a manufacturer, modifier, assembler or repairer if such sales
12 are of any ingredient or component part of products sold directly to the
13 United States government or its departments or agencies by the
14 manufacturer, modifier, assembler or repairer.

15 (3) the gross proceeds of sales or gross income derived from overhead
16 materials or other tangible personal property that is used in performing a
17 contract between the United States government and a manufacturer,
18 modifier, assembler or repairer, including property used in performing a
19 subcontract with a government contractor who is a manufacturer,
20 modifier, assembler or repairer, to which title passes to the government
21 under the terms of the contract or subcontract.

22 (4) the gross proceeds of sales or gross income derived from sales of
23 overhead materials or other tangible personal property to a manufacturer,
24 modifier, assembler or repairer if the gross proceeds of sales or gross
25 income derived from the property by the manufacturer, modifier,

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1 assembler or repairer will be exempt under paragraph (3) of this
2 subsection.

3 ~~(2)(5) fifty percent (50%) of the gross income derived from retail sales made by~~
4 ~~any other person.~~ fifty percent of the gross proceeds or gross income from
5 any sale of tangible personal property made directly to the United States
6 government or its departments or agencies that is not deducted under
7 paragraphs (1) through (4) of this subsection.

8 (6) for the purposes of this subsection:

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

16 (B) "subcontract" means an agreement between a contractor and any
17 person who is not an employee of the contractor for furnishing of
18 supplies or services that, in whole or in part, are necessary to the
19 performance of one or more government contracts, or under which
20 any portion of the contractor's obligation under one or more
21 government contracts is performed, undertaken or assumed and
22 that includes provisions causing title to overhead materials or
23 other tangible personal property used in the performance of the
24 subcontract to pass to the government or that includes provisions

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1 incorporating such title passing clauses in a government contract
2 into the subcontract.

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

4 ~~(n) (Reserved)~~

5 ~~(1) (Reserved)~~

6 ~~(2) (Reserved)~~++)

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

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

22 (1) a qualifying hospital;

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

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- 1 (3) a qualifying health care organization if the organization is dedicated to
2 providing educational, therapeutic, rehabilitative and family medical
3 education training for blind and visually impaired children and children
4 with multiple disabilities from the time of birth to age twenty-one;
- 5 (4) a qualifying community health center;
- 6 (5) a nonprofit charitable organization that has qualified under section
7 501(c)(3) of the internal revenue code and that regularly serves meals to
8 the needy and indigent on a continuing basis at no cost;
- 9 (6) for taxable periods beginning from and after June 30, 2001, a nonprofit
10 charitable organization that has qualified under section 501(c)(3) of the
11 internal revenue code and that provides residential apartment housing for
12 low income persons over sixty-two years of age in a facility that qualifies
13 for a federal housing subsidy, if the tangible personal property is used by
14 the organization solely to provide residential apartment housing for low
15 income persons over sixty-two years of age in a facility that qualifies for a
16 federal housing subsidy;
- 17 (7) a qualifying health sciences educational institution;
- 18 (8) any person representing or working on behalf of another person
19 described in subdivisions (1) through (7) of this paragraph if the tangible
20 personal property is incorporated or fabricated into a project described in
21 A.R.S. Section 42-5075, subsection O.

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

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

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

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

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

8 ~~(4) — (Reserved)~~

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

10 ~~(4) — neat animals, horses, asses, sheep, swine, or goats for the purpose of~~
11 ~~becoming breeding or production stock, including sales of breedings or~~
12 ~~ownership shares in such animals.)++~~

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

18 ****(Model Option #10:**

19 ~~(r) — (Reserved)~~

20 ~~(1) — (Reserved)~~

21 ~~(2) — (Reserved)~~

22 ~~(3) — (Reserved)~~

23 ~~(4) — (Reserved)**~~

24 sales of:

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

7 (v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-
8 562 and 3-563. This includes sales made directly by owners, proprietors or
9 tenants of agricultural lands or farms who sell livestock or poultry feed that is
10 grown or raised on their lands to any of the following:

11 (1) persons who feed their own livestock or poultry.

12 (2) persons who are engaged in the business of producing livestock or
13 poultry commercially.

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

16 (w) (Reserved)

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

18 (w) sales of textbooks by any bookstore that are required by any State university or
19 community college. ~~by any bookstore.~~++)

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

24 (y) sales of tangible personal property by a nonprofit organization that is exempt
25 from taxation under Section 501(c)(3), 501(c)(4) or 42 501(c)(6) of the Internal

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1 Revenue Code if the organization is associated with a major league baseball
2 team or a national touring professional golfing association and no part of the
3 organization's net earnings inures to the benefit of any private shareholder or
4 individual. This paragraph does not apply to an organization that is owned,
5 managed or controlled, in whole or in part, by a major league baseball team, or
6 its owners, officers, employees or agents, or by a major league baseball
7 association or professional golfing association, or its owners, officers, employees
8 or agents, unless the organization conducted or operated exhibition events in this
9 state before January 1, 2018 that were exempt from taxation under A.R.S.
10 Section 42-5073.

11 (z) (Reserved)

12 **++(Local Option #CC:**

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

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

20 (bb) sales of materials that are purchased by or for publicly funded libraries including
21 school 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.

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1 (cc) ~~sales of food, beverages, condiments and accessories used for serving food and~~
2 ~~beverages to a commercial airline, as defined in A.R.S. Section 42-5061, that~~
3 ~~serves the food and beverages to its passengers, without additional charge, for~~
4 ~~consumption in flight. For the purposes of this subsection, "accessories" means~~
5 ~~paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper~~
6 ~~sacks or other disposable containers, or other items which facilitate the~~
7 ~~consumption of the food.~~ tangible personal property sold to a commercial airline
8 and consisting of food, beverages and condiments and accessories used for
9 serving the food and beverages, if those items are to be provided without
10 additional charge to passengers for consumption in flight. For the purposes of
11 this paragraph, "commercial airline" means a person holding a federal certificate
12 of public convenience and necessity or foreign air carrier permit for air
13 transportation to transport persons, property or United States mail in intrastate,
14 interstate or foreign commerce.

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

22 (ee) for the purposes of this Section, a sale of wireless telecommunication equipment
23 to a person who holds the equipment for sale or transfer to a customer as an
24 inducement to enter into or continue a contract for telecommunication services

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1 that are taxable under Section ____-470 is considered to be a sale for resale in
2 the regular course of business.

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

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

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

20 (ii) for the purposes of this Section, the diversion of gas from a pipeline by a person
21 engaged in the business of:

22 (1) operating a natural or artificial gas pipeline, for the sole purpose of
23 fueling compressor equipment to pressurize the pipeline, is not a sale of
24 the gas to the operator of the pipeline.

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

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

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

8 ~~(pp) sales of overhead materials or other tangible personal property that is used in~~
9 ~~performing a contract between the United States government and a~~
10 ~~manufacturer, modifier, assembler or repairer, including property used in~~
11 ~~performing a subcontract with a government contractor who is a manufacturer,~~
12 ~~modifier, assembler or repairer, to which title passes to the government under the~~
13 ~~terms of the contract or subcontract.~~

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

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

24 (rr)(qq) sales or gross income derived from sales of machinery, equipment, materials and
25 other tangible personal property used directly and predominantly to construct a

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1 qualified environmental technology manufacturing, producing or processing
2 facility as described in A.R.S. Section 41-1514.02. This subsection applies for ten
3 full consecutive calendar or fiscal years after the start of initial construction.

4 ~~(ss)~~(rr) the transfer of title or possession of coal back and forth between an owner or
5 operator of a power plant and a person who is responsible for refining coal if both
6 of the following apply:

7 (1) the transfer of title or possession of the coal is for the purpose of refining
8 the coal; and

9 (2) the title or possession of the coal is transferred back to the owner or
10 operator of the power plant after completion of the coal refining process.

11 For the purposes of this subdivision, "coal refining process" means the
12 application of a coal additive system that aids the reduction of power plant
13 emissions during the combustion of coal and the treatment of flue gas.

14 ~~(tt)~~(ss) (Reserved)

15 **++(Local Option #QQ:**

16 ~~(tt)~~(ss) sales of works of fine art, as defined in A.R.S. Section 44-1771, at an art auction
17 or gallery in this state to nonresidents of this state for use outside this state if the
18 vendor ships or delivers the work of fine art to a destination outside this state.)++

19 ~~(uu)~~(tt) computer data center equipment sold to the owner, operator or qualified
20 colocation tenant of ~~the~~a computer data center that is certified by the Arizona
21 Commerce Authority under A.R.S. Section 41-1519 or an authorized agent of the
22 owner, operator or qualified colocation tenant during the qualification period for
23 use in the qualified computer data center. For the purposes of this paragraph,
24 "computer data center", "computer data center equipment", "qualification period"

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1 and "qualified colocation tenant" have the same meanings prescribed in A.R.S.
2 Section 41-1519.

3 ~~(vv)~~(uu) the sale, manufacture, wholesale or distribution to or among any
4 wholesalers, distributors or retailers, of food items intended for human
5 consumption as defined by rule adopted pursuant to A.R.S. Section 42-5106 or
6 items prescribed by A.R.S. Section 42-5106, subsection D for home consumption
7 or for consumption on the premises.

8 ~~(www)~~(vv) the sale of any container or packaging used exclusively for transporting,
9 protecting or consuming food items intended for human consumption as defined
10 by rule adopted pursuant to A.R.S. Section 42-5106 or items prescribed by
11 A.R.S. Section 42-5106, subsection D for home consumption or for consumption
12 on the premises.

13 (ww) machinery, equipment, technology or related supplies that are only useful to
14 assist a person with a physical disability as defined in A.R.S. Section 46-191 or a
15 person who has a developmental disability as defined in A.R.S. Section 36-551
16 or has a head injury as defined in A.R.S. Section 41-3201 to be more
17 independent and functional.

18 (xx) application services that are designed to assess or test student learning or to
19 promote curriculum design or enhancement purchased by or for any school
20 district, charter school, community college or state university. For the purposes of
21 this paragraph:

22 (1) "application services" means software applications provided remotely
23 using hypertext transfer protocol or another network protocol.

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1 **Section XIII. Model City Tax Code Section 660 is amended as follows. This amendment**
2 **shall not become effective unless either of the following becomes law: 1. House Bill 2702,**
3 **fifty-fourth legislature, first regular session, relating to TPT; marketplace facilitators;**
4 **nexus; or 2. Any similar legislation enacting standards for imposing economic nexus on**
5 **remote sellers consistent with the Supreme Court of the United States decision in *South***
6 ***Dakota v. Wayfair, Inc., 138 S. Ct. 2080 (2018).* If such legislation is enacted, this**
7 **amendment shall become effective from and after the effective date of the legislation.**

8
9 **Sec. ___-660. Use tax: exemptions.**

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

- 12 (a) tangible personal property brought into the City by an individual who was not a
13 resident of the City at the time the property was acquired for his own use, if the
14 first actual use of such property was outside the City, unless such property is
15 used in conducting a business in this City.
- 16 (b) ~~tangible personal property, the value of which does not exceed the amount of~~
17 ~~one thousand dollars (\$1,000) per item, acquired by an individual outside the~~
18 ~~limits of the City for his personal use and enjoyment.~~ tangible personal property
19 not exceeding two hundred dollars in any one month purchased by an individual
20 at retail outside the continental limits of the United States for the individual's own
21 personal use and enjoyment.
- 22 (c) charges for delivery, installation, or other customer services, as prescribed ~~by~~
23 ~~Regulation~~ in Section ___-100.2.
- 24 (d) charges for repair services, as prescribed by Regulation.
- 25 (e) separately itemized charges for warranty, maintenance, and service contracts.

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- 1 (f) prosthetics.
- 2 (g) income-producing capital equipment.
- 3 (h) tangible personal property acquired by a person engaged in the business of
- 4 renting, leasing or licensing for use such property under the rental, leasing, and
- 5 licensing for use of tangible personal property classification if such property is to
- 6 be rented, leased or licensed for use by such person ~~tangible personal property~~
- 7 ~~purchased by a person engaged in the business of leasing or renting such~~
- 8 ~~property under the personal property rental classification if such property is to be~~
- 9 ~~leased or rented by such person rental equipment and rental supplies.~~
- 10 (i) mining and metallurgical supplies.
- 11 (j) purchases of:
 - 12 (1) motor vehicle fuel and use fuel which are used upon the highways of this
 - 13 State and upon which a tax has been imposed under the provisions of
 - 14 Article I or II, Chapter 16, Title 28, Arizona Revised Statutes;
 - 15 (2) use fuel to a holder of a valid single trip use fuel tax permit issued under
 - 16 A.R.S. Section 28-5739;
 - 17 (3) natural gas or liquefied petroleum gas used to propel a motor vehicle;
 - 18 (4) motor vehicle fuel and use fuel to a qualified business under A.R.S.
 - 19 Section 41-1516 for off-road use in harvesting, processing or transporting
 - 20 qualifying forest products removed from qualifying projects as defined in
 - 21 A.R.S. Section 41-1516;
 - 22 (5) repair parts installed in equipment used directly by a qualified business
 - 23 under A.R.S. Section 41-1516 in harvesting, processing or transporting
 - 24 qualifying forest products removed from qualifying projects as defined in
 - 25 A.R.S. Section 41-1516.

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- 1 (k) tangible personal property purchased by:
- 2 (1) a construction contractor, but not an owner-builder, when such person
- 3 holds a valid Privilege License for engaging or continuing in the business
- 4 of construction contracting, and where the property acquired is
- 5 incorporated into any structure or improvement to real property in
- 6 fulfillment of a construction contract.
- 7 (2) a person that is not subject to tax under Section 415(b)(12) and that has
- 8 been provided a copy of a certificate under A.R.S. Section 42-5009,
- 9 subsection L, if the property so sold is incorporated or fabricated by the
- 10 person into the real property, structure, project, development or
- 11 improvement described in the certificate.
- 12 (l) sales of motor vehicles to nonresidents of this State for use outside this State if
- 13 the vendor ships or delivers the motor vehicle to a destination outside this State.
- 14 (m) tangible personal property which directly enters into and becomes an ingredient
- 15 or component part of a product sold in the regular course of the business of job
- 16 printing, manufacturing, or publication of newspapers, magazines or other
- 17 periodicals. Tangible personal property which is consumed or used up in a
- 18 manufacturing, job printing, publishing, or production process is not an ingredient
- 19 nor component part of a product.
- 20 (n) rental, leasing, or licensing for use of film, tape, or slides by a theater or other
- 21 person taxed under Section ___-410, or by a radio station, television station, or
- 22 subscription television system.
- 23 (o) food served to patrons for a consideration by any person engaged in a business
- 24 properly licensed and taxed under Section ___-455, but not food consumed by
- 25 owners, agents, or employees of such business.

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

6 (1) a qualifying hospital;

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

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

14 (4) a qualifying community health center;

15 (5) a nonprofit charitable organization that has qualified under section
16 501(c)(3) of the internal revenue code and that regularly serves meals to
17 the needy and indigent on a continuing basis at no cost;

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

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

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

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

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

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

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

17 ~~(4) (Reserved)~~

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

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

22 ~~This exemption shall not be construed to include machinery, equipment, fuels,~~
23 ~~lubricants, pharmaceuticals, repair and replacement parts, or other items used or~~
24 ~~consumed in the running, maintenance, or repair of machinery, equipment,~~

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~~buildings, or structures used or consumed in the business of farming, ranching,
or feeding of livestock, poultry or ratites.~~

~~****(Model Option #10:**~~

~~(f) **(Reserved)**~~

~~(1) **(Reserved)**~~

~~(2) **(Reserved)**~~

~~(3) **(Reserved)**~~

~~(4) **(Reserved)****~~

purchases of:

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

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

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

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

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

(t) (Reserved)

++(Local Option #X:

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

(u) ~~aircraft acquired for use outside the State, as prescribed by Regulation.~~seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

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

(w) (Reserved)

++(Local Option #Z:

(w) textbooks, ~~sold by a bookstore, that are~~ required by any State university or community college, ~~when acquired from a bookstore.~~)++

(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)

++(Local Option #HH:

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

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- 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, that
3 serves the food and beverages to its passengers, without additional charge, for
4 consumption in flight. For the purposes of this subsection, "accessories" means
5 paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper
6 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) tangible personal property sold by a nonprofit organization that is exempt from
12 taxation under Section 501(c)(3), 501(c)(4) or 501(c)(6) of the Internal Revenue
13 Code if the organization is associated with a major league baseball team or a
14 national touring professional golfing association and no part of the organization's
15 net earnings inures to the benefit of any private shareholder or individual. This
16 paragraph does not apply to an organization that is owned, managed or
17 controlled, in whole or in part, by a major league baseball team, or its owners,
18 officers, employees or agents, or by a major league baseball association or
19 professional golfing association, or its owners, officers, employees or agents,
20 unless the organization conducted or operated exhibition events in this state
21 before January 1, 2018 that were exempt from transaction privilege tax under
22 A.R.S. Section 42-5073.
- 23 (ff) alternative fuel as defined in A.R.S. Section 1-215, by a used oil fuel burner who
24 has received a Department of Environmental Quality permit to burn used oil or
25 used oil fuel under A.R.S. Section 49-426 or A.R.S. Section 49-480.

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- 1 (gg) food, beverages, condiments and accessories purchased by or for a public
2 educational entity, pursuant to any of the provisions of Title 15, Arizona Revised
3 Statutes, including a regularly organized private or parochial school that offers an
4 educational program for grade twelve (12) or under which may be attended in
5 substitution for a public school pursuant to A.R.S. Section 15-802; to the extent
6 such items are to be prepared or served to individuals for consumption on the
7 premises of a public educational entity during school hours. For the purposes of
8 this subsection, "accessories" means paper plates, plastic eating utensils,
9 napkins, paper cups, drinking straws, paper sacks or other disposable
10 containers, or other items which facilitate the consumption of the food.
- 11 (hh) personal hygiene items purchased by a person engaged in the business of and
12 subject to tax under Section ____-444 of this code if the tangible personal property
13 is furnished without additional charge to and intended to be consumed by the
14 person during his occupancy.
- 15 (ii) the diversion of gas from a pipeline by a person engaged in the business of
16 operating a natural or artificial gas pipeline, for the sole purpose of fueling
17 compressor equipment to pressurize the pipeline, is not a sale of the gas to the
18 operator of the pipeline.
- 19 (jj) food, beverages, condiments and accessories purchased by or for a nonprofit
20 charitable organization that has qualified as an exempt organization under 26
21 U.S.C. Section 501(c)(3) and regularly serves meals to the needy and indigent
22 on a continuing basis at no cost. For the purposes of this subsection,
23 "accessories" means paper plates, plastic eating utensils, napkins, paper cups,
24 drinking straws, paper sacks or other disposable containers, or other items which
25 facilitate the consumption of the food.

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- 1 (kk) sales of motor vehicles that use alternative fuel if such vehicle was manufactured
2 as a diesel fuel vehicle and converted to operate on alternative fuel and sales of
3 equipment that is installed in a conventional diesel fuel motor vehicle to convert
4 the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.
- 5 (ll) the storage, use or consumption of tangible personal property in the city or town
6 by a school district or charter school.
- 7 (mm) renewable energy credits or any other unit created to track energy derived from
8 renewable energy resources. For the purposes of this paragraph, "renewable
9 energy credit" means a unit created administratively by the corporation
10 commission or governing body of a public power utility to track kilowatt hours of
11 electricity derived from a renewable energy resource or the kilowatt hour
12 equivalent of conventional energy resources displaced by distributed renewable
13 energy resources.
- 14 (nn) magazines or other periodicals or other publications by this state to encourage
15 tourist travel.
- 16 (oo) paper machine clothing, such as forming fabrics and dryer felts, sold to a paper
17 manufacturer and directly used or consumed in paper manufacturing.
- 18 (pp) overhead materials or other tangible personal property that is used in performing
19 a contract between the United States government and a manufacturer, modifier,
20 assembler or repairer, including property used in performing a subcontract with a
21 government contractor who is a manufacturer, modifier, assembler or repairer, to
22 which title passes to the government under the terms of the contract or
23 subcontract.
- 24 (qq) coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified
25 environmental technology manufacturer, producer or processor as defined in

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1 A.R.S. Section 41-1514.02 and directly used or consumed in the generation or
2 provision of on-site power or energy solely for environmental technology
3 manufacturing, producing or processing or environmental protection. This
4 paragraph shall apply for twenty full consecutive calendar or fiscal years from the
5 date the first paper manufacturing machine is placed in service. In the case of an
6 environmental technology manufacturer, producer or processor who does not
7 manufacture paper, the time period shall begin with the date the first
8 manufacturing, processing or production equipment is placed in service.

9 (rr) machinery, equipment, materials and other tangible personal property used
10 directly and predominantly to construct a qualified environmental technology
11 manufacturing, producing or processing facility as described in A.R.S. Section
12 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal
13 years after the start of initial construction.

14 (ss) (Reserved)

15 **++(Local Option #PP**

16 (ss) ~~The~~the purchase price of electricity, natural gas or liquefied petroleum gas by:

17 (1) a qualified manufacturing or smelting business. This paragraph applies to
18 gas transportation services. For the purposes of this paragraph:

19 (A) "~~Gas~~gas transportation services" means the services of
20 transporting natural gas to a natural gas customer or to a natural
21 gas distribution facility if the natural gas was purchased from a
22 supplier other than the utility.

23 (B) "~~Manufacturing~~manufacturing" means the performance as a
24 business of an integrated series of operations that places tangible
25 personal property in a form, composition or character different

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1 from that in which it was acquired and transforms it into a different
2 product with a distinctive name, character or use. Manufacturing
3 does not include job printing, publishing, packaging, mining,
4 generating electricity or operating a restaurant.

5 (C) "~~Qualified~~qualified manufacturing or smelting business" means
6 one of the following:

7 (i) a business that manufactures or smelts tangible products
8 in this state, of which at least fifty-one percent (51%) of the
9 manufactured or smelted products will be exported out-of-
10 state for incorporation into another product or sold out-of-
11 state for a final sale.

12 (ii) a business that derives at least fifty-one percent (51%) of
13 its gross income from the sale of manufactured or smelted
14 products manufactured or smelted by the business.

15 (iii) a business that uses at least fifty-one percent of its square
16 footage in this state for manufacturing or smelting and
17 business activities directly related to manufacturing or
18 smelting.

19 (iv) a business that employs at least fifty-one percent (51%) of
20 its workforce in this state in manufacturing or smelting and
21 business activities directly related to manufacturing or
22 smelting.

23 (v) a business that uses at least fifty-one percent (51%) of the
24 value of its capitalized assets in this state, as reflected on
25 the business's books and records, for manufacturing or

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1 smelting and business activities directly related to
2 manufacturing or smelting.

3 (D) "~~Smelting~~smelting" means to melt or fuse a metalliferous mineral,
4 often with an accompanying chemical change, usually to separate
5 the metal.

6 (2) a business that operates an international operations center in this state
7 and that is certified by the Arizona Commerce Authority pursuant to
8 A.R.S. Section 41-1520.)++

9 (tt) ~~The~~the transfer of title or possession of coal back and forth between an owner or
10 operator of a power plant and a person who is responsible for refining coal if both
11 of the following apply:

12 (1) the transfer of title or possession of the coal is for the purpose of refining
13 the coal; and

14 (2) the title or possession of the coal is transferred back to the owner or
15 operator of the power plant after completion of the coal refining process.

16 For the purposes of this subdivision, "coal refining process" means the
17 application of a coal additive system that aids the reduction of power plant
18 emissions during the combustion of coal and the treatment of flue gas.

19 (uu) ~~Computer~~computer data center equipment purchased by the owner, operator or
20 qualified colocation tenant of ~~the~~a computer data center that is certified by the
21 Arizona Commerce Authority under A.R.S. Section 41-1519 or an authorized
22 agent of the owner, operator or qualified colocation tenant during the qualification
23 period for use in the qualified computer data center. For the purposes of this
24 paragraph, "computer data center", "computer data center equipment",

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1 "qualification period" and "qualified colocation tenant" have the same meanings
2 prescribed in A.R.S. Section 41-1519.

3 (vv) (Reserved)

4 **++(Local Option #LL**

5 (vv) ~~Jet~~ jet fuel use tax imposed under Section ___-610 on the storage, use or
6 consumption in this city of jet fuel purchased from a retailer in any case in which
7 the tax imposed under Section ___-422 has not been paid is limited to amounts
8 of not more than ten million gallons of jet fuel purchased in each calendar year.
9 Purchases in excess of ten million gallons per year are deemed exempt.)++

10 (ww) ~~The~~ the purchase manufacture, wholesale or distribution to or among any
11 wholesalers, distributors or retailers, of food items intended for human
12 consumption as defined by rule adopted pursuant to A.R.S. Section 42-5106 or
13 items prescribed by A.R.S. Section 42-5106, subsection D for home consumption
14 or for consumption on the premises.

15 ~~(yy)(xx)~~ ~~The purchase of~~ any container or packaging used exclusively for
16 transporting, protecting or consuming food items intended for human
17 consumption as defined by rule adopted pursuant to A.R.S. Section 42-5106 or
18 items prescribed by A.R.S. Section 42-5106, subsection D for home consumption
19 or for consumption on the premises.

20 (yy) machinery, equipment, technology or related supplies that are only useful to
21 assist a person with a physical disability as defined in A.R.S. Section 46-191 or a
22 person who has a developmental disability as defined in A.R.S. Section 36-551
23 or has a head injury as defined in A.R.S. Section 41-3201 to be more
24 independent and functional.

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1 (zz) application services that are designed to assess or test student learning or to
2 promote curriculum design or enhancement purchased by or for any school
3 district, charter school, community college or state university. For the purposes of
4 this paragraph:

5 (1) "application services" means software applications provided remotely
6 using hypertext transfer protocol or another network protocol.

7 (2) "curriculum design or enhancement" means planning, implementing or
8 reporting on courses of study, lessons, assignments or other learning
9 activities.

10