



STATE OF ARIZONA

Application for Serial Number Initiative Petition A.R.S. § 19-111

FOR OFFICE USE ONLY

17 NOV 28 15:59 40s

The undersigned intends to circulate and file an initiative petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Attached hereto is the full title and text, in no less than eight point type, of the measure or constitutional amendment intended to be initiated at the next general election.

Statutory Measure [checked] Constitutional Amendment [unchecked] Date of Application 11/28/17 Signatures Required 2,498 Deadline for Filing 4/30/2018 Serial Number Issued IND17-001

The Responsible Sales and Use Tax Act is intended to ensure Kingman's economic growth, which is impeded by unnecessarily high sales and use tax rates. Specifically, the Act: (1) responsibly lowers the current sales and use tax rates by 1%, (2) requires that future increases in the sales and use tax rates be approved by the qualified electors of Kingman, and (3) permits the City Council to submit proposed sales and use tax rate increases to the qualified electors of Kingman for their approval or rejection.

Kingman Citizens for Responsible Taxation

Name of Applicant 2640 E. Andy Devine Ave. Address Kingman AZ 86401 City State Zip 928-753-3131 Telephone Number codyswanty@yahoo.com E-mail Address

Kingman Citizens for Responsible Taxation

Committee Name Committee ID No. William Cody Swanty Chairperson Tony Campbell Treasurer 2640 E. Andy Devine Ave. Committee Address Kingman AZ 86401 City State Zip 928-753-3131 Committee Telephone Number codyswanty@yahoo.com Committee E-mail Address

By submitting this Application for Serial Number and checking all boxes below, I acknowledge the following:

- [checked] That I have read and understand the accompanying Instructions for Statewide Initiatives, including the Secretary of State's recommended best practices for printing copies of the Statewide Initiative Petition to be circulated. [unchecked] That at the time of filing, I was provided instructions regarding accurate completion of the electronic Statewide Initiative Petition form.

Handwritten signature of William Cody Swanty

11-28-17

Applicant Signature

Date

Initial Application
 Amended Application
Date: 11-28-17



STATE
OF
ARIZONA

COMMITTEE ID NUMBER
(office use only)

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COMMITTEE TYPE (choose one):

Candidate

Committee Name (required): _____
(first or last name & office)

Candidate Information: Candidate's Name (required): _____
Candidate's mailing address (required): _____
Candidate's email address (required): _____
Candidate's phone number (required): _____
Candidate's website (if any): _____

Office Sought (choose one): Governor Secretary of State Attorney General State Treasurer
 Superintendent of Public Instruction State Mine Inspector Corporation Commissioner
 State Senate State House of Representatives District (required): _____
 County Office: _____ District (if applicable): _____
 City/Town Office: _____ District (if applicable): _____

Election Cycle for Office Sought (year the election will take place) (required): _____

Party Affiliation: Democrat Green Libertarian Republican Other: _____
(required for partisan offices)

Political Action Committee (PAC)

Committee Name (required): Kingman Citizens for Responsible Taxation
(if sponsored, must include sponsor's name)

Political Function (optional): Contributions Candidate-Related Independent Expenditures
(select any that apply) Ballot Measure Expenditures Recall Expenditures

Sponsorship Information: Sponsor's name or nickname (required): _____
(if applicable) Sponsor's mailing address (required): _____
Sponsor's email address (required): _____
Sponsor's phone number (if any): _____
Sponsor's website (if any): _____

Special Status (if applicable) Separate Segregated Fund of a Corporation, LLC, Partnership, or Union
 Standing Committee (must also complete separate standing committee registration)
 Mega PAC (must provide proof of Mega PAC status to filing officer) (amended applications only)

Political Party

Committee Name (required): _____
(must include party affiliation)

Jurisdiction: State Party (must include proof of qualification pursuant to A.R.S. § 16-801 or § 16-804)
 County Party (must include proof of qualification pursuant to A.R.S. § 16-802 or § 16-804)
 Legislative District Party (must include proof of organization pursuant to A.R.S. § 16-823)
 City or Town Party (must include proof of qualification pursuant to A.R.S. § 16-802 or § 16-804)

Special Status (if applicable) Standing Committee (must also complete separate standing committee registration)

Initial Application
 Amended Application
 Date: 11-28-17



**STATE
OF
ARIZONA**

COMMITTEE ID NUMBER
(office use only)

COMMITTEE INFORMATION:

Contact Information: Committee's mailing address (required): 2640 E. Andy Devine Kingman, AZ 86401
 Committee's email address (required): codyswanty@yahoo.com
 Committee's phone number (if any): 928-753-3131
 Committee's website (if any): _____

Chairperson's Information: Chairperson's name (required): William Cody Swanty
 Chairperson's physical address (required): 2640 E. Andy Devine Ave, Kingman, AZ
 Chairperson's mailing address (if different): Same
 Chairperson's email address (required): codyswanty@yahoo.com
 Chairperson's phone number (required): 928-753-3131
 Chairperson's employer (required): Martin Swanty Chrysler Dodge
 Chairperson's occupation (required): General Manager & Corporate Secretary

Treasurer's Information: Treasurer's name (required): Tony Campbell
 Treasurer's physical address (required): 2501 Beverly Ave., Kingman, AZ 86409
 Treasurer's mailing address (if different): Same
 Treasurer's email address (required): tony@motherroadhd.com
 Treasurer's phone number (required): 928-279-6115
 Treasurer's employer (required): Mother road Harley Davidson
 Treasurer's occupation (required): GM

Bank or Financial Institution: Bank name (required): Mohave State Bank
 (do not list acct numbers) Additional bank name (if applicable): _____
 Additional bank name (if applicable): _____

DECLARATION AND SIGNATURES:

I declare under penalty of perjury that the foregoing information is true and correct. I further declare that I: (1) consent to serve as chairperson or treasurer of the committee named herein, if applicable; (2) designate the above-named committee as my official candidate committee and authorize it to receive/make contributions/expenditures on my behalf, if applicable; (3) have read the Secretary of State's campaign finance and reporting guide; (4) agree to comply with Arizona election law, including campaign finance laws codified at A.R.S. §§ 16-901 to 16-938; and (5) agree to accept all notifications and legal service of process for campaign finance purposes via the email address(es) provided herein.

Chairperson's signature:  Date: 11-28-17

Treasurer's signature:  Date: 11-28-17

Candidate's signature (if applicable): _____ Date: _____

OFFICIAL TITLE

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AN INITIATIVE MEASURE

AMENDING CHAPTER 8A, ARTICLE I, SECTIONS 8A-405, 8A-410, 8A-415, 8A-416, 8A-817, 8A-425, 8A-427, 8A-430, 8A-435, 8A-444, 8A-450, 8A-455, 8A-460, 8A-470, 8A-475, 8A-480, AND 8A-610 OF THE TAX CODE OF THE CITY OF KINGMAN, ARIZONA; AMENDING CHAPTER 2, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF KINGMAN, ARIZONA, BY ADDING SECTION 2.24; RELATING TO PRIVILEGE AND USE TAXES.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the City of Kingman:

Section 1. Official Title.

This Act shall be referred to as the “Responsible Sales and Use Tax Act.”

Section 2. Findings and Declaration of Policy.

The People of the City of Kingman (the “People”) find and declare as follows:

- A. Economic growth is key to Kingman’s vitality as a City, and unnecessarily high sales and use tax rates are an impediment to that growth.
- B. On August 15, 2017, the City Council passed Ordinance 1830R, which not only removed a sunset provision on what was intended to be a temporary 0.5% increase to the City’s sales and use tax rates, but provided for an additional 1% increase in those rates. The new sales and use tax rates took effect on November 1, 2017, and do not have a sunset provision.
- C. This Act is intended to repeal Ordinance 1830R’s imposition of an additional 1% increase in the City’s sales and use tax rates, and to create new sales and use tax rates that will remain in place until the People decide that they should be changed.
- D. This Act requires that any future increases to the sales and use tax be approved by the People. Because the People pay the bulk of sales and use taxes, their approval should be required before that tax burden is increased in any way.

- E. Because there may be circumstances in which the City Council believes a sales and use tax increase is necessary, this Act further permits the City Council to submit to the People for their approval or rejection a measure proposing an increase in the sales and use tax.
- F. This Act should be liberally construed to ensure that the will of the People is carried out as described above.

Section 3. Amendments to Chapter 8A of the Tax Code of the City of Kingman.

Chapter 8A, article I of the Tax Code of the City of Kingman, Arizona is amended as follows:

Sec. 8A-405. Advertising.

- (a) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) of the gross income from the business activity upon every person engaging or continuing in the business of “local advertising” by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from “local advertising”. All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered “Local Advertising”, except the following:
 - (1) the advertising of a product or service which is sold or provided both within and without the State by more than one “commonly designated business entity” within the State, and in which the advertisement names either no “commonly designated business entity” within the State or more than one “commonly designated business entity”. “Commonly Designated Business Entity” means any person selling or providing any product or service to its customers under a common business name or style, even though there may be more than one legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement.
 - (2) the advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the State.
 - (3) the advertising of a product which may only be purchased from an out-of-State supplier.
 - (4) political advertising for United States Presidential and Vice Presidential candidates only.

- (5) advertising by means of product purchase coupons redeemable at any retail establishment carrying such product but not product coupons redeemable only at a single commonly designated business entity.
- (6) advertising transportation services where a substantial portion of the transportation activity of the business entity advertised involves interstate or foreign carriage.

(b) (Reserved)

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

(a) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) of the gross income from the business activity upon every person engaging or continuing in the business of providing amusement that begins in the city or takes place entirely within the City, 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) 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 33 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.

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

- (a) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the City.
 - (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.
 - (4) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this Section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (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) Section 8A-660, subsections (g) and (p) 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 City:
- (A) The certificate of qualification of the lake facility development issued by the City 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) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:
- (A) the attributable amount shall not exceed the value of the development fees actually imposed.
 - (B) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
 - (C) “development fees” means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.
- (11) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.
- (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 City 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 City 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 City Privilege License number.

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

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

- (a) The tax shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the City.
 - (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) Fair market value of land. Gross income from the sale of improved real property shall not include the "fair market value" of the land which is included in the real property sold, when a charge for such land is included in the total selling price of the real property sold.
 - (A) Except as provided in subsection (b)(2)(B) below, the taxpayer must document such "fair market value" to the satisfaction of the Tax Collector, and maintain and provide such documentation upon demand in addition to and in like manner to the books and records required in Article III.
 - (B) In lieu of the documented fair market value of land allowed in subsection (b)(2)(A) above, an amount equal to twenty percent (20%) of the total selling price may be used to estimate the "fair market value" of land.
- (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 City 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 City 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 City as a speculative builder and provides the City with the written declaration attached to the City privilege tax return where he claims the exclusion.
- (5) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual

costs that are directly expended in providing architectural or engineering services.

- (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) Section 8A-660, subsections (g) and (p) 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) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:
- (i) the attributable amount shall not exceed the value of the development fees actually imposed.

- (ii) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
- (iii) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

(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.
- (C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross

income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor 39 acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(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 city 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 City, 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.

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 ~~three~~ TWO and fifty hundredths percent (32.50%) 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) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct

costs” means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) 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) Section 8A-660, subsections (g) and (p)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) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be

exempt from the tax imposed under this section. For the purposes of this paragraph:

- (i) the attributable amount shall not exceed the value of the development fees actually imposed.
- (ii) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
- (iii) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

(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.

(C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(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 city 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 City, 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.

(d) 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.

(e) (Reserved)

Sec. 8A-425. Job printing.

- (a) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) of the gross income from the business activity upon every person engaging or continuing in the business of job printing, which includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.
- (b) The tax imposed by this Section shall not apply to:
 - (1) job printing purchased for the purpose of resale by the purchaser in the form supplied by the job printer.
 - (2) out-of-City sales.
 - (3) out-of-State sales.
 - (4) (Reserved)
 - (5) sales of job printing 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.
 - (6) (Reserved)

Sec. 8A-427. Manufactured buildings.

- (a) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) of the gross income, including site preparation, moving to the site, and/or set-up, upon every person engaging or continuing in the business activity of selling manufactured buildings within the City. Such business activity is deemed to occur at the business location of the seller where the purchaser first entered into the contract to purchase the manufactured building.
- (b) Sales of used manufactured buildings are not taxable.
- (c) The sale prices of furniture, furnishings, fixtures, appliances, and attachments that are not incorporated as component parts of or attached to a manufactured building are exempt from the tax imposed by this Section. Sales of such items are subject to the tax under Section 8A-460.
- (d) Under this Section, a trade-in will not be allowed for the purpose of reducing the tax liability.

Sec. 8A-430. Timbering and other extraction.

- (a) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) of the gross income from the business activity upon every person engaging or continuing in the following businesses:
 - (1) felling, producing, or preparing timber or any product of the forest for sale, profit, or commercial use.
 - (2) extracting, refining, or producing any oil or natural gas for sale, profit, or commercial use.
- (b) The rate specified in subsection
 - (a) above shall be applied to the value of the entire product extracted, refined, produced, or prepared for sale, profit, or commercial use, when such activity occurs within the City, regardless of the place of sale of the product or the fact that delivery may be made to a point without the City or without the State.
- (c) If any person engaging in any business classified in this Section ships or transports products, or any part thereof, out of the State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition 43 or form in which they existed when transported out-of-State and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this Section.
- (d) (Reserved)

Sec. 8A-435. Publishing and periodicals distribution.

- (a) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) of the gross income from the business activity upon every person engaging or continuing in the business activity of:
 - (1) publication of newspapers, magazines, or other periodicals when published within the City, measured by the gross income derived from notices, subscriptions, and local advertising as defined in Section 8A-405. In cases where the location of publication is both within and without this State, gross income subject to the tax shall refer only to gross income derived from residents of this State or generated by permanent business locations within this State.
 - (2) distribution or delivery within the City of newspapers, magazines, or other periodicals not published within the City, measured by the gross income derived from subscriptions.
- (b) "Location of Publication" is determined by:
 - (1) location of the editorial offices of the publisher, when the physical printing is not performed by the publisher; or
 - (2) location of either the editorial offices or the printing facilities, if the publisher performs his own physical printing.

- (c) “Subscription income” shall include all circulation revenue of the publisher except amounts retained by or credited to carriers or other vendors as compensation for delivery within the State by such carriers or vendors, and further except sales of published items, directly or through distributors, for the purpose of resale, to retailers subject to the Privilege Tax on such resale.
- (d) “Circulation,” for the purpose of measurement of gross income subject to the tax, shall be considered to occur at the place of delivery of the published items to the subscriber or intended reader irrespective of the location of the physical facilities or personnel of the publisher. However, delivery by the United States mails shall be considered to have occurred at the location of publication.
- (e) Allocation of taxes between cities and towns. In cases where publication or distribution occurs in more than one city or town, the measurement of gross income subject to tax by the City shall include:
 - (1) that portion of the gross income from publication which reflects the ratio of circulation within this City to circulation in all incorporated cities and towns in this State having substantially similar provisions; plus
 - (2) only when publication occurs within the City, that portion of the remaining gross income from publication which reflects the ratio of circulation within this City to the total circulation of all incorporated cities or towns in this State within which cities the taxpayer maintains a location of publication.
- (f) The tax imposed by this Section shall not apply to sales of newspapers, magazines or other periodicals 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.

Sec. 8A-444. Hotels.

The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths (32.50%) 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) Person.
- (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.

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

- (a) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) 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 City 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 5.04.410, 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 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.
- (11) rental, leasing, and licensing for use of solar energy devices, for taxable periods beginning from and after July 1, 2008. The lessor shall register with the department of revenue as a solar energy retailer. By registering, the lessor acknowledges that it will make its books and records relating to leases of solar energy devices available to the department of revenue and city, as applicable, for examination.

Sec. 8A-455. Restaurants and bars.

- (a) The tax rate shall be at an amount equal to ~~four~~ THREE and fifty hundredths (43.50%) 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- 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.

Sec. 8A-460. Retail sales: measure of tax; burden of proof; exclusions.

- (a) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) of the gross income from the business activity upon every

person engaging or continuing in the business of selling tangible personal property at retail.

- (b) The burden of proving that a sale of tangible personal property is not a taxable retail sale shall be upon the person who made the sale.
- (c) Exclusions. For the purposes of this Chapter, sales of tangible personal property shall not include:
 - (1) sales of stocks, bonds, options, or other similar materials.
 - (2) sales of lottery tickets or shares pursuant to Article I, Chapter 5, Title 5, Arizona Revised Statutes.
 - (3) sales of platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by Regulation.
 - (4) gross income derived from the transfer of tangible personal property which is specifically included as the gross income of a business activity upon which another Section of this Article imposes a tax, shall be considered gross income of that business activity, and are not includable as gross income subject to the tax imposed by this Section.
 - (5) sales by professional or personal service occupations where such sales are inconsequential elements of the service provided.
- (d) (Reserved)
- (e) When this City and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a retail sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence, and for the purposes of this Chapter such city or town has sole and exclusive right to such tax.
- (f) The appropriate tax liability for any retail sale where the order is received at a permanent business location of the seller located in this City or in an Arizona city or town that levies an equivalent excise tax shall be at the tax rate of the city or town of such seller's location.
- (g) Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this Section.

Sec. 8A-470. Telecommunication services.

- (a) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) 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 City.
 - (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 City 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 City 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 City 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 City to engage in such business.
- (c) Interstate transmissions. Charges by a provider of telecommunication services for transmissions originating in the City and terminating outside the State are exempt from the tax imposed by this Section.
- (d) Tax credit offset for franchise fees. There shall be allowed as an offset, up to the amount of tax due, any amounts paid to the City for license fees or franchise fees, but such offset shall not be allowed against taxes imposed by any other Section of this Chapter. Such offset shall not be deemed in conflict with or violation of subsection 8A-400(b).
- (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.

Sec. 8A-475. Transporting for hire.

The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) 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 City 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.

Sec. 8A-480. Utility Services.

- (a) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) of the gross income from the business activity upon every person engaging or continuing in the business of producing, providing, or furnishing utility services, including electricity, electric lights, current, power, gas (natural or artificial), or water to:
- (1) consumers or ratepayers who reside within the City.
 - (2) consumers or ratepayers of this City, whether within the City or without, to the extent that this City provides such persons utility services, excluding consumers or ratepayers who are residents of another city or town which levies an equivalent excise tax upon this City for providing such utility services to such persons.
- (b) Exclusion of certain sales of natural gas to a public utility. Notwithstanding the provisions of subsection (a) above, the gross income derived from the sale of natural gas to a public utility for the purpose of generation of power to be transferred by the utility to its ratepayers shall be considered a retail sale of tangible personal property subject to Sections 8A-460 and 8A-465, and not considered gross income taxable under this Section.
- (c) Resale utility services. Sales of utility services to another provider of the same utility services for the purpose of providing such utility services either to another properly licensed utility provider or directly to such purchaser's customers or ratepayers shall be exempt and deductible from the gross income subject to the tax

imposed by this Section, provided that the purchaser is properly licensed by all applicable taxing jurisdictions to engage or continue in the business of providing utility services, and further provided that the seller maintains proper documentation, in a manner similar to that for sales for resale, of such transactions.

- (d) Tax credit offset for franchise fees. There shall be allowed as an offset any franchise fees paid to the City pursuant to the terms of a franchise agreement. However, such offset shall not be allowed against taxes imposed by any other Section of this Chapter. Such offsets shall not be deemed in conflict with or violation of subsection 8A-400(b).
- (e) The tax imposed by this Section shall not apply to sales of utility services 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.
- (f) The tax imposed by this Section shall not apply to sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.
- (g) The tax imposed by this Section shall not apply to:
 - (1) revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.
 - (2) revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This exclusion shall not exceed the value of such property and equipment.
- (h) The tax imposed by this Section shall not apply to 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.

Sec. 8A-610. Use tax: imposition of tax; presumption.

- (a) There is hereby levied and imposed, subject to all other provisions of this Chapter, an excise tax on the storage or use in the City of tangible personal property, for the

purpose of raising revenue to be used in defraying the necessary expenses of the City, such taxes to be collected by the Tax Collector.

- (b) The tax rate shall be at an amount equal to ~~three~~ TWO and fifty hundredths percent (32.50%) of the:
 - (1) cost of tangible personal property acquired from a retailer, upon every person storing or using such property in this City.
 - (2) gross income from the business activity upon every person meeting the requirements of subsection 8A-620(b) or (c) who is engaged or continuing in the business activity of sales, rentals, leases, or licenses of tangible personal property to persons within the City for storage or use within the City, to the extent that tax has been collected upon such transaction.
 - (3) cost of the tangible personal property provided under the conditions of a warranty, maintenance, or service contract.
 - (4) cost of complimentary items provided to patrons without itemized charge by a restaurant, hotel, or other business.
 - (5) cost of food consumed by the owner or by employees or agents of the owner of a restaurant or bar subject to the provisions of Section 8A-455 of this Chapter.
- (c) It shall be presumed that all tangible personal property acquired by any person who at the time of such acquisition resides in the City is acquired for storage or use in this City, until the contrary is established by the taxpayer.
- (d) Exclusions. For the purposes of this Article, the acquisition of the following shall not be deemed to be the purchase, rental, lease, or license of tangible personal property for storage or use within the City:
 - (1) stocks, bonds, options, or other similar materials.
 - (2) lottery tickets or shares sold pursuant to Article I, Chapter 5, Title 5, Arizona Revised Statutes.
 - (3) Platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by Regulation.
- (e) (Reserved)

Section 4. Amendment to Chapter 2 of the Code of Ordinances of the City of Kingman, Arizona.

Chapter 2, article II of the Code of Ordinances of the City of Kingman, Arizona is amended to add section 2.24, as follows:

SEC. 2.24. APPROVAL OF PRIVILEGE AND USE TAX INCREASES BY ELECTORS.

- A. NO INCREASE IN THE PRIVILEGE TAX OR USE TAX IMPOSED BY THE CITY SHALL BE EFFECTIVE UNLESS APPROVED BY A

MAJORITY OF THE VOTES CAST THEREON AT A GENERAL OR SPECIAL MUNICIPAL ELECTION.

- B. THE MAYOR AND COUNCIL MAY SUBMIT TO THE ELECTORS FOR ADOPTION OR REJECTION AT A GENERAL OR SPECIAL MUNICIPAL ELECTION A MEASURE PROPOSING AN INCREASE IN THE PRIVILEGE TAX OR USE TAX IMPOSED BY THE CITY.

Section 5. Notifications and Other Administrative Acts.

- A. Pursuant to A.R.S. § 42-6053(E)(1), and within ten days after passage of this Act, the City shall notify the Municipal Tax Code Commission and Arizona Department of Revenue of the new or different tax rates imposed by this Act.
- B. In addition, the City shall make any other notifications and take any other administrative steps that may be required by law to effectuate the decrease in the privilege and use tax rates provided for in this Act.

Section 6. Effective Date.

This Act shall be effective immediately upon its passage by the People of the City of Kingman.

Section 7. Severability.

If any provision of this Act is declared invalid by a court of competent jurisdiction, such invalidity does not affect other provisions that can be given effect without the invalid provisions.