



ORDINANCE NO. 19-01

AN ORDINANCE OF THE CITY OF SOUTH TUCSON, ARIZONA, ADOPTING "THE JULY 2019 AMENDMENTS TO CHAPTER 11 OF THE SOUTH TUCSON CITY CODE", RELATING TO THE PRIVILEGE LICENSE TAX; AND REPEALING ALL RESOLUTIONS, ORDINANCES, RULES OF THE CITY OF SOUTH TUCSON IN CONFLICT THEREWITH AND DESIGNATING AN EFFECTIVE DATE;

WHEREAS, the South Tucson City Code has been adopted by the City Council, amended from time to time; and

WHEREAS, Chapter 11 of the South Tucson City Code contains the Privilege Tax, Application Fee, Fee Schedule, which contains most of the City's fees; and

WHEREAS, the schedule undergoes review relative to the fees and the costs of providing services; and

WHEREAS, pursuant to A.R.S. § 9-499.15, on May 1, 2019, the Notice of City's Consideration to Assess New Fees, Increase Existing Fees, or Make Other Fee Changes was posted on the City's website notifying the public of possible fee increases; and

WHEREAS, on July 8, 2019, the City Council discussed and considered said fee increases, giving opportunity for public comment on the proposed changes; and

WHEREAS, the City Council has determined that adoption of "THE JULY 2019 AMENDMENTS TO CHAPTER 11 OF THE SOUTH TUCSON CITY CODE" is in the best interests of the City and its residents; and

BE IT ORDAINED by the Mayor and Council of the City of South Tucson, Arizona, as follows:

Section 1. That certain document known as "THE JULY 2019 AMENDMENTS TO CHAPTER 11 OF THE SOUTH TUCSON CITY CODE," three copies of which are on file in the office of the City Clerk of the City of South Tucson, Arizona, which document was made a public record by South Tucson Resolution No. 19-16 of the City of South Tucson, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2. Chapter 11 of the South Tucson City Code is hereby amended as indicated in "THE JULY 2019 AMENDMENTS TO CHAPTER 11 OF THE SOUTH TUCSON CITY CODE;" with deleted language shown by ~~strikeout~~, and with added language shown in **underlined bold text and numbers**.

Section 3. Any portions of Chapter 11 of the South Tucson City Code not specifically amended by this Ordinance shall remain unchanged.

Section 4. All tables of contents shall be modified to reflect the changes set forth in this Ordinance.

Section 5. The various city officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Ordinance and sections of the City Code.

Section 6. All ordinances, resolutions, or motions and parts of ordinances, resolutions or motions of the council in conflict with the provisions of this Ordinance are hereby repealed, effective as of the date of this Ordinance. All internal reference within the city code to any affected provision are hereby updated.

Section 7. The provisions of this ordinance and the increase in tax rate provided herein shall become effective as follows:

Tax Rate changes

October 1, 2019

Section 8. Any person found guilty of violating any provision of these amendments to the tax code shall be guilty of a class one misdemeanor.

Section 9. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the tax code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 10. Three (3) copies of all documents and exhibits attached to Ordinance No. 19-01 shall be on file in the office of the City Clerk of the City of South Tucson as a public record, and adopted by reference, governing all general and miscellaneous regulations.

PASSED AND ADOPTED by the Mayor and Council of the City of South Tucson, Arizona, this 15th day of July 2019.



Mayor Bob Teso

APPROVED AS TO FORM



City Attorney

ATTEST:



Veronica Moreno, City Clerk

**JULY 2019 AMENDMENTS TO THE
SOUTH TUCSON TAX CODE**

(City Code Ch. 11, Article IV / Model City Tax Code)

ARTICLE IV.
PRIVILEGE TAX
DIVISION 5.
PRIVILEGE TAX

Sec. 11-201. Retail sales--Measure of tax; burden of proof; exclusions.

(a) The tax rate under the provisions of this article shall be at an amount equal to ~~four and one-half (4.5)~~ five (5.0) percent 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) For the purposes of this article, sales of tangible personal property do not include:

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

(2) Sales of lottery tickets or shares pursuant to A.R.S. tit. 5, ch. 5, art. 1 [§ 5-501 et seq.].

(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 division 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) Except as provided in section 11-126, 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 article such city or town has sole and exclusive right to such tax.

(e) 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.
(Ord. No. 87-02, § 1(9A-460), 7-13-87; Ord. No. 95-07, § 1, 8-14-95)

Sec. 11-203. Telecommunication services.

(a) The tax rate under the provisions of this article shall be at an amount equal ~~five (5.0)~~ **five and one-half (5.5)** percent 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.

(b) In this section:

(1) Telecommunication services 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 includes:

- 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.

(c) 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.

(d) 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.

Sec. 11-206. Utility services.

(a) *Generally.* The tax rate under the provisions of this article shall be at an amount equal ~~five~~ **(5.0) five and one-half (5.5)** percent 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 consumers or ratepayers who reside within the city.

(b) *Exclusion of certain sales of natural gas to a public utility.* Notwithstanding the provisions of subsection (a) of this section, 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 11-200 and 11-201, 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) The tax imposed by this section shall not apply to sales of utility services to any nonprofit primary health care facility, 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. § 512. (Ord. No. 87-02, § 1(9A-480), 7-13-87; Ord. No. 88-02, § 1, 3-28-88; Ord. No. 95-07, § 1, 8-14-95; Ord. No 14-04, 09-04-14; Ord. No 16-04, 07-28-16)

SUPPLEMENTAL INFORMATION (FOR INTERNAL REFERENCE)

Cross referencing table:

South Tucson City Code; Article IV Privilege Tax	Model City Tax Code Section	Title	Business Class Code
11-201	460	Retail sales—measure of tax; burden of proof; exclusions	ST 017
11-203	470	Telecommunication services	ST 005
11-206	480	Utility services	ST 004

