

Proposed Changes to the Model City Tax Code

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

Sec. -120. (Reserved)

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

Sec. -200. Determination of gross income: in general.

(a) Gross income includes:

- (1) the value proceeding or accruing from the sale of property, the providing of service, or both.
(2) the total amount of the sale, lease, license for use, or rental price at the time of such sale, rental, lease, or license.
(3) all receipts, cash, credits, barter, exchange, reduction of or forgiveness of indebtedness, and property of every kind or nature derived from a sale, lease, license for use, rental, or other taxable activity.
(4) all other receipts whether payment is advanced prior to, contemporaneous with, or deferred in whole or in part subsequent to the activity or transaction.

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

(c) No deduction or exclusion is allowed from gross income on account of the cost of the property sold, the time value of money, expense of any kind or nature,

Deleted: **(Sec. -120. Definitions: food for home consumption.¶ For the purposes of this Section only, the following definitions shall be applicable:¶ "Eligible grocery business" means an establishment whose sales of food are such that it is eligible to participate in the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.), according to regulations in effect on January 1, 1979. An establishment is deemed eligible to participate in the Food Stamp Program if it is authorized to participate in the program by the United States Department of Agriculture Food and Nutrition Service Field Office on the effective date of this Section, or if, prior to a reporting period for which the return is filed, such retailer proves to the satisfaction of the Tax Collector that the establishment, based on the nature of the retailer's food sales, could be eligible to participate in the food stamp program established by the Food Stamp Act of 1977 according to regulations in effect on January 1, 1979.¶ "Facilities for the consumption of food" means tables, chairs, benches, booths, stools, counters, and similar conveniences, trays, glasses, dishes, or other tableware and parking areas for the convenience of in-car consumption of food in or on the premises on which the retailer conducts business.¶ "Food for consumption on the premises" means any of the following:¶ "Hot prepared food" as defined below.¶ Hot or cold sandwiches.¶ Food served by an attendant to be eaten at tables, chairs, benches, booths, stools, counters, and similar conveniences and within parking areas for the convenience of in-car consumption of food.¶ Food served with trays, glasses, dishes, or other tableware.¶ Beverages sold in cups, glasses, or open containers.¶ Food sold by caterers.¶ Food sold within the premises of theatres, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, fairs, races, contests, games, athletic events, rodeos, billiard and pool parlors, bowling alleys, public dances, dance halls, boxing, wrestling and other matches, and any business which charges admission, entrance, or cover fees for exhibition, amuse... [1]

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1 losses, materials used, labor or service performed, interest paid, or credits
2 granted.

- 3 (d) FOR THE PURPOSES OF THIS CHAPTER THE TOTAL AMOUNT OF GROSS
4 INCOME, GROSS RECEIPTS OR GROSS PROCEEDS OF SALES FOR
5 NUCLEAR FUEL SHALL BE DEEMED TO BE THE VALUE OF THE
6 PURCHASE PRICE OF URANIUM OXIDE USED IN PRODUCING THE FUEL.
7 THE TAX IMPOSED BY THIS CHAPTER MAY BE IMPOSED ONLY ONCE FOR
8 ANY ONE QUANTITY OR BATCH OF NUCLEAR FUEL REGARDLESS OF THE
9 NUMBER OF TRANSACTIONS OR FINANCING ARRANGEMENTS WHICH
10 MAY OCCUR WITH RESPECT TO THAT NUCLEAR FUEL.

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

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:

(1) "ELIGIBLE GROCERY BUSINESS" MEANS AN ESTABLISHMENT
WHOSE SALES OF FOOD ARE SUCH THAT IT IS ELIGIBLE TO
PARTICIPATE IN THE FOOD STAMP PROGRAM ESTABLISHED BY
THE FOOD STAMP ACT OF 1977 (P.L. 95-113; 91 STAT. 958.7 U.S.C.
SECTION 2011 ET SEQ.), ACCORDING TO REGULATIONS IN EFFECT
ON JANUARY 1, 1979. AN ESTABLISHMENT IS DEEMED ELIGIBLE
TO PARTICIPATE IN THE FOOD STAMP PROGRAM IF IT IS
AUTHORIZED TO PARTICIPATE IN THE PROGRAM BY THE UNITED
STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION
SERVICE FIELD OFFICE ON THE EFFECTIVE DATE OF THIS
SECTION, OR IF, PRIOR TO A REPORTING PERIOD FOR WHICH THE
RETURN IS FILED, SUCH RETAILER PROVES TO THE

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1 SATISFACTION OF THE TAX COLLECTOR THAT THE
2 ESTABLISHMENT, BASED ON THE NATURE OF THE RETAILER'S
3 FOOD SALES, COULD BE ELIGIBLE TO PARTICIPATE IN THE FOOD
4 STAMP PROGRAM ESTABLISHED BY THE FOOD STAMP ACT OF
5 1977 ACCORDING TO REGULATIONS IN EFFECT ON JANUARY 1,
6 1979.

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

13 (3) "FOOD FOR CONSUMPTION ON THE PREMISES" MEANS ANY OF
14 THE FOLLOWING:

- 15 (A) "HOT PREPARED FOOD" AS DEFINED BELOW.
16 (B) HOT OR COLD SANDWICHES.
17 (C) FOOD SERVED BY AN ATTENDANT TO BE EATEN AT
18 TABLES, CHAIRS, BENCHES, BOOTHS, STOOLS, COUNTERS,
19 AND SIMILAR CONVENIENCES AND WITHIN PARKING AREAS
20 FOR THE CONVENIENCE OF IN-CAR CONSUMPTION OF
21 FOOD.
22 (D) FOOD SERVED WITH TRAYS, GLASSES, DISHES, OR OTHER
23 TABLEWARE.
24 (E) BEVERAGES SOLD IN CUPS, GLASSES, OR OPEN
25 CONTAINERS.

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- (F) FOOD SOLD BY CATERERS.
- (G) FOOD SOLD WITHIN THE PREMISES OF THEATRES, MOVIES, OPERAS, SHOWS OF ANY TYPE OR NATURE, EXHIBITIONS, CONCERTS, CARNIVALS, CIRCUSES, AMUSEMENT PARKS, FAIRS, RACES, CONTESTS, GAMES, ATHLETIC EVENTS, RODEOS, BILLIARD AND POOL PARLORS, BOWLING ALLEYS, PUBLIC DANCES, DANCE HALLS, BOXING, WRESTLING AND OTHER MATCHES, AND ANY BUSINESS WHICH CHARGES ADMISSION, ENTRANCE, OR COVER FEES FOR EXHIBITION, AMUSEMENT, ENTERTAINMENT, OR INSTRUCTION.
- (H) ANY ITEMS CONTAINED IN SUBSECTIONS (A)(3)(A) THROUGH (G) ABOVE EVEN THOUGH THEY ARE SOLD ON A "TAKE-OUT" OR "TO GO" BASIS, AND WHETHER OR NOT THE ITEM IS PACKAGED, WRAPPED, OR IS ACTUALLY TAKEN FROM THE PREMISES.
- (4) "HOT PREPARED FOOD" MEANS THOSE PRODUCTS, ITEMS, OR INGREDIENTS OF FOOD WHICH ARE PREPARED AND INTENDED FOR CONSUMPTION IN A HEATED CONDITION. "HOT PREPARED FOOD" INCLUDES A COMBINATION OF HOT AND COLD FOOD ITEMS OR INGREDIENTS IF A SINGLE PRICE HAS BEEN ESTABLISHED.
- (5) "PREMISES" MEANS THE TOTAL SPACE AND FACILITIES IN OR ON WHICH A VENDOR CONDUCTS BUSINESS AND WHICH ARE OWNED OR CONTROLLED, IN WHOLE OR IN PART, BY A VENDOR OR WHICH ARE MADE AVAILABLE FOR THE USE OF CUSTOMERS OF

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1 THE VENDOR OR GROUP OF VENDORS, INCLUDING ANY BUILDING
2 OR PART OF A BUILDING, PARKING LOT, OR GROUNDS.

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

6 (A) AN ELIGIBLE GROCERY BUSINESS.

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

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

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

23 (E) VENDING MACHINES AND OTHER TYPES OF AUTOMATIC
24 RETAILERS.

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1 (F) A PERSON'S SALES OF FOOD, DRINK AND CONDIMENT FOR
2 CONSUMPTION WITHIN THE PREMISES OF ANY PRISON,
3 JAIL OR OTHER INSTITUTION UNDER THE JURISDICTION OF
4 THE STATE DEPARTMENT OF CORRECTIONS, THE
5 DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF
6 JUVENILE CORRECTIONS OR A COUNTY SHERIFF.

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

- 9 (1) SALES OF FOOD FOR HOME CONSUMPTION TO A PERSON
10 REGULARLY ENGAGED IN THE BUSINESS OF SELLING SUCH
11 PROPERTY.
- 12 (2) OUT-OF-CITY SALES OR OUT-OF-STATE SALES.
- 13 (3) CHARGES FOR DELIVERY OR OTHER "DIRECT CUSTOMER
14 SERVICES" AS PRESCRIBED BY REGULATION.
- 15 (4) FOOD PURCHASED WITH FOOD STAMPS PROVIDED THROUGH
16 THE FOOD STAMP PROGRAM ESTABLISHED BY THE FOOD STAMP
17 ACT OF 1977 (P.L. 95-113; 91 STAT. 958.7 U.S.C. SECTION 2011 ET
18 SEQ.) OR PURCHASED WITH FOOD INSTRUMENTS ISSUED UNDER
19 SECTION 17 OF THE CHILD NUTRITION ACT (P.L. 95-627; 92 STAT.
20 3603; AND P.L. 99-669; SECTION 4302; 42 UNITED STATES CODE
21 SECTION 1786) BUT ONLY TO THE EXTENT THAT FOOD STAMPS
22 OR FOOD INSTRUMENTS WERE ACTUALLY USED TO PURCHASE
23 SUCH FOOD.
- 24 (5) SALES OF FOOD PRODUCTS BY PRODUCERS AS PROVIDED FOR
25 BY A.R.S. SECTIONS 3-561, 3-562 AND 3-563.

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

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

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1 (d) REPORTING. SUCH PERSONS WHO SELL FOOD FOR HOME
2 CONSUMPTION SHALL, IN CONJUNCTION WITH THE RETURN REQUIRED
3 PURSUANT TO SECTION, -520, REPORT TO THE TAX COLLECTOR IN A
4 MANNER PRESCRIBED BY THE TAX COLLECTOR ALL SALES OF FOOD
5 FOR HOME CONSUMPTION EXEMPTED FROM TAXES IMPOSED BY THIS
6 CHAPTER.

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7 (e) RECORDKEEPING.

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

19 (2) ANY PERSON WHO FAILS TO MAINTAIN RECORDS AS PROVIDED
20 HEREIN SHALL BE DEEMED TO HAVE HAD NO SALES OF FOOD
21 FOR HOME CONSUMPTION, AND IF UPON REQUEST BY THE TAX
22 COLLECTOR, A PERSON CANNOT DEMONSTRATE TO THE TAX
23 COLLECTOR THAT SUCH RECORDS AND REPORTS DO PROPERLY
24 REFLECT ALL SALES OF FOOD FOR HOME CONSUMPTION, THE

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TAX COLLECTOR MAY RECOMPUTE THE AMOUNT OF TAX TO BE
PAID AS PROVIDED IN SECTIONS -370 AND -545(B).

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**Section IV. Model City Tax Code Section -465 is amended as follows, with an
effective date of July 1, 2013.**

Sec. -465. Retail sales: exemptions.

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

- (a) sales of tangible personal property to a person regularly engaged in the business of selling such property.
- (b) out-of-City 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

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1 A.R.S. Section 28-5739, or sales of natural gas or liquefied petroleum gas used
2 to propel a motor vehicle.

3 (k) sales of tangible personal property to a construction contractor who holds a valid
4 Privilege Tax License for engaging or continuing in the business of construction
5 contracting where the tangible personal property sold is incorporated into any
6 structure or improvement to real property as part of construction contracting
7 activity.

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

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

16 (n) sales made directly to the Federal government to the extent of:
17 (1) one hundred percent (100%) of the gross income derived from retail sales
18 made by a manufacturer, modifier, assembler, or repairer.
19 (2) fifty percent (50%) of the gross income derived from retail sales made by
20 any other person.

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

22 (n) (Reserved)

23 (1) (Reserved)

24 (2) (Reserved))++

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

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

16 (q) ~~(RESERVED) (SEE MESA CITY PAGE)~~

17
18 ****((r)** sales of the following to persons engaging or continuing in the business of
19 farming, ranching, or feeding livestock, poultry or ratites:
20 (1) seed, fertilizer, fungicides, seed treating chemicals, and other similar
21 chemicals.
22 (2) feed for livestock, poultry or ratites, including salt, vitamins, and other
23 additives to such feed.

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

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

4 (4) (Reserved)

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

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

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

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

15 (1) (Reserved)

16 (2) (Reserved)

17 (3) (Reserved)

18 (4) **(RESERVED)****

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

20 (t) (Reserved)

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

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

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

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

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

6 (w) (Reserved)

7 ++(Local Option #Z:

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

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

14 (y) (Reserved)

15 (z) (Reserved)

16 ++(Local Option #CC:

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

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

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

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

3 (1) printed or photographic materials.

4 (2) electronic or digital media materials.

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

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

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

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

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- 1 continuing basis at no cost. For the purposes of this subsection, "accessories"
2 means paper plates, plastic eating utensils, napkins, paper cups, drinking straws,
3 paper sacks or other disposable containers, or other items which facilitate the
4 consumption of the food.
- 5 (kk) sales of motor vehicles that use alternative fuel if such vehicle was manufactured
6 as a diesel fuel vehicle and converted to operate on alternative fuel and sales of
7 equipment that is installed in a conventional diesel fuel motor vehicle to convert
8 the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.
- 9 (ll) sales of solar energy devices, for taxable periods beginning from and after July 1,
10 2008. The retailer shall register with the department of revenue as a solar energy
11 retailer. By registering, the retailer acknowledges that it will make its books and
12 records relating to sales of solar energy devices available to the department of
13 revenue and city, as applicable, for examination.
- 14 (mm) sales or other transfers of renewable energy credits or any other unit created to
15 track energy derived from renewable energy resources. For the purposes of this
16 paragraph, "renewable energy credit" means a unit created administratively by
17 the corporation commission or governing body of a public power utility to track
18 kilowatt hours of electricity derived from a renewable energy resource or the
19 kilowatt hour equivalent of conventional energy resources displaced by
20 distributed renewable energy resources.
- 21 (nn) sales of magazines or other periodicals or other publications by this state to
22 encourage tourist travel.
- 23 (oo) sales of paper machine clothing, such as forming fabrics and dryer felts, sold to a
24 paper manufacturer and directly used or consumed in paper manufacturing.

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- 1 (pp) sales of overhead materials or other tangible personal property that is used in
2 performing a contract between the United States government and a
3 manufacturer, modifier, assembler or repairer, including property used in
4 performing a subcontract with a government contractor who is a manufacturer,
5 modifier, assembler or repairer, to which title passes to the government under the
6 terms of the contract or subcontract.
- 7 (qq) sales of coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a
8 qualified environmental technology manufacturer, producer or processor as
9 defined in A.R.S. Section 41-1514.02 and directly used or consumed in the
10 generation or provision of on-site power or energy solely for environmental
11 technology manufacturing, producing or processing or environmental protection.
12 This paragraph shall apply for twenty full consecutive calendar or fiscal years
13 from the date the first paper manufacturing machine is placed in service. In the
14 case of an environmental technology manufacturer, producer or processor who
15 does not manufacture paper, the time period shall begin with the date the first
16 manufacturing, processing or production equipment is placed in service.
- 17 (rr) sales or gross income derived from sales of machinery, equipment, materials and
18 other tangible personal property used directly and predominantly to construct a
19 qualified environmental technology manufacturing, producing or processing
20 facility as described in A.R.S. section 41-1514.02. This subsection applies for ten
21 full consecutive calendar or fiscal years after the start of initial construction.
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Proposed Changes to the Model City Tax Code

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

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4 **Sec. -485. WASTEWATER REMOVAL SERVICES**

Deleted: (Reserved) - (See Mesa, Phoenix and Scottsdale city pages)

5 (a) THE TAX RATE SHALL BE AN AMOUNT EQUAL TO _____ PERCENT (_____ %)
6 OF THE GROSS INCOME FROM THE BUSINESS ACTIVITY UPON EVERY
7 PERSON ENGAGING OR CONTINUING IN THE BUSINESS OF PROVIDING
8 WASTEWATER REMOVAL SERVICES FROM PREMISES, LOCATIONS, OR
9 FACILITIES LOCATED WITHIN THE CITY LIMITS BY MEANS OF SEWER
10 LINES OR SIMILAR PIPELINES.

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

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

Proposed Changes to the Model City Tax Code

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Sec. ____-660. Use tax: exemptions.

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

- (a) tangible personal property brought into the City by an individual who was not a resident of the City at the time the property was acquired for his own use, if the first actual use of such property was outside the City, unless such property is used in conducting a business in this City.
- (b) tangible personal property, the value of which does not exceed the amount of one thousand dollars (\$1,000) per item, acquired by an individual outside the limits of the City for his personal use and enjoyment.
- (c) charges for delivery, installation, or other customer services, as prescribed by Regulation.
- (d) charges for repair services, as prescribed by Regulation.
- (e) separately itemized charges for warranty, maintenance, and service contracts.
- (f) prosthetics.
- (g) income-producing capital equipment.
- (h) rental equipment and rental supplies.
- (i) mining and metallurgical supplies.
- (j) motor vehicle fuel and use fuel which are used upon the highways of this State and upon which a tax has been imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes.
- (k) tangible personal property purchased by a construction contractor, but not an owner-builder, when such person holds a valid Privilege License for engaging or continuing in the business of construction contracting, and where the property

Proposed Changes to the Model City Tax Code

1 acquired is incorporated into any structure or improvement to real property in
2 fulfillment of a construction contract.

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

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

11 (n) rental, leasing, or licensing for use of film, tape, or slides by a theater or other
12 person taxed under Section ___-410, or by a radio station, television station, or
13 subscription television system.

14 (o) food served to patrons for a consideration by any person engaged in a business
15 properly licensed and taxed under Section ___-455, but not food consumed by
16 owners, agents, or employees of such business.

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

21 (q) ~~(RESERVED) (SEE MESA CITY PAGE)~~

22
23 ****((r)** the following tangible personal property purchased by persons engaging or
24 continuing in the business of farming, ranching, or feeding livestock, poultry or
25 ratites:

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

Proposed Changes to the Model City Tax Code

- 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 acquired for the
- 11 purpose of becoming breeding or production stock, including the
- 12 acquisition of breedings or 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: (r) (Reserved)**

- 19 (1) (Reserved)
- 20 (2) (Reserved)
- 21 (3) (Reserved)
- 22 (4) **(RESERVED)****
- 23 (s) groundwater measuring devices required by A.R.S. Section 45-604.
- 24 (t) (Reserved)

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

Proposed Changes to the Model City Tax Code

- 1 (t) paintings, sculptures, or similar works of fine art, provided that such works of fine
2 art are purchased from the original artist; and provided further that "art creations",
3 such as jewelry, macrame, glasswork, pottery, woodwork, metalwork, furniture,
4 and clothing, when such "art creations" have a dual purpose, both aesthetic and
5 utilitarian, are not exempt, whether purchased from the artist or from another.)++
- 6 (u) aircraft acquired for use outside the State, as prescribed by Regulation.
- 7 (v) sales of food products by producers as provided for by A.R.S. Section 3-561, 3-
8 562 and 3-563.
- 9 (w) (Reserved)
- 10 **++(Local Option #Z:**
- 11 (w) textbooks required by any State university or community college, when acquired
12 from a bookstore.)++
- 13 (x) food and drink provided by a person who is engaged in business that is classified
14 under the restaurant classification without monetary charge to its employees for
15 their own consumption on the premises during such employees' hours of
16 employment.
- 17 (y) (Reserved)
- 18 **++(Local Option #HH:**
- 19 (y) Tangible personal property donated to an organization or entity qualifying as an
20 exempt organization under 26 U.S.C Section 501(c)(3); if and only if:
- 21 (1) the donor is engaged or continuing in a business activity subject to a tax
22 imposed by Article IV; and
- 23 (2) the donor originally purchased the donated property for resale in the
24 ordinary course of the donor's business; and

Proposed Changes to the Model City Tax Code

- 1 (3) the donor obtained from the donee a letter or other evidence satisfactory
2 to the Tax Collector of qualification under 26 U.S.C. Section 501(c)(3)
3 from the Internal Revenue Service or other appropriate federal agency;
4 and
5 (4) the donor maintains, and provides upon demand, such evidence to the
6 Tax Collector, in a manner similar to other documentation required under
7 Article III.)++

8 (z) (Reserved)

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

- 10 (z) tangible personal property used or stored by this City.)++
11 (aa) tangible personal property used in remediation contracting as defined in Section
12 ____-100 and Regulation ____-100.5.
13 (bb) materials that are purchased by or for publicly funded libraries including school
14 district libraries, charter school libraries, community college libraries, state
15 university libraries or federal, state, county or municipal libraries for use by the
16 public as follows:
17 (1) printed or photographic materials.
18 (2) electronic or digital media materials.
19 (cc) food, beverages, condiments and accessories used for serving food and
20 beverages by a commercial airline, as defined in A.R.S. Section 42-5061(A)(49),
21 that serves the food and beverages to its passengers, without additional charge,
22 for consumption in flight. For the purposes of this subsection, "accessories"
23 means paper plates, plastic eating utensils, napkins, paper cups, drinking straws,
24 paper sacks or other disposable containers, or other items which facilitate the
25 consumption of the food.

Proposed Changes to the Model City Tax Code

- 1 (dd) wireless telecommunication equipment that is held for sale or transfer to a
2 customer as an inducement to enter into or continue a contract for
3 telecommunication services that are taxable under Section ____-470.
- 4 (ee) (Reserved)
- 5 (ff) alternative fuel as defined in A.R.S. Section 1-215, by a used oil fuel burner who
6 has received a Department of Environmental Quality permit to burn used oil or
7 used oil fuel under A.R.S. Section 49-426 or Section 49-480.
- 8 (gg) food, beverages, condiments and accessories purchased by or for a public
9 educational entity, pursuant to any of the provisions of Title 15, Arizona Revised
10 Statutes, INCLUDING A REGULARLY ORGANIZED PRIVATE OR PAROCHIAL
11 SCHOOL THAT OFFERS AN EDUCATIONAL PROGRAM FOR GRADE
12 TWELVE OR UNDER WHICH MAY BE ATTENDED IN SUBSTITUTION FOR A
13 PUBLIC SCHOOL PURSUANT TO A.R.S. 15-802; to the extent such items are
14 to be prepared or served to individuals for consumption on the premises of a
15 public educational entity during school hours. For the purposes of this
16 subsection, "accessories" means paper plates, plastic eating utensils, napkins,
17 paper cups, drinking straws, paper sacks or other disposable containers, or other
18 items which facilitate the consumption of the food.
- 19 (hh) personal hygiene items purchased by a person engaged in the business of and
20 subject to tax under Section ____-444 of this code if the tangible personal property
21 is furnished without additional charge to and intended to be consumed by the
22 person during his occupancy.
- 23 (ii) the diversion of gas from a pipeline by a person engaged in the business of
24 operating a natural or artificial gas pipeline, for the sole purpose of fueling

Deleted: ,

Proposed Changes to the Model City Tax Code

- 1 compressor equipment to pressurize the pipeline, is not a sale of the gas to the
2 operator of the pipeline.
- 3 (jj) food, beverages, condiments and accessories purchased by or for a nonprofit
4 charitable organization that has qualified as an exempt organization under 26
5 U.S.C Section 501(c)(3) and regularly serves meals to the needy and indigent on
6 a continuing basis at no cost. For the purposes of this subsection, "accessories"
7 means paper plates, plastic eating utensils, napkins, paper cups, drinking straws,
8 paper sacks or other disposable containers, or other items which facilitate the
9 consumption of the food.
- 10 (kk) sales of motor vehicles that use alternative fuel if such vehicle was manufactured
11 as a diesel fuel vehicle and converted to operate on alternative fuel and sales of
12 equipment that is installed in a conventional diesel fuel motor vehicle to convert
13 the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215 .
- 14 (ll) The storage, use or consumption of tangible personal property in the city or town
15 by a school district or charter school.
- 16 (mm) renewable energy credits or any other unit created to track energy derived from
17 renewable energy resources. For the purposes of this paragraph, "renewable
18 energy credit" means a unit created administratively by the corporation
19 commission or governing body of a public power utility to track kilowatt hours of
20 electricity derived from a renewable energy resource or the kilowatt hour
21 equivalent of conventional energy resources displaced by distributed renewable
22 energy resources.
- 23 (nn) magazines or other periodicals or other publications by this state to encourage
24 tourist travel.

Proposed Changes to the Model City Tax Code

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

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Section VII. Model City Tax Code Regulation -120.1 is amended as follows, with an effective date of July 1, 2013.

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

Deleted: ~~*(Reg. ___-120.1. Food for home consumption: recordkeeping and reporting requirements.¶~~
Reporting. Such persons who sell food for home consumption shall, in conjunction with the return required pursuant to Section ___-520, report to the Tax Collector in a manner prescribed by the Tax Collector all sales of food for home consumption exempted from taxes imposed by this Chapter.¶
Recordkeeping.¶
Retailers shall maintain accurate, verifiable, and complete records of all purchases and sales of tangible personal property in order to verify exemptions from taxes imposed by this Chapter. A retailer may use any method of reporting that properly reflects all purchases and sales of food for home consumption, as well as all purchases and sales of items subject to taxes imposed by this Chapter, provided that such records are maintained in accordance with Article III, and regulations of the Tax Collector.¶
Any person who fails to maintain records as provided herein shall be deemed to have had no sales of food for home consumption, and if upon request by the Tax Collector, a person cannot demonstrate to the Tax Collector that such records and reports do properly reflect all sales of food for home consumption, the Tax Collector may recompute the amount of tax to be paid as provided in Sections ___-370 and ___-545(b).¶
Model Option #2: Reg. ___-120.1. (Reserved)¶**

Proposed Changes to the Model City Tax Code

1 **Reg. ___-270.1. Proprietary activities of municipalities are not considered activities of a**
2 **governmental entity.**

3 The following activities, when performed by a municipality, are considered to be activities of a
4 person engaged in business for the purposes of this Chapter, and not excludable by reason of

5 Section ___-270:

- 6 (a) rental, leasing, or licensing for use of real property to other than another
7 department or agency of the municipality.
- 8 (b) producing, providing, or furnishing electricity, electric lights, current, power, gas
9 (natural or artificial), or water to consumers or ratepayers.
- 10 (c) sale of tangible personal property to the public, when similar tangible personal
11 property is available for sale by other persons, as, for example, at police or
12 surplus auctions.
- 13 (d) ~~PROVIDING WASTEWATER REMOVAL SERVICES FROM PREMISES,~~
14 ~~LOCATIONS, OR FACILITIES LOCATED WITHIN THE CITY LIMITS BY~~
15 ~~MEANS OF SEWER LINES OR SIMILAR PIPELINES.~~

Deleted: (See Phoenix & Scottsdale
city pages)

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

23
24 **Reg. ___-460.1. Distinction between retail sales and certain other transfers of tangible**
25 **personal property.**

Proposed Changes to the Model City Tax Code

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

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

8 (2) (Reserved)

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

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

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

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

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

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

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

19 (8) ~~FOOD FOR HOME CONSUMPTION, PER SECTION ___-462.~~

20 (9) telecommunications services, per Section ___-470.

21 (10) utility services, per Section ___-480.

22 (11) ~~WASTEWATER REMOVAL SERVICES, PER SECTION ___-485.~~

Deleted: (See Phoenix & Scottsdale city pages)

23 (b) Distinction between construction contracting, retail, and certain direct customer
24 service activities.

Proposed Changes to the Model City Tax Code

- 1 (1) When an item is attached or installed on real property, it is a construction
2 contracting activity and any subsequent repair, removal, or replacement
3 of that item is construction contracting.
- 4 (2) Items attached or installed on tangible personal property are retail sales.
- 5 (3) Transactions where no tangible personal property is attached or installed
6 are considered direct customer service activities (for example: carpet
7 cleaning, lawn mowing, landscape maintenance).
- 8 (4) Demolition, earth moving, and wrecking activities are considered
9 construction contracting.
- 10 (c) The sale of sand, rock, and gravel extracted from the ground shall be deemed a
11 sale of tangible personal property and not mining or metallurgical activity.
- 12 (d) Sale of consumable goods incorporated into or applied to real property is
13 considered a retail sale and not construction contracting. Examples of
14 consumable goods are lubricants, faucet washers, and air conditioning coolant,
15 but not paint.
- 16 (e) Installation or removal of tangible personal property which has independent
17 functional utility is considered a retail activity.
- 18 (1) "Tangible personal property which has independent functional utility" must
19 be able to substantially perform its function(s) without attachment to real
20 property. "Attachment to real property" must include more than
21 connection to water, power, gas, communication, or other service.
- 22 (2) Examples of tangible personal property which has independent functional
23 utility include artwork, furnishings, "plug-in" kitchen equipment, or similar
24 items installed by bolts or similar fastenings.

Proposed Changes to the Model City Tax Code

- 1 (3) Examples of tangible personal property which does not have independent
2 functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen
3 cabinets, or "built-in" dishwashers or ranges.
- 4 (4) The installation of window coverings (drapes, mini-blinds, etc.) is always a
5 retail activity.
6

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

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

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

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

"Food for consumption on the premises" means any of the following:

"Hot prepared food" as defined below.

Hot or cold sandwiches.

Food served by an attendant to be eaten at tables, chairs, benches, booths, stools, counters, and similar conveniences and within parking areas for the convenience of in-car consumption of food.

Food served with trays, glasses, dishes, or other tableware.

Beverages sold in cups, glasses, or open containers.

Food sold by caterers.

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

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

"Hot prepared food" means those products, items, or ingredients of food which are prepared and intended for consumption in a heated condition. "Hot prepared food" includes a combination of hot and cold food items or ingredients if a single price has been established.

"Premises" means the total space and facilities in or on which a vendor conducts business and which are owned or controlled, in whole or in part, by a vendor or which are made available for the use of customers of the vendor or group of vendors, including any building or part of a building, parking lot, or grounds.

"Food for home consumption" means all food, except food for consumption on the premises, if sold by any of the following:

An eligible grocery business.

A person who conducts a business whose primary business is not the sale of food but who sells food which is displayed, packaged, and sold in a similar manner as an eligible grocery business.

A person who sells food and does not provide or make available any facilities for the consumption of food on the premises.

A person who conducts a delicatessen business either from a counter which is separate from the place and cash register where taxable sales are made or from a counter which has two cash registers and which are used to record taxable and tax exempt sales, or a retailer who conducts a delicatessen business who uses a cash register which has at least two tax computing keys which are used to record taxable and tax exempt sales.

(Reserved)

Vending machines and other types of automatic retailers.

A person's sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the State Department of Corrections, the Department of Public Safety, the Department of Juvenile Corrections or a county sheriff.

Model Option #2: