



ORDINANCE NO. 16-04

AN ORDINANCE OF THE CITY OF SOUTH TUCSON, ARIZONA, RELATING TO THE PRIVILEGE LICENSE TAX; AMENDING THE FEE SCHEDULE; AMENDING AND INSERTING NEW SECTIONS 11-194, MANUFACTURED BUILDINGS; 11-195, MINING; 11-204, TIMBERING AND OTHER EXCAVATIONS TO CHAPTER 11 OF THE SOUTH TUCSON CITY CODE, ADOPTING "THE JULY 2016 AMENDMENTS TO CHAPTER 11 OF THE SOUTH TUCSON CITY CODE", WHICH INCLUDES THE ADOPTION OF MODEL CITY TAX CODE SECTION 446 RELATING TO THE TAXATION OF NON-RESIDENTIAL BUSINESS ACTIVITY, 11-197.4; 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 27, 2016, 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 28, 2016, 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 2016 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 2016 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. 16-04 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 2016 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.** “THE JULY 2016 AMENDMENTS TO CHAPTER 11 OF THE SOUTH TUCSON CITY CODE” include the proper adoption of Model City Tax Code Section 446 as follows:

**Sec. 11-197.4 Additional tax on non-residential rental business activity.**

In addition to the taxes levied under Sec. 11-197 (Model City Tax Code, Sec. 445), there is hereby levied and shall be collected by the Tax Collector an additional tax in the amount equal to four percent (4.0) of the gross income from business activity of any person engaging in the rental, leasing, or licensing of non-residential property or property units.

**Section 4.** Any portions of Chapter 11 of the South Tucson City Code not specifically amended by this Ordinance shall remain unchanged.

**Section 5.** All tables of contents shall be modified to reflect the changes set forth in this Ordinance.

**Section 6.** 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 7.** 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 8.** The provisions of this ordinance and the increase in tax rate provided herein shall become effective as follows:

Fee Schedule changes:                      October 1, 2016

Tax Rate changes                              October 1, 2016

**Section 9.** Any person found guilty of violating any provision of these amendments to the tax code shall be guilty of a class one misdemeanor.

**Section 10.** 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.

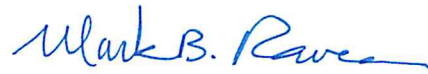
PASSED AND ADOPTED by the Mayor and Council of the City of South Tucson, Arizona, this 28<sup>th</sup> day of July 2016.



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Mayor Miguel Rojas

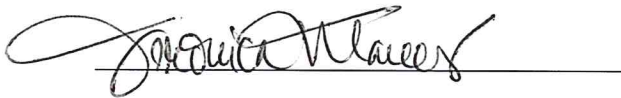
APPROVED AS TO FORM



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City Attorney

ATTEST:



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Veronica Moreno, City Clerk

# **JULY 2016 AMENDMENTS TO CHAPTER 11 OF THE SOUTH TUCSON CITY CODE**

These changes are effective October 1, 2016 and  
are comprised of the following:

## **JULY 2016 AMENDMENTS TO THE SOUTH TUCSON TAX CODE**

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

## **JULY 2016 FEE AMENDMENTS TO CHAPTER 11 OF THE SOUTH TUCSON CITY CODE**

(Occupational License Fees)



**JULY 2016 AMENDMENTS TO THE  
SOUTH TUCSON TAX CODE**

**1. City Tax Code Amendments** *(see attachment 1 for full revisions)*

The tax rate in each of the following sections of the tax code is hereby set at two percent (2.0%):

Sec. 11-198	Additional tax upon transient lodging.
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The tax rate in each of the following sections of the tax code is hereby set at three and one-half percent (3.5%):

Section 11-196.3	Hotels
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The tax rate in each of the following sections of the tax code is hereby set at five percent (5.0%):

Section 11-203	Telecommunications Services
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Section 11-206	Utility Services
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The tax rate in each of the following sections of the tax code is hereby set at five and one-half percent (5.5%):

Section 11-187	Advertising
Section 11-188	Amusements, exhibitions and similar activities
Section 11-189	Construction contracting: construction contractors
Section 11-190	Construction contracting: speculative builders
Section 11-191	Construction contracting: owner-builders who are non-speculative builders
Section 11-193	Job Printing
Section 11-194	Manufactured Buildings
Section 11-196	Publishing and Periodicals distribution
Section 11-205	Transporting for hire

The tax rate in each of the following sections of the tax code is hereby set at six and one-half percent (6.5%):

Section 11-199                      Rental, leasing and licensing for use of tangible property

The tax rate in each of the following sections of the tax code is hereby set at four percent (4.0%):

Section 11-197.4                      Additional tax on non-residential rental business activity

**2. Amend Fee Schedule, Section 11-36, (see attachment 2 for full revisions)**

**3. Insert new sections....**      **Sec. 11-194. Manufactured Buildings**  
                                                  **Sec. 11-195. Mining**  
                                                  **Sec. 11-204. Timbering and other excavations**  
                                                  *(see attachment 1 for full text)*

**4. Cross reference table:**

South Tucson City Code; Article IV Privilege Tax	Model City Tax Code Section	Title	Business Class Code
11-187	405	Advertising	ST 018
11-188	410	Amusements, exhibitions, and similar activities	ST 012
11-189	415	Construction contracting – construction contractors	ST 015
11-190	416	Speculative Builders	ST 016
11-191	417	Owner-builders who are not speculative builders	ST 037
11-193	425	Job Printing	ST 010
11-194	427	Manufactured Buildings	ST 027
11-195	432	Mining	ST 019
11-196	435	Publishing and periodicals distribution	ST 009
11-196.3	444	Hotels	ST 044
11-197	445	Rental, leasing, and licensing for use of real property—Generally	ST 045
11-197.4	446	Additional tax on non-residential rental business activity	ST 213
11-198	447	Additional tax upon transient lodging	ST 144
11-199	450	Rental, leasing, and licensing for use of tangible personal property	ST 214
11-200	455	Restaurants and bars	ST 011
11-201	460	Retail sales—measure of tax; burden of proof; exclusions	ST 017
11-202	465	Same—exemptions	N/A
11-203	470	Telecommunication services	ST 005
11-204	430	Timbering & other extraction	ST 020
11-205	475	Transport for hire	ST 006
11-206	480	Utility services	ST 004
11-207	462	Food for home consumption	ST 062

## **ATTACHMENT 1**

### **AMENDED SECTIONS (Tax Rate Increases)**

#### **ARTICLE IV.**

#### **PRIVILEGE TAX**

#### **DIVISION 5.**

#### **PRIVILEGE TAX**

##### **Sec. 11-187. Advertising.**

The tax rate under the provisions of this article shall be at an amount equal ~~four and one-half~~ (4.5) **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 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.

- (1) The advertising of a product or service which is sold or provided both within and without the state by more than one (1) 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 (1) commonly designated business entity. In this paragraph "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 (1) 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.



(Ord. No. 87-02, § 1(9A-405), 7-13-87; Ord. No. 95-07, § 1, 8-14-95; Ord. No 14-04, 09-04-14; Ord. No 16-04,07-28-16)

**Sec. 11-188. Amusements, exhibitions, and similar activities.**

The tax rate under the provisions of this article shall be at an amount equal to ~~four and one-half (4.5)~~ **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 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, entertainment or instruction.

(Ord. No. 87-02, § 1(9A-410), 7-13-87; Ord. No. 95-07, § 1, 8-14-95; Ord. No 14-04, 09-04-14; Ord. No 16-04,07-28-16)

**Sec. 11-189. Construction contracting--Construction contractors.**

(a) *Generally.* The tax rate under the provisions of this article shall be at an amount equal to ~~four and one-half (4.5)~~ **five and one-half (5.5)** percent of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the city; however, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. § 45-604.

(b) *Deductions.*

- (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 (35) percent.

(c) *Definition.* "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.

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

(Ord. No. 87-02, § 1(9A-415), 7-13-87; Ord. No. 90-02, § 1, 8-13-90; Ord. No. 95-07, § 1, 8-14-95; Ord. No 14-04, 09-04-14; Ord. No 16-04, 07-28-16)

## **Sec. 11-190. Speculative builders.**

(a) *Generally.* The tax levied under the provisions of this article shall be equal to ~~four and one-half (4.5)~~ **five and one-half (5.5)** percent of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the city. 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.

(b) *Definitions.* In this section:

- (1) 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.
- (2) 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.
- (3) *Partially improved residential real property* means any improved real property 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.

(c) *Exclusions.*

- (1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by regulation.
- (2) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this section.
- (3) Reserved.
- (4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in subsection (b)(3) 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:
  1. Maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and
  2. Retains a copy of the written declaration provided by the buyer for the transaction; and
  3. 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.

(d) *Miscellaneous provisions.* Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the provisions of section 11-192.

(Ord. No. 87-02, § 1(9A-416), 7-13-87; Ord. No. 88-02, § 1, 3-28-88; Ord. No. 90-02, § 1, 8-13-90; Ord. No. 95-07, § 1, 8-14-95; Ord. No 14-04, 09-04-14; Ord. No 16-04, 07-28-16)

#### **Sec. 11-191. 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 under the provisions of this article for an owner-builder who is not a speculative builder shall be at an amount equal to ~~four and one-half (4.5)~~ **five and one-half (5.5)** percent 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 section 11-189, paragraph (c)(2); and
- (2) The purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

(b) The tax liability in this section is subject to the provisions of section 11-192.

(c) The limitation period for the assessment of taxes imposed by this section is measured based upon when such liability is reportable, that is, in the reporting period that

encompasses the twenty-fifth month after the unit or project was substantially complete. Interest and penalties, as provided in section 11-120, will be based on reportable date.

(Ord. No. 87-02, § 1(9A-417), 7-13-87; Ord. No. 95-07, § 1, 8-14-95; Ord. No 14-04, 09-04-14; Ord. No 16-04, 07-28-16)

#### **Sec. 11-193. Job printing.**

(a) The tax rate under the provisions of this article shall be at an amount equal to ~~four and one-half (4.5)~~ **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 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) Sales of job printing to any nonprofit primary health care facility, 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. § 512.

(Ord. No. 87-02, § 1(9A-425), 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)

#### **Sec. 11-194. Manufactured Buildings**

**(a) The tax rate shall be at an amount equal to five and one-half (5.5) percent 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.**

**(d) Under this Section, a trade-in will not be allowed for the purpose of reducing the tax liability.**

**(Ord. No 16-04, 07-28-16)**

#### **11-195. Mining**



(a) The tax rate shall be at an amount equal to one tenth of one percent (.10) percent, not to exceed one tenth of one percent, of the gross income from the business activity upon every person engaging or continuing in the business of mining, smelting, or producing for sale, profit, or commercial use any copper, gold, silver, or other mineral product, compound, or combination of mineral products; but not including the extraction, removal, or production of sand, gravel, or rock from the ground for sale, profit, or commercial use.

(b) The rate specified in subsection (a) above shall be applied to the value of the entire product mined, smelted or produced 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 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. (Ord. No. 87-02, § 1(9A-430), 7-13-87; Ord. No. 95-07, § 1, 8-14-95; Ord. No 14-04, 09-04-14; Ord. No 16-04, 07-28-16)

**~~Sec. 11-194. Mining, timbering, and other extraction.-~~**

~~(a) — The tax rate under the provisions of this article shall be at an amount equal to four and one half (4.5) percent of the gross income from the business activity upon every person engaging or continuing in the following businesses:~~

- ~~(1) — Mining, smelting, or producing for sale, profit, or commercial use any copper, gold, silver, or other mineral product, compound, or combination of mineral products; but not including the extraction, removal, or production of sand, gravel, or rock from the ground for sale, profit, or commercial use.~~
- ~~(2) — Felling, producing, or preparing timber or any product of the forest for sale, profit, or commercial use.~~
- ~~(3) — Extracting, refining, or producing any oil or natural gas for sale, profit, or commercial use.~~

~~b) — The rate specified in subsection (a) of this section shall be applied to the value of the entire product mined, smelted, 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 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. (Ord. No. 87-02, § 1(9A-430), 7-13-87; Ord. No. 95-07, § 1, 8-14-95; Ord. No 14-04, 09-04-14)~~

**Sec. 11-195 11-196. Publishing and periodicals distribution.**

(a) The tax rate under the provisions of this article shall be at an amount equal to ~~four and one-half (4.5)~~ **five and one-half (5.5)** percent 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 11-187. 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) The location of publication is determined by the:
  - (1) Location of the editorial offices of the publisher, when the physical printing is not performed by the publisher.
  - (2) Location of either the editorial offices or the printing facilities, if the publisher performs the physical printing.
- (c) In this section:
  - (1) *Subscription income* includes 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.
  - (2) *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 United States mail shall be considered to have occurred at the location of publication.
- (d) In cases where publication or distribution occurs in more than one (1) 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.



(e) The tax imposed by this section shall not apply to sales of newspapers, magazines or other periodicals to any nonprofit primary health care facility, 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. § 512.

(Ord. No. 87-02, § 1(9A-435), 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)

### **Sec. 11-196.3 Hotels.**

The tax rate shall be at an amount equal to ~~two and one-half (2.5)~~ **three and one-half (3.5)** percent 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:

(1) Person.

(2) Reserved.

(Ord. No. 90-02, § 1, 8-13-90; Ord. No. 95-07, § 1, 8-14-95; Ord. 09-04-14; Ord. No 16-04, 07-28-16)

### **Sec. ~~11-196~~ 11-197. Rental, leasing, and licensing for use of real property--Generally.**

#### **Sec. 197.4 Additional tax on non-residential rental business activity.**

**In addition to the taxes levied under Sec. 11-197 (Model City Tax Code Sec. 445) is hereby levied and shall be collected by the Tax Collector an additional tax in the amount equal to four (4) percent of the gross income from the business activity of any person engaged in the rental, leasing or licensing of non-residential property or property units. (Ord. No. 16-02, 02-01-16)**

### **Sec. ~~11-197~~ 11-198. Additional tax upon transient lodging.**

In addition to the taxes levied as provided in section 11-195.3, there is hereby levied and shall be collected an additional tax in an amount equal to ~~one and one-half (1.5)~~ **two (2.0)** percent of the gross income from the business activity of any hotel engaging or continuing within the city in the business of charging for lodging and/or lodging space furnished to any transient. "Transient" means any person who, for any period of not more than thirty (30) consecutive days, either at his own expenses or at the expense of another, obtains lodging or the use of any lodging space in any hotel for which lodging or use of lodging space a charge is made.

(Ord. No. 87-02, § 1(9A-447), 7-13-87; Ord. No. 90-02, § 1, 8-13-90; Ord. 09-04-14; Ord. No 16-04, 07-28-16)

### **Sec. ~~11-198~~ 11-199. Rental, leasing, and licensing for use of tangible personal property.**

(a) The tax rate under the provisions of this article shall be at an amount equal to ~~four and one-half (4.5)~~ **six and one-half (6.5)** percent 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) 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 is 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 or 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 11-188, 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.
- (5) Rental, leasing, or licensing for use of tangible personal property to any nonprofit primary health care facility, 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. § 512.
- (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.  
(Ord. No. 87-02, § 1(9A-450), 7-13-87; Ord. No. 95-07, § 1, 8-14-95; 14-04, 09-04-14; Ord. No 16-04, 07-28-16)



**Sec. ~~11-199~~ 11-200. Restaurants and bars.**

**Sec. ~~11-200~~ 11-201. Retail sales--Measure of tax; burden of proof; exclusions.**

**Sec. ~~11-201~~ 11-202. Same--Exemptions.**

**Sec. ~~11-202~~ 11-203. Telecommunication services.**

(a) The tax rate under the provisions of this article shall be at an amount equal ~~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 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.

(Ord. No. 87-02, § 1(9A-470), 7-13-87; Ord. No. 95-07, § 1, 8-14-95; Ord. No. 14-04, 09-04-14, Ord. No. 16-04, 07-28-16)

#### **Sec. 11-204. Timbering and other extraction.**

**(a) The tax rate shall be at an amount equal to two and one-half (2.5) percent 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 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.**

**(Ord. No 16-04, 07-28-16)**

#### **Sec. 11-203 11-205. Transporting for hire.**

The tax rate under the provisions of this article shall be at an amount equal to ~~four and one-half (4.5)~~ **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 the following forms of transportation for hire from this city to another point within the state:

(1) Transporting of persons or property by railroad.



- (2) Transporting of oil or natural or artificial gas through pipe or conduit.
  - (3) Transporting of property by aircraft.
  - (4) Transporting of persons or property by motor vehicle, including towing and the operation of private car lines, as such are defined in A.R.S. tit. 42, ch. 4, art. 3 [§ 42-741 et seq.]; provided, however, that the tax imposed by this paragraph shall not apply to:
    - a. Gross income subject to the tax imposed by A.R.S. tit. 28, ch. 9, art. 6 [§ 28-1599 et seq.].
    - b. Gross income derived from the operation of a governmentally adopted and controlled program to provide urban mass transportation.
- (Ord. No. 87-02, § 1(9A-475), 7-13-87; Ord. No. 95-07, § 1, 8-14-95; Ord. No 14-04, 09-04-14; Ord. No 16-04, 07-28-16)

**Sec. ~~11-204~~ 11-206. Utility services.**

(a) *Generally.* The tax rate under the provisions of this article shall be at an amount equal ~~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 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)

**Sec. ~~11-205~~ 11-207. Food for home consumption.**

**Secs. 11-208—11-250. Reserved.**

## REVISED SECTIONS

### Sec. 11-194. Manufactured Buildings

(a) The tax rate shall be at an amount equal to five and one-half (5.5) percent 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.

(d) Under this Section, a trade-in will not be allowed for the purpose of reducing the tax liability.

(Ord. No 16-04, 07-28-16)

### 11-195. Mining

(a) The tax rate shall be at an amount equal to one tenth of one percent (.10) percent, not to exceed one tenth of one percent, of the gross income from the business activity upon every person engaging or continuing in the business of mining, smelting, or producing for sale, profit, or commercial use any copper, gold, silver, or other mineral product, compound, or combination of mineral products; but not including the extraction, removal, or production of sand, gravel, or rock from the ground for sale, profit, or commercial use.

(b) The rate specified in subsection (a) above shall be applied to the value of the entire product mined, smelted or produced 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 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.

(Ord. No 16-04, 07-28-16)

### Sec. 197.4 Additional tax on non-residential rental business activity.

In addition to the taxes levied under Sec. 11-196 is hereby levied and shall be collected by the Tax Collector an additional tax in the amount equal to four (4) percent of the gross income from the business activity of any person engaged in the rental, leasing or licensing



of non-residential property or property units. (Ord. No. 16-02, 02-01-16)

Sec. 11-204. Timbering and other extraction.

(a) The tax rate shall be at an amount equal to two and one-half (2.5) percent 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 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.

(Ord. No.16-04, 07-28-16)