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MEMORANDUM

November 9, 2006

TO: MAYOR AND COMMON COUNCIL
CC: FRED CARPENTER, TOWN MANAGER

FROM: SAMUEL I. STREICHMAN, TOWN ATTORNEY
SUBJECT: 2007 Tax Code Amendments

From time to time, the Arizona League of Cities and Towns provides amendments to the Model City Tax Code to be adopted by all cities and towns in Arizona. The last amendments for the year 2006 (mainly to be effective January 1, 2007) have been delivered to the Town of Payson. The attached outlines explain the changes which are contained in the exhibit to Resolution No. 2232.

If anyone wishes further information regarding the effect of these changes, please contact Glenn Smith, Chief Fiscal Officer or myself.

SIS:lf

NOV 16 2006 G.A.

-----Original Message-----

From: Anne Biegel [mailto:abiegel@mg.state.az.us]

Sent: Thursday, November 09, 2006 8:31 AM

To: Carpenter, Fred; Smith, Silvia

Cc: Greg Flynn

Subject: 2007 Model City Tax Code Amendments

November 8, 2006

TO: Manager, Clerks, Finance Directors

FROM: Greg Flynn, Member Services Associate

SUBJECT: TAX CODE AMENDMENT FOR ADOPTION

Enclosed are a new set of amendments for your tax code; these are the 2007 Tax Code Amendments. Final approval of the amendments occurred at the September meeting of the Municipal Tax Code Commission.

All of the amendments are designed to reflect recent changes to make compliance with the tax code easier for businesses.

We urge your adoption of the amendments as soon as possible, so that we may have a consistent adoption date of January 1, 2007. To assist in the adoption, we have tailored the ordinance to the current provisions of your Code including numbering. The amendment is designed to be adopted by reference and an adopting ordinance and resolution are also enclosed.

A summary of the amendment provisions has also been included as a part of this package. We hope this document will assist in explaining the amendment to your mayor and council.

Following adoption of the amendment, please send us a copy of your adopting ordinance and we will in turn make the conforming changes to your tax code and send the revisions to you. Please let me know if there is anything we can do to assist you in this effort.

We thank you for your assistance in this effort.

Proposed Model City Tax Code (MCTC) Changes Related to the Hotel Industry

The MCTC changes related to the hotel industry reflect several exemptions introduced in recent years into state statute and to otherwise generally match the state's imposition of tax on hotels and motels. This has been done to jointly implement a tax ruling issued by the Arizona Department of Revenue for the hotel and motel industry.

The ruling is the result of a long-term project involving the state, the cities and most importantly, the hotel industry. The ruling has been needed by hotels to clarify tax treatment of all income at a hotel property so that the hotel can properly collect tax from customers by knowing in advance how the income would be taxed.

The MCTC changes will match the state tax treatment in almost all areas of hotel income. Those differences are clearly highlighted in the ruling. Under both state statute and the MCTC, when the state statutes and the MCTC are the same and the Arizona Department of Revenue has issued written guidance, the Department's interpretation is binding on cities and towns. Extensive statewide training of industry and government employees will take place in September and October 2006 prior to the January 1, 2007 effective date of the ruling.

The MCTC changes will also be adopted by Arizona cities and towns to be effective January 1, 2007.

Proposed Model City Tax Code (MCTC) Changes To Conform with 2006 Statutory Preemptions

The state legislature made changes in the 2006 General Session to A.R.S. § 42-6004, which lists privilege (sales) tax preemptions for cities and towns. MCTC changes are introduced to conform to these changes. One bill, HB 2132, precludes a tax on the private operator of rides for the portion of amusement ride ticket sales at the State Fair retained by the State Fair Board, retroactive to July 1, 1999. The same bill also changed the sunset provisions for income from a contract to construct a lake facility development. SB 1068 prohibits the cities and towns from taxing development or impact fees that are included in a construction or development contract as of September 1, 2006.

Proposed Model City Tax Code (MCTC) Housekeeping Changes

Several changes are proposed to correct state statutory references that have changed or to eliminate references to statutes that no longer exist. Other technical changes are proposed for any inconsistent language or structure within the MCTC sections that required statutory reference changes.

**OUTLINE OF PROPOSED CHANGES TO
MODEL CITY TAX CODE (MCTC)
TO CONFORM TO STATE STATUTES
PRIMARILY RELATED TO HOTELS**

- **Section 100, definition added for “Transient”** – word for word from A.R.S. § 42-5070(F), moved from Sections 444 and 447 and Regulation 310.3 (green page) because it is used in multiple sections of the MCTC.
- **Subsection 410(b)** – moves former (b) to (b)(1).
- **Subsection 410(b)(2)** – added from A.R.S. § 42-5073(B)(4) to exempt income received from a hotel if the hotel will report the amusement income.
- **Subsection 410(b)(3)** – added from A.R.S. § 42-5073(B)(5)(a) to exempt income that is taxable under another category for another business.
- **Subsection 410(b)(4)** – added from A.R.S. § 42-5073(B)(5)(b) to exempt transportation arranged by an amusement business.
- **Subsection 410(c)** – added from A.R.S. § 42-5073(A)(10) to exempt arranging amusement by businesses not in the amusement business.
- **Subsection 444(a)** – combines former (a) and (b) into (a), with reference to Model Option #6. Change from an “option” in subsection (a) that was not a Model or Local Option, but would only be chosen by Model Option 6 cities.
- **Subsection 444(b)** – moves former (c) to (b)(1).
- **Subsection 444(b)(2)** – added from A.R.S. § 42-5070(C)(1) to exempt income that is taxable under another category for another business.
- **Subsection 444(b)(3)** – added from A.R.S. § 42-5070(D)(1) to exempt income from activities not limited to hotel guests and exempt from tax if received by a non-hotel business.
- **Subsection 444(b)(4)** – added from A.R.S. § 42-5070(D)(2) to exempt income from activities not limited to hotel guests and exempt from tax if received by an amusement or transportation business due to an exclusion, exemption or deduction.
- **Subsection 444(b)(5)** – added from A.R.S. § 42-5070(D)(3) to clarify that income from commissions is not taxable under this section. This exclusion also provides that income from commissions may be taxable under Sections 445 or 450.
- **Subsection 444(b)(6)** – added to clarify that income from telecommunications activity is taxable under Section 470.
- **Subsection 447** – deletes definition of “transient” now in Section 100.
- **Subsection 470(a)(2)(E)** – added to clarify that income received by hotels from telecommunications activity is taxable under this section.

- **Subsection 475(f)(1)** – added from A.R.S. § 42-5062(B)(2) to exempt income that is taxable under another category for another business.
- **Subsection 475(f)(2)** – added from A.R.S. § 42-5062(B)(3) to exempt income from arranging amusement or transportation from the tax on transportation to the extent paid to an amusement or transportation business.
- **Subsection 475(g)** – added from A.R.S. § 42-5062(A)(6) to exempt arranging transportation by businesses not in the transportation business.
- **Regulation 310.3 (green pages for Phoenix, Scottsdale and Chandler only)** – deletes definition of “transient” now in Section 100.
- **Regulation 447.1** – deletes Regulation no longer needed; covered in State TPR and matrix.

RESOLUTION NO. 2232

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "THE 2007 AMENDMENTS TO THE TAX CODE OF THE TOWN OF PAYSON", AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA:

Section 1. That certain document entitled "THE 2007 AMENDMENTS TO THE TAX CODE OF THE TOWN OF PAYSON", attached hereto marked Exhibit "A", three copies of which are on file in the Office of the Town Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the Town Clerk.

Section 2. Whereas, it is necessary for the preservation of the peace, health, and safety of the Town of Payson, Arizona, an emergency is declared to exist, and this Resolution shall become immediately operative and in full force and effect from and after the date of its enactment.

PASSED AND ADOPTED BY THE Mayor and Common Council of the Town of Payson, Arizona, this _____ day of _____, 2006.

F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

Prepared by Town of Payson Legal Department

SIS:drs November 9, 2006 (10:22AM)

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2007 AMENDMENTS TO THE TAX CODE OF THE TOWN OF PAYSON

Section 1. Section 8A-100 of the Tax Code of the Town of Payson is amended to read:

Sec. 8A-100. General definitions.

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

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

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

"Business" means all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit, or advantage, either direct or indirect, but not casual activities or sales.

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

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

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

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

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

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

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

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

"Delivery, Installation, or Other Direct Customer Services" means services or labor, excluding repair

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

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

"Equivalent Excise Tax" means either:

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

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

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

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

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

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

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

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

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

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

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

"Manufacturer" means a person engaged or continuing in the business of fabricating, producing, or manufacturing products, wares, or articles for use from other forms of tangible personal property, imparting to such new forms, qualities, properties, and combinations.

"Mining and Metallurgical Supplies" means all tangible personal property acquired by persons engaged in activities defined in Section 8A-432 for such use. This definition shall not include:

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

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

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

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

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

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

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

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

- (1) The order is placed from without the State of Arizona; and
- (2) the order is placed by other than a resident of the State to be determined in a manner similar to "resides within the Town"; and
- (3) the property is delivered to the buyer at a location outside the State; and
- (4) the property is purchased for use outside the State.

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

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

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

- (1) any man-made device for support or replacement of a part of the body, or to increase acuity of one of the senses. Such items include: prescription eyeglasses; contact lenses; hearing aids; artificial limbs or teeth; neck, back, arm, leg, or similar braces.
- (2) insulin, insulin syringes, and glucose test strips sold with or without a prescription.
- (3) hospital beds, crutches, wheelchairs, similar home health aids, or corrective shoes.
- (4) drugs or medicine, including oxygen.
- (5) equipment used to generate, monitor, or provide health support systems, such as

- respiratory equipment, oxygen concentrator, dialysis machine.
- (6) durable medical equipment which has a federal Health Care Financing Administration common procedure code, is designated reimbursable by Medicare, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

"Qualifying Community Health Center"

- (a1) means an entity that is recognized as nonprofit under Section 501(c)(3) of the United States Internal Revenue Code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:
- (1a) the sole provider of primary care in the community.
- (2b) a nonhospital affiliated clinic that is located in a federally designated medically underserved area in this State.
- (b2) includes clinics that are being constructed as qualifying community health centers.

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

"Qualifying Hospital" means any of the following:

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

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

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

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

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

"Rental Supply" means an expendable or nonexpendable repair or replacement part sold to become part

of "rental equipment", provided that:

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

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

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

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

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

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

"Sale" means any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, including consignment transactions and auctions, of property for a consideration. "Sale" includes any transaction whereby the possession of such property is transferred but the seller retains the title as security for the payment of the price. "Sale" also includes the fabrication of tangible personal property for consumers who, in whole or in part, furnish either directly or indirectly the materials used in such fabrication work.

"Speculative Builder" means either:

- (1) an owner-builder who sells or contracts to sell, at anytime, improved real property (as provided in Section 8A-416) consisting of:
 - A) custom, model, or inventory homes, regardless of the stage of completion of such homes; or
 - B) improved residential or commercial lots without a structure; or
- (2) an owner-builder who sells or contracts to sell improved real property, other than improved real property specified in subsection (1) above:
 - A) prior to completion; or
 - B) before the expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete.

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

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

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

"Tax Collector" means the Common Council of the Town of Payson or their designee or agent for all purposes under this Chapter.

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

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

"TRANSIENT" MEANS ANY PERSON WHO EITHER AT THE PERSON'S OWN EXPENSE OR AT THE EXPENSE OF ANOTHER OBTAINS LODGING SPACE OR THE USE OF LODGING SPACE ON A DAILY OR WEEKLY BASIS, OR ON ANY OTHER BASIS FOR LESS THAN THIRTY (30) CONSECUTIVE DAYS.

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

Section 2. Section 8A-266 of the Tax Code of the Town of Payson is amended to read:

Sec. 8A-266. Exclusion of motor carrier revenues from gross income.

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

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

Section 3. Section 8A-410 of the Tax Code of the Town of Payson is amended to read:

Sec. 8A-410. Amusements, exhibitions, and similar activities.

- (a) The tax rate shall be at an amount equal to two and twelve one-hundredths percent (2.12%) of the gross income from the business activity upon every person engaging or continuing in THE BUSINESS OF PROVIDING AMUSEMENT THAT BEGINS IN THE TOWN OR TAKES PLACE ENTIRELY WITHIN THE TOWN, WHICH INCLUDES the following type or nature of businesses:
- (1) operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, skating rinks, tennis courts, golf courses, video games, pinball machines, public dances, dance halls, sports events, jukeboxes, batting and driving ranges, animal rides, or any other business charging admission for exhibition, amusement, or entertainment.
 - (2) (Reserved)
- (b) ~~(Reserved)~~ DEDUCTIONS OR EXEMPTIONS. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE FOLLOWING SOURCES IS EXEMPT FROM THE TAX IMPOSED BY THIS SECTION:
- (1) (RESERVED)
 - (2) AMOUNTS RETAINED BY THE ARIZONA EXPOSITION AND STATE FAIR BOARD FROM RIDE TICKET SALES AT THE ANNUAL ARIZONA STATE FAIR.
 - (3) INCOME RECEIVED FROM A HOTEL BUSINESS SUBJECT TO TAX UNDER SECTION 8A-444, IF ALL OF THE FOLLOWING APPLY:
 - (A) THE HOTEL BUSINESS RECEIVES GROSS INCOME FROM A CUSTOMER FOR THE SPECIFIC BUSINESS ACTIVITY OTHERWISE SUBJECT TO AMUSEMENT TAX.
 - (B) THE CONSIDERATION RECEIVED BY THE HOTEL BUSINESS IS EQUAL TO OR GREATER THAN THE AMOUNT TO BE DEDUCTED UNDER THIS SUBSECTION.
 - (C) THE HOTEL BUSINESS HAS PROVIDED AN EXEMPTION CERTIFICATE TO THE PERSON ENGAGING IN BUSINESS UNDER THIS SECTION.
 - (4) INCOME THAT IS SPECIFICALLY INCLUDED AS THE GROSS INCOME OF A BUSINESS ACTIVITY UPON WHICH ANOTHER SECTION OF THIS ARTICLE IMPOSES A TAX, THAT IS SEPARATELY STATED TO THE CUSTOMER AND IS TAXABLE TO THE PERSON ENGAGED IN THAT CLASSIFICATION NOT TO EXCEED CONSIDERATION PAID TO THE PERSON CONDUCTING THE ACTIVITY.
 - (5) INCOME FROM ARRANGING TRANSPORTATION CONNECTED TO AMUSEMENT ACTIVITY THAT IS SEPARATELY STATED TO THE CUSTOMER, NOT TO EXCEED CONSIDERATION PAID TO THE TRANSPORTATION BUSINESS.
- (c) THE TAX IMPOSED BY THIS SECTION SHALL NOT INCLUDE ARRANGING AN AMUSEMENT ACTIVITY AS A SERVICE TO A PERSON'S CUSTOMERS IF THAT PERSON IS NOT OTHERWISE ENGAGED IN THE BUSINESS OF OPERATING OR CONDUCTING AN AMUSEMENT THEMSELVES OR THROUGH OTHERS. THIS EXCEPTION DOES NOT APPLY TO BUSINESSES THAT OPERATE OR CONDUCT AMUSEMENTS PURSUANT TO CUSTOMER ORDERS AND SEND THE BILLINGS AND RECEIVE THE PAYMENTS ASSOCIATED WITH THAT ACTIVITY, INCLUDING WHEN THE AMUSEMENT IS PERFORMED BY THIRD PARTY INDEPENDENT CONTRACTORS. FOR THE PURPOSES OF THIS PARAGRAPH, "ARRANGING" INCLUDES BILLING FOR OR COLLECTING AMUSEMENT CHARGES FROM A PERSON'S CUSTOMERS ON BEHALF OF THE PERSONS PROVIDING THE AMUSEMENT.

Section 4. Section 8A-415 of the Tax Code of the Town of Payson is amended to read:

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

- (a) The tax rate shall be at an amount equal to two and twelve one-hundredths percent (2.12%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the Town.
- (1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.
 - (2) (Reserved)
 - (3) gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 8A-427.
- (b) Deductions and exemptions.
- (1) Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.
 - (2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).
 - (3) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
 - (A) Section 8A-465, subsections (g) and (p)
 - (B) (Reserved)shall be exempt or deductible, respectively, from the tax imposed by this Section.
 - (4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 8A-110, that is deducted from the retail classification pursuant to Section 8A-465(g) that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:
 - (A) to be incorporated into real property.
 - (B) to become so affixed to real property that it becomes part of the real property.
 - (C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
 - (5) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
 - (6) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 8A-465, subsection (g) shall be exempt from the tax imposed under this Section.
 - (7) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
 - (8) The gross proceeds of sales or gross income received from a post construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this Section.
 - (9) THROUGH DECEMBER 31, 2009, THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A CONTRACT FOR CONSTRUCTING ANY LAKE FACILITY DEVELOPMENT IN A COMMERCIAL ENHANCEMENT REUSE DISTRICT THAT IS DESIGNATED PURSUANT TO A.R.S. § 9-499.08 IF THE

CONTRACTOR MAINTAINS THE FOLLOWING RECORDS IN A FORM SATISFACTORY TO THE ARIZONA DEPARTMENT OF REVENUE AND TO THE TOWN:

- (A) THE CERTIFICATE OF QUALIFICATION OF THE LAKE FACILITY DEVELOPMENT ISSUED BY THE TOWN PURSUANT TO A.R.S. § 9-499.08, SUBSECTION D.
 - (B) ALL STATE AND LOCAL TRANSACTION PRIVILEGE TAX RETURNS FOR THE PERIOD OF TIME DURING WHICH THE CONTRACTOR RECEIVED GROSS PROCEEDS OF SALES OR GROSS INCOME FROM A CONTRACT TO CONSTRUCT A LAKE FACILITY DEVELOPMENT IN A DESIGNATED COMMERCIAL ENHANCEMENT REUSE DISTRICT, SHOWING THE AMOUNT EXEMPTED FROM STATE AND LOCAL TAXATION.
 - (C) ANY OTHER INFORMATION CONSIDERED TO BE NECESSARY.
- (10) DEVELOPMENT OR IMPACT FEES INCLUDED IN A CONSTRUCTION OR DEVELOPMENT CONTRACT FOR PAYMENT TO THE STATE OR LOCAL GOVERNMENT TO OFFSET GOVERNMENTAL COSTS OF PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY AND OTHER PUBLIC SERVICES TO A DEVELOPMENT.
- (c) **"Subcontractor"** means a construction contractor performing work for either:
- (1) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his Town Privilege License number.
 - (2) an owner-builder who has provided the subcontractor with a written declaration that:
 - (A) the owner-builder is improving the property for sale; and
 - (B) the owner-builder is liable for the tax for such construction contracting activity; and
 - (C) the owner-builder has provided the contractor his Town Privilege License number.
 - (3) a person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and set-up; and provided the subcontractor his Town Privilege License number.

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

Section 5. Section 8A-416 of the Tax Code of the Town of Payson is amended to read:

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

- (a) The tax shall be equal to two and twelve one-hundredths percent (2.12%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the Town.
- (1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.
 - (2) **"Improved Real Property"** means any real property:
 - (A) upon which a structure has been constructed; or
 - (B) where improvements have been made to land containing no structure (such as paving or landscaping); or
 - (C) which has been reconstructed as provided by Regulation; or
 - (D) where water, power, and streets have been constructed to the property line.
 - (3) **"Sale of Improved Real Property"** includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.
 - (4) **"Partially Improved Residential Real Property"**, as used in this Section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.
- (b) **Exclusions.**
- (1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.

- (2) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this Section.
 - (3) (Reserved)
 - (4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:
 - (A) The speculative builder purchasing the partially improved residential real property has a valid Town privilege license for construction contracting as a speculative builder; and
 - (B) At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the Town at the time of sale of the partially improved residential real property; and
 - (C) The seller also:
 - (i) maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and
 - (ii) retains a copy of the written declaration provided by the buyer for the transaction; and
 - (iii) is properly licensed with the Town as a speculative builder and provides the Town with the written declaration attached to the Town privilege tax return where he claims the exclusion.
- (c) Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions, relating to exemptions, deductions and tax credits:
- (1) Exemptions.
 - (A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
 - (i) Section 8A-465, subsections (g) and (p)
 - (ii) (Reserved)
 shall be exempt or deductible, respectively, from the tax imposed by this Section.
 - (B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
 - (C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 8A-465, subsection (g) shall be exempt from the tax imposed under this section.
 - (D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
 - (E) DEVELOPMENT OR IMPACT FEES INCLUDED IN A CONSTRUCTION OR DEVELOPMENT CONTRACT FOR PAYMENT TO THE STATE OR LOCAL GOVERNMENT TO OFFSET GOVERNMENTAL COSTS OF PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY AND OTHER PUBLIC SERVICES TO A DEVELOPMENT.
 - (2) Deductions.
 - (A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).
 - (B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 8A-110, that is deducted from the retail classification pursuant to Section 8A-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured

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

- (i) to be incorporated into real property.
- (ii) to become so affixed to real property that it becomes part of the real property.
- (iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(3) Tax credits.

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

- (A) A tax credit equal to the amount of town privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.
- (B) A tax credit equal to the amount of privilege taxes paid to this Town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.
- (C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

Section 6. Section 8A-417 of the Tax Code of the Town of Payson is amended to read:

Sec. 8A-417. Construction contracting: owner-builders who are not speculative builders.

- (a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to two and twelve one-hundredths percent (2.12%) of:
 - (1) the gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in Subsection 8A-415(c)(2); and
 - (2) the purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.
- (b) The tax liability of this Section is subject to the following provisions, relating to exemptions, deductions and tax credits:
 - (1) Exemptions.
 - (A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
 - (i) Section 8A-465, subsections (g) and (p)
 - (ii) (Reserved)shall be exempt or deductible, respectively, from the tax imposed by this Section.
 - (B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
 - (C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 8A-465, subsection (g) shall be exempt from the tax imposed under this Section.
 - (D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock,

livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.

- (E) DEVELOPMENT OR IMPACT FEES INCLUDED IN A CONSTRUCTION OR DEVELOPMENT CONTRACT FOR PAYMENT TO THE STATE OR LOCAL GOVERNMENT TO OFFSET GOVERNMENTAL COSTS OF PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY AND OTHER PUBLIC SERVICES TO A DEVELOPMENT.

(2) Deductions.

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

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

- (i) to be incorporated into real property.
- (ii) to become so affixed to real property that it becomes part of the real property.
- (iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(3) Tax credits.

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

- (A) A tax credit equal to the amount of town privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.
- (B) A tax credit equal to the amount of privilege taxes paid to this Town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.
- (C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

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

- (d) (Reserved)

Section 7. Section 8A-444 of the Tax Code of the Town of Payson is amended to read:

Sec. 8A-444. Hotels.

The tax rate shall be at an amount equal to two and twelve one-hundredths percent (2.12%) of the gross income from the business activity upon every person engaging or continuing in the business of operating a hotel charging for lodging and/or lodging space furnished to any:

(a) ~~(Reserved)~~ PERSON.

~~(b) Transient. "Transient" means any person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any lodging space in any hotel for which lodging or use of lodging space a charge is made.~~

(B) EXCLUSIONS. THE TAX IMPOSED BY THIS SECTION SHALL NOT INCLUDE:

- (1) INCOME DERIVED FROM INCARCERATING OR DETAINING PRISONERS WHO ARE UNDER THE JURISDICTION OF THE UNITED STATES, THIS STATE OR ANY OTHER STATE OR A POLITICAL SUBDIVISION OF THIS STATE OR OF ANY OTHER STATE IN A PRIVATELY OPERATED PRISON, JAIL OR DETENTION FACILITY.
- (2) GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS PROPERLY INCLUDED IN ANOTHER BUSINESS ACTIVITY UNDER THIS ARTICLE AND THAT IS TAXABLE TO THE PERSON ENGAGED IN THAT BUSINESS ACTIVITY, BUT THE GROSS PROCEEDS OF SALES OR GROSS INCOME TO BE DEDUCTED SHALL NOT EXCEED THE CONSIDERATION PAID TO THE PERSON CONDUCTING THE ACTIVITY.
- (3) GROSS PROCEEDS OF SALES OR GROSS INCOME FROM TRANSACTIONS OR ACTIVITIES THAT ARE NOT LIMITED TO TRANSIENTS AND THAT WOULD NOT BE TAXABLE IF ENGAGED IN BY A PERSON NOT SUBJECT TO TAX UNDER THIS ARTICLE.
- (4) GROSS PROCEEDS OF SALES OR GROSS INCOME FROM TRANSACTIONS OR ACTIVITIES THAT ARE NOT LIMITED TO TRANSIENTS AND THAT WOULD NOT BE TAXABLE IF ENGAGED IN BY A PERSON SUBJECT TO TAXATION UNDER SECTION 8A-410 OR SECTION 8A-475 DUE TO AN EXCLUSION, EXEMPTION OR DEDUCTION.
- (5) GROSS PROCEEDS OF SALES OR GROSS INCOME FROM COMMISSIONS RECEIVED FROM A PERSON PROVIDING SERVICES OR PROPERTY TO THE CUSTOMERS OF THE HOTEL. HOWEVER, SUCH COMMISSIONS MAY BE SUBJECT TO TAX UNDER SECTION 8A-445 OR SECTION 8A-450 AS RENTAL, LEASING OR LICENSING FOR USE OF REAL OR TANGIBLE PERSONAL PROPERTY.
- (6) INCOME FROM PROVIDING TELEPHONE, FAX OR INTERNET SERVICES TO CUSTOMERS AT AN ADDITIONAL CHARGE, THAT IS SEPARATELY STATED TO THE CUSTOMER AND IS SEPARATELY MAINTAINED IN THE HOTEL'S BOOKS AND RECORDS. HOWEVER, SUCH GROSS PROCEEDS OF SALES OR GROSS INCOME MAY BE SUBJECT TO TAX UNDER SECTION 8A-470 AS TELECOMMUNICATION SERVICES.

~~(c) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this State or of any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this Section.~~

Section 8. Section 8A-447 of the Tax Code of the Town of Payson is amended to read:

Sec. 8A-447. Rental, leasing, and licensing for use of real property: additional tax upon transient lodging.

In addition to the taxes levied as provided in Section 8A-444, there is hereby levied and shall be collected an additional tax in an amount equal to three percent (3%) of the gross income from the business activity of any hotel engaging or continuing within the Town in the business of charging for lodging and/or lodging space furnished to any transient. "Transient" means any person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any lodging space in any hotel for which lodging or use of lodging space a charge is made.

Section 9. Section 8A-450 of the Tax Code of the Town of Payson is amended to read:

Sec. 8A-450. Rental, leasing, and licensing for use of tangible personal property.

- (a) The tax rate shall be at an amount equal to two and twelve one-hundredths percent (2.12%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing, licensing for use, or renting tangible personal property for a consideration, including that which is semi-permanently or permanently installed within the Town as provided by Regulation.
- (b) Special provisions relating to long-term motor vehicle leases. A lease transaction involving a motor vehicle for a minimum period of twenty-four (24) months shall be considered to have occurred at the location of the motor vehicle dealership, rather than the location of the place of business of the lessor, even if the lessor's interest in the lease and its proceeds are sold, transferred, or otherwise assigned to a lease financing institution; provided further that the city or town where such motor vehicle dealership is located levies a Privilege Tax or an equivalent excise tax upon the transaction.
- (c) Gross income derived from the following transactions shall be exempt from Privilege Taxes imposed by this Section:
 - (1) rental, leasing, or licensing for use of tangible personal property to persons engaged or continuing in the business of leasing, licensing for use, or rental of such property.
 - (2) rental, leasing, or licensing for use of tangible personal property that is semi-permanently or permanently installed within another city or town that levies an equivalent excise tax on the transaction.
 - (3) rental, leasing, or licensing for use of film, tape, or slides to a theater or other person taxed under Section 8A-410, or to a radio station, television station, or subscription television system.
 - (4) rental, leasing, or licensing for use of the following:
 - (A) prosthetics.
 - (B) income-producing capital equipment.
 - (C) mining and metallurgical supplies.These exemptions include the rental, leasing, or licensing for use of tangible personal property which, if it had been purchased instead of leased, rented, or licensed by the lessee or licensee, would qualify as income-producing capital equipment or mining and metallurgical supplies.
 - (5) rental, leasing, or licensing for use of tangible personal property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or rental, leasing, or licensing for use of tangible personal property in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.
 - (6) separately billed charges for delivery, installation, repair, and/or maintenance as provided by Regulation.

- (7) charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services.
- (8) (Reserved)
- (9) rental, leasing, or licensing of aircraft that would qualify as aircraft acquired for use outside the State, as prescribed by Regulation, if such rental, leasing, or licensing had been a sale.
- (10) rental, leasing and licensing for use of an alternative fuel vehicle ~~as defined in A.R.S. Section 43-1086~~ if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

Section 10. Section 8A-455 of the Tax Code of the Town of Payson is amended to read:

Sec. 8A-455. Restaurants and Bars.

- (a) The tax rate shall be at an amount equal to two and twelve one-hundredths percent (2.12%) of the gross income from the business activity upon every person engaging or continuing in the business of preparing or serving food or beverage in a bar, cocktail lounge, restaurant, or similar establishment where articles of food or drink are prepared or served for consumption on or off the premises, including also the activity of catering. Cover charges and minimum charges must be included in the gross income of this business activity.
- (b) Caterers and other taxpayers subject to the tax who deliver food and/or serve such food off premises shall also be allowed to exclude separately charged delivery, set-up, and clean-up charges, provided that the charges are also maintained separately in the books and records. When a taxpayer delivers food and/or serves such food off premises, his regular business location shall still be deemed the location of the transaction for the purposes of the tax imposed by this Section.
- (c) The tax imposed by this Section shall not apply to sales to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
- (d) The tax imposed by this Section shall not apply to sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. § ~~42-1310-01(A)(48)~~ 5061(A)49, that serves the food and beverages to its passengers, without additional charge, for consumption in flight.
- (e) The tax imposed by this Section shall not apply to sales of prepared food, beverages, condiments or accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours.
- (f) For the purposes of this Section, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

Section 11. Section 8A-465 of the Tax Code of the Town of Payson is amended to read:

Sec. 8A-465. Retail sales: exemptions.

Income derived from the following sources is exempt from the tax imposed by Section 14-460:

- (a) sales of tangible personal property to a person regularly engaged in the business of selling such property.
- (b) out-of-Town sales or out-of-State sales.
- (c) charges for delivery, installation, or other direct customer services as prescribed by Regulation.
- (d) charges for repair services as prescribed by Regulation, when separately charged and separately maintained in the books and records of the taxpayer.
- (e) sales of warranty, maintenance, and service contracts, when separately charged and separately maintained in the books and records of the taxpayer.
- (f) sales of prosthetics.
- (g) sales of income-producing capital equipment.
- (h) sales of rental equipment and rental supplies.
- (i) sales of mining and metallurgical supplies.
- (j) sales of motor vehicle fuel and use fuel which are subject to a tax imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes; or sales of use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. Section 28-5739, or sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.
- (k) sales of tangible personal property to a construction contractor who holds a valid Privilege Tax License for engaging or continuing in the business of construction contracting where the tangible personal property sold is incorporated into any structure or improvement to real property as part of construction contracting activity.
- (l) sales of motor vehicles to nonresidents of this State for use outside this State if the vendor ships or delivers the motor vehicle to a destination outside this State.
- (m) sales of tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines, or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.
- (n) sales made directly to the Federal government to the extent of:
 - (1) one hundred percent (100%) of the gross income derived from retail sales made by a manufacturer, modifier, assembler, or repairer.
 - (2) fifty percent (50%) of the gross income derived from retail sales made by any other person.
- (o) sales to hotels, bars, restaurants, dining cars, lunchrooms, boarding houses, or similar establishments of articles consumed as food, drink, or condiment, whether simple, mixed, or compounded, where such articles are customarily prepared or served to patrons for consumption on or off the premises, where the purchaser is properly licensed and paying a tax under Section 8A-455 or the equivalent excise tax upon such income.
- (p) sales of tangible personal property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities

resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or sales of tangible personal property purchased in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.

- (q) food purchased with food stamps provided through the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 *et seq.*) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302; 42 United States Code Section 1786) but only to the extent that food stamps or food instruments were actually used to purchase such food.
- (r) (Reserved)
 - (1) (Reserved)
 - (2) (Reserved)
 - (3) (Reserved)
 - (4) (Reserved)
- (s) sales of groundwater measuring devices required by A.R.S. Section 45-604.
- (t) (Reserved)
- (u) sales of aircraft acquired for use outside the State, as prescribed by Regulation.
- (v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.
- (w) (Reserved)
- (x) (Reserved)
- (y) (Reserved)
- (z) gross income received for tangible personal property consisting of manufactured items destroyed by being subjected to destructive stress, strain or similar testing, for the purpose of developing engineering information or for the purpose of quality control, but only to the extent that a sale of said property would otherwise be exempt by the provisions of this Chapter.
- (aa) the sale of tangible personal property used in remediation contracting as defined in Section 8A-100 and Regulation 8A-100.5.
- (bb) sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:
 - (1) printed or photographic materials.
 - (2) electronic or digital media materials.
- (cc) sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. § 42-5061(A)(5049), that serves the food and beverages to its passengers, without additional charge, for consumption in flight. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
- (dd) in computing the tax base in the case of the sale or transfer of wireless telecommunication equipment as an inducement to a customer to enter into or continue a contract for telecommunication services that are taxable under Section 8A-470, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the

retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

- (ee) for the purposes of this Section, a sale of wireless telecommunication equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under Section 8A-470 is considered to be a sale for resale in the regular course of business.
- (ff) sales of alternative fuel as defined in A.R.S. § 1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. § 49-426 or § 49-480.
- (gg) sales of food, beverages, condiments and accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
- (hh) sales of personal hygiene items to a person engaged in the business of and subject to tax under Section 8A-444 of this code if the tangible personal property is furnished without additional charge to and intended to be consumed by the person during his occupancy.
- (ii) For the purposes of this Section, the diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.
- (jj) Sales of food, beverages, condiments and accessories to a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
- ~~(kk) (Reserved)~~
- ~~(#) (kk)~~ sales of motor vehicles that use alternative fuel as defined in A.R.S. § 43-1086 if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and sales of equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. § 1-215.

Section 12. Section 8A-470 of the Tax Code of the Town of Payson is amended to read:

Sec. 8A-470. Telecommunication services.

- (a) The tax rate shall be at an amount equal to two and twelve one-hundredths percent (2.12%) of the gross income from the business activity upon every person engaging or continuing in the business of providing telecommunication services to consumers within this Town.
- (1) Telecommunication services shall include:
- (A) two-way voice, sound, and/or video communication over a communications channel.
 - (B) one-way voice, sound, and/or video transmission or relay over a communications channel.
 - (C) facsimile transmissions.
 - (D) providing relay or repeater service.
 - (E) providing computer interface services over a communications channel.
 - (F) time-sharing activities with a computer accomplished through the use of a communications channel.
- (2) Gross income from the business activity of providing telecommunication services to consumers within this Town shall include:
- (A) all fees for connection to a telecommunication system.
 - (B) toll charges, charges for transmissions, and charges for other telecommunications services; provided that such charges relate to transmissions originating in the Town and terminating in this State.
 - (C) fees charged for access to or subscription to or membership in a telecommunication system or network.
 - (D) charges for monitoring services relating to a security or burglar alarm system located within the Town where such system transmits or receives signals or data over a communications channel.
 - (E) CHARGES FOR TELEPHONE, FAX OR INTERNET ACCESS SERVICES PROVIDED AT AN ADDITIONAL CHARGE BY A HOTEL BUSINESS SUBJECT TO TAXATION UNDER SECTION 8A-444.
- (b) Resale telecommunication services. Gross income from sales of telecommunication services to another provider of telecommunication services for the purpose of providing the purchaser's customers with such service shall be exempt from the tax imposed by this Section; provided, however, that such purchaser is properly licensed by the Town to engage in such business.
- (c) Interstate transmissions. Charges by a provider of telecommunication services for transmissions originating in the Town and terminating outside the State are exempt from the tax imposed by this Section.
- (d) (Reserved)
- (e) However, gross income from the providing of telecommunication services by a cable television system, as such system is defined in A.R.S. Section 9-505, shall be exempt from the tax imposed by this Section.
- (f) Prepaid calling cards. Telecommunications services purchased with a prepaid calling card that are taxable under Section 8A-460 are exempt from the tax imposed under this Section.
- (g) Internet Access Services - the gross income subject to tax under this section shall not include sales of internet access services to the person's subscribers and customers. For the purposes of this subsection:
- (1) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.
 - (2) "Internet Access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.

Section 13. Section 8A-475 of the Tax Code of the Town of Payson is amended to read:

Sec. 8A-475. Transporting for hire.

The tax rate shall be at an amount equal to two and twelve one-hundredths percent (2.12%) of the gross income from the business activity upon every person engaging or continuing in the business of providing the following forms of transportation for hire from this Town to another point within the State:

- (a) transporting of persons or property by railroad; provided, however, that the tax imposed by this subsection shall not apply to transporting freight or property for hire by a railroad operating exclusively in this State if the transportation comprises a portion of a single shipment of freight or property, involving more than one railroad, either from a point in this State to a point outside this State or from a point outside this State to a point in this State. For purposes of this paragraph, "a single shipment" means the transportation that begins at the point at which one of the railroads first takes possession of the freight or property and continues until the point at which one of the railroads relinquishes possession of the freight or property to a party other than one of the railroads.
- (b) transporting of oil or natural or artificial gas through pipe or conduit.
- (c) transporting of property by aircraft.
- (d) transporting of persons or property by motor vehicle, including towing and the operation of private car lines, as such are defined in Article VII, Chapter 14, Title 42, Arizona Revised Statutes; provided, however, that the tax imposed by this subsection shall not apply to:
 - (1) gross income subject to the tax imposed by Article IV, Chapter 16, Title 28, Arizona Revised Statutes.
 - (2) gross income derived from the operation of a governmentally adopted and controlled program to provide urban mass transportation.
 - (3) (Reserved)
 - (4) (Reserved)
- (E) (RESERVED)
- (F) DEDUCTIONS OR EXEMPTIONS. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE FOLLOWING SOURCES IS EXEMPT FROM THE TAX IMPOSED BY THIS SECTION:
 - (1) INCOME THAT IS SPECIFICALLY INCLUDED AS THE GROSS INCOME OF A BUSINESS ACTIVITY UPON WHICH ANOTHER SECTION OF ARTICLE IV IMPOSES A TAX, THAT IS SEPARATELY STATED TO THE CUSTOMER AND IS TAXABLE TO THE PERSON ENGAGED IN THAT CLASSIFICATION NOT TO EXCEED CONSIDERATION PAID TO THE PERSON CONDUCTING THE ACTIVITY.
 - (2) INCOME FROM ARRANGING AMUSEMENT OR TRANSPORTATION WHEN THE AMUSEMENT OR TRANSPORTATION IS CONDUCTED BY ANOTHER PERSON NOT TO EXCEED CONSIDERATION PAID TO THE AMUSEMENT OR TRANSPORTATION BUSINESS.
- (G) THE TAX IMPOSED BY THIS SECTION SHALL NOT INCLUDE ARRANGING TRANSPORTATION AS A CONVENIENCE TO A PERSON'S CUSTOMERS IF THAT PERSON IS NOT OTHERWISE ENGAGED IN THE BUSINESS OF TRANSPORTING PERSONS, FREIGHT OR PROPERTY FOR HIRE. THIS EXCEPTION DOES NOT APPLY TO BUSINESSES THAT DISPATCH VEHICLES PURSUANT TO CUSTOMER ORDERS AND SEND THE BILLINGS AND RECEIVE THE PAYMENTS ASSOCIATED WITH THAT ACTIVITY, INCLUDING WHEN THE TRANSPORTATION IS PERFORMED BY THIRD PARTY INDEPENDENT CONTRACTORS. FOR THE PURPOSES OF THIS PARAGRAPH, "ARRANGING" INCLUDES BILLING FOR OR COLLECTING TRANSPORTATION CHARGES FROM A PERSON'S CUSTOMERS ON BEHALF OF THE PERSONS PROVIDING THE TRANSPORTATION.

Section 14. Regulation 8A-447.1 of the Tax Code of the Town of Payson is amended to read:

Regulation 8A-447.1 of the Tax Code of the Town of Payson is repealed.