



# Ordinance

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

## ORDINANCE NO. 154

AN ORDINANCE OF THE CITY OF SAN LUIS, ARIZONA, RELATING TO THE PRIVILEGE LICENSE TAX; ADOPTING "THE 1998 AMENDMENTS TO THE TAX CODE OF THE CITY OF SAN LUIS, ARIZONA" BY REFERENCE; ESTABLISHING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY AND PROVIDING PENALTIES FOR VIOLATIONS.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA:

Section 1: That certain document known as "The 1998 Amendments to the Tax Code of the City of San Luis, Arizona", three copies of which are on file in the office of the city clerk of the City of San Luis, Arizona, which document was made a public record by Resolution No. 388 of the City of San Luis, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2: Except as provided in Section 3 of this ordinance, the provisions of this ordinance and the public record adopted herein are effective from and after July 1, 1998.

Section 3: The following provisions of the public record adopted herein are retroactive to April 1, 1987:

- (a) The definition of "Construction Contractor" as amended and the definition of "Remediation" as added to Section 1. Section 7A-100. General Definitions
- (b) Subsection (a), paragraph (16) on "Cleanrooms" as added to Section 2. Section 7A-110. Definitions: Income-producing capital equipment
- (c) Section 9. Subsection (aa) of Section 7A-465. Retail Sales: exemptions
- (d) Section 11. Subsection (aa) of Section 7A-660. Use Tax: exemptions
- (e) Section 12. Regulation 7A-100.5. Remediation Contracting

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Section 4: Any person found guilty of violating any provision of these amendments to the tax code shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

Section 5: 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 San Luis, Arizona, this 23<sup>rd</sup> day of Sept., 1998.

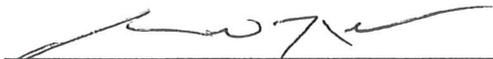
ATTEST:



Alex U. Ruiz, City Administrator

  
\_\_\_\_\_  
Alex Joe Harper, Mayor

APPROVED AS TO FORM:



Gerald W. Hunt, City Attorney

## INTRODUCTION AND SUMMARY OF 1998 TAX CODE CHANGES

The 1998 amendments to the tax code are the result of approximately eight months of negotiations with the business community. Much in these amendments conform the Model City Tax Code with State statute. As you will notice in the attached adopting ordinance, several of the sections have a retroactive effective date of April 1, 1987. The retroactive dates apply to sections pertaining to environmental remediation and cleanrooms, and again, conform the tax code with State statute.

The changes to the tax code proposed in the 1998 amendments were all approved by the Municipal Tax Code Commission on October 31, 1997 and April 9, 1998.

The technical and conforming amendments were submitted by the League on behalf of the Unified Audit Committee composed of city tax officials and the Department of Revenue. Although a few of the amendments are a direct result of the preemptive state legislation, a significant part of these changes resulted from comments or suggestions by business representatives on desired amendments to the tax code.

Under an agreement that the League has with the business community, we will now seek adoption of the Commission's approved changes by all cities and towns. As a reminder, we were able to defeat legislation four years ago that would have required conformance of the local sales tax base to the state's base by agreeing to seek and achieve adoption of amendments approved by the Commission in exchange for ATRA, the State Chamber and the Arizona Association of Industries not seeking preemptive legislation for five years.

The enclosed amendment tailors the approved changes to your current tax code. Following adoption by your city or town and notification to the League, we will integrate the amendment into your tax code and mail the amended pages. The effective date of most of the amendments is July 1, 1998 which means that we are urging adoption before June 1, 1998. Tax code changes do not go into effect until 30 days after passage.

Although there are differing opinions on whether a public hearing is required, we recommend that a public hearing be held by the city or town council prior to adoption of the amendment. Under A.R.S. § 42-1454, notice of the hearing must be published at least once in a newspaper of general circulation in the city or town at least fifteen days before the hearing. The hearing can be held in conjunction with a regular or special council meeting. If you desire assistance with the public hearing or with explanation of the amendments to the city/town council, this can be arranged by calling the League office.

This amendment has been prepared as a public record to allow adoption by reference. The resolution declaring the amendment as a public record should be adopted prior to adoption of the ordinance. Both, however, can be accomplished at the same meeting. Publication of the adopting ordinance should follow adoption. Under the adoption by reference procedure, publication of the full text of the amendment is not required.

Following is a section by section summary of each change to the code. There are several amendments to the code that pertain to local or model options, and these are highlighted by an asterisk (\*). These particular amendments may or may not affect your local tax code.

As always, questions on the tax code or these amendments can be directed to the League. We, in turn, will call upon knowledgeable tax officials from several cities and towns if your question involves an issue beyond our general expertise.

**Section -100. General definitions.**

Several definitions are added or changed in the proposed amendment as follows:

1. The term "construction contractor" is amended to specifically exclude environmental remediation contracting.
2. The term "remediation" is added.
3. Makes conforming changes in terminology relating to health care facilities by deleting the term "primary health care facility" and adding the terms "qualifying community health center", "qualifying health care organization" and "qualifying hospital". These changes will align exemptions granted to health care facilities with that of State statute.

**Section -110. Definitions: Income-producing capital equipment.**

1. The definition of "chemicals" as income-producing capital equipment is clarified
2. Amendment conforms Model City Tax Code with State statute by providing definitions for "cleanrooms", "sound stage machinery and equipment" and "tangible personal property for telecommunications of direct broadcast satellite television" under the definition of income-producing capital equipment which is exempt from taxation.

**\*Section -120. Definitions: food for home consumption.**

Amendment conforms Model City Tax Code with State statute by classifying food sold for consumption on the premises of a jail as food for home consumption. This section will not appear in the amendment if your city or town taxes food.

**Section -266. Exclusion of motor carrier revenues from gross income.**

Amendment conforms the Model City Tax Code to preemptive State statute by adding a new definition of "motor carrier", and makes changes to conform with 1997 revisions to A.R.S. Title 28 and A.R.S. §42-1453.

**Section -425. Job printing.**

Amendment makes conforming changes in terminology relating to health care facilities.

**Section -435. Publishing and periodicals distribution.**

Amendment makes conforming changes in terminology relating to health care facilities.

**Section -445. Rental, leasing, and licensing for use of real property.**

1. Amendment eliminates the potential for tax pyramiding in license for use situations.
2. Amendment makes conforming changes in terminology relating to health care facilities.

**Section -450. Rental, leasing, and licensing for use of tangible personal property.**

Amendment makes conforming changes in terminology relating to health care facilities and exempts from tax the rental, leasing, or licensing for use of tangible property by a 501(c)(3) entity for training, job placement or rehabilitation programs for handicapped persons.

**Section -455. Restaurants and bars.**

1. Amendment makes conforming changes in terminology relating to health care facilities.
2. Amendment makes conforming changes by exempting from the restaurant and bar tax commercial airline food sales and sales of prepared restaurant food when sold to a school for consumption on the school premises during school hours.

**Section -465. Retail sales: exemptions.**

Amendment:

- Makes conforming changes in terminology relating to health care facilities and exempts sales to 501(c)(3) organizations which provide certain services to the handicapped;
- exempts materials used in environmental remediation contracting;
- adds an exemption under retail and use tax provisions for the various printed and electronic media purchased by publicly funded libraries;
- adds an exemption under the retail and use tax provisions for commercial airline food sales;
- adds an exemption under the retail and use tax provisions for wireless telecommunications equipment furnished or held for sale as an inducement to enter into or continue a contract for telecommunication services that are taxable under the telecommunications classification;
- adds an exemption under the retail and use tax provisions for 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;
- exempts sales of food and prepared restaurant food when sold to a school for consumption on the school premises during school hours in all cities and towns (replaces and eliminates local option BB); and
- exempts the sale of personal hygiene products which are transferred to a guest by a hotel.

**Section -480. Utility services.**

Amendment makes a conforming change relating to the exemption under the retail and use tax provisions for 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; and makes conforming changes in terminology relating to health care facilities.

**\*Section -485. Wastewater removal services.**

Amendment makes conforming changes in terminology relating to health care facilities.

**\*Section -556. No additional audits or proposed assessments; exceptions.**

For cities and towns collecting their own tax and for cities and towns doing supplementary local auditing, this amendment clarifies that the tax collector can increase a proposed deficiency if the taxpayer fails to provide available information requested of the taxpayer in writing only prior to issuance of the assessment.

**\*Section -660. Use tax: exemptions.**

See Section -465

**Reg. -100.5. Remediation contracting.**

Adds a section which clarifies which activities are considered to be remediation contracting and thus exempt from the tax on construction contracting.

**THE 1998 AMENDMENTS TO THE TAX CODE  
OF THE CITY OF SAN LUIS, ARIZONA**

Section 1. Section 7A-100 of the Tax Code of the City of San Luis is amended to read:

**Sec. 7A-100. General definitions.**

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

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

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

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

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

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

"Combined Taxes" means the sum of all applicable Arizona Transaction Privilege and Use Taxes; all applicable transportation taxes imposed upon gross income by this County as authorized by Chapter 8.3, Title 42, Arizona Revised Statutes; and all applicable taxes imposed by this Chapter.

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

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

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

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

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

"Delivery, Installation, or Other Direct Customer Services" means services or labor, excluding repair labor, provided by a taxpayer to or for his customer at the time of transfer of tangible personal property; provided further that the charge for such labor or service is separately billed to the customer and maintained separately in the taxpayer's books and records.

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

"Equivalent Excise Tax" means either:

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

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

"Food" means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. Section 42-1387. Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process.

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

"Jet Fuel" means jet fuel as defined in A.R.S. Section 42-1571.

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

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

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

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

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

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

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

"Mining and Metallurgical Supplies" means all tangible personal property acquired by persons engaged in activities defined in Section 7A-432 for such use. This definition shall not include:

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

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

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

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

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

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

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

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

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

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

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

~~"Primary Health Care Facility" means any hospital or any licensed nursing care institution or licensed residential care institution, licensed pursuant to Chapter 4, Title 36, Arizona Revised Statutes, or any licensed kidney dialysis center.~~

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

- (1) any man-made device for support or replacement of a part of the body, or to increase acuity of one of the senses. Such items include: prescription eyeglasses; contact lenses; hearing aids; artificial limbs or teeth; neck, back, arm, leg, or similar braces.
- (2) insulin, insulin syringes, and glucose test strips sold with or without a prescription.

- (3) hospital beds, crutches, wheelchairs, similar home health aids, or corrective shoes.
- (4) drugs or medicine, including oxygen.
- (5) equipment used to generate, monitor, or provide health support systems, such as respiratory equipment, oxygen concentrator, dialysis machine.
- (6) durable medical equipment which has a federal health care financing administration common procedure code, is designated reimbursable by Medicare, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

"QUALIFYING COMMUNITY HEALTH CENTER" MEANS AN ENTITY THAT IS RECOGNIZED AS NONPROFIT UNDER 501(C)(3) OF THE UNITED STATES INTERNAL REVENUE CODE, THAT IS A COMMUNITY-BASED, PRIMARY CARE CLINIC THAT HAS A COMMUNITY-BASED BOARD OF DIRECTORS AND THAT IS EITHER:

- (1) THE SOLE PROVIDER OF PRIMARY CARE IN THE COMMUNITY.
- (2) A NONHOSPITAL AFFILIATED CLINIC THAT IS LOCATED IN A FEDERALLY DESIGNATED MEDICALLY UNDERSERVED AREA IN THIS STATE.

"QUALIFYING HEALTH CARE ORGANIZATION" MEANS AN ENTITY THAT IS RECOGNIZED AS NONPROFIT UNDER SECTION 501(C) OF THE UNITED STATES INTERNAL REVENUE CODE AND THAT USES AT LEAST EIGHTY PER CENT OF ALL MONIES THAT IT RECEIVES FROM ALL SOURCES EACH YEAR ONLY FOR HEALTH AND MEDICAL RELATED EDUCATIONAL AND CHARITABLE SERVICES, AS DOCUMENTED BY ANNUAL FINANCIAL AUDITS PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, PERFORMED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING STANDARDS AND FILED ANNUALLY WITH THE ARIZONA DEPARTMENT OF REVENUE.

"QUALIFYING HOSPITAL" MEANS:

- (1) A LICENSED HOSPITAL WHICH IS ORGANIZED AND OPERATED EXCLUSIVELY FOR CHARITABLE PURPOSES, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.
- (2) A LICENSED NURSING CARE INSTITUTION OR A LICENSED RESIDENTIAL CARE INSTITUTION OR A RESIDENTIAL CARE FACILITY OPERATED IN CONJUNCTION WITH A LICENSED NURSING CARE INSTITUTION OR A LICENSED KIDNEY DIALYSIS CENTER, WHICH PROVIDES MEDICAL SERVICES, NURSING SERVICES OR HEALTH RELATED SERVICES AND IS NOT USED OR HELD FOR PROFIT.
- (3) A HOSPITAL, NURSING CARE INSTITUTION OR RESIDENTIAL CARE INSTITUTION WHICH IS OPERATED BY THE FEDERAL GOVERNMENT, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

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

"REMEDICATION" MEANS THOSE ACTIONS THAT ARE REASONABLE, NECESSARY, COST-EFFECTIVE AND TECHNICALLY FEASIBLE IN THE EVENT OF THE RELEASE OR THREAT OF RELEASE OF HAZARDOUS SUBSTANCES INTO THE ENVIRONMENT SUCH THAT THE WATERS OF THE STATE ARE OR MAY BE AFFECTED, SUCH ACTIONS AS MAY BE NECESSARY TO MONITOR, ASSESS AND EVALUATE SUCH RELEASE OR THREAT OF RELEASE, ACTIONS OF REMEDIATION, REMOVAL OR DISPOSAL OF HAZARDOUS SUBSTANCES OR TAKING SUCH OTHER ACTIONS AS MAY BE NECESSARY TO PREVENT, MINIMIZE OR MITIGATE DAMAGE TO THE PUBLIC HEALTH OR WELFARE OR TO THE WATERS OF THE STATE WHICH MAY OTHERWISE RESULT FROM A RELEASE OR THREAT OF RELEASE OF A HAZARDOUS SUBSTANCE THAT WILL OR MAY AFFECT THE WATERS OF THE STATE. REMEDIATION ACTIVITIES INCLUDE THE USE OF BIOSTIMULATION WITH INDIGENOUS MICROBES AND BIOAUGMENTATION USING MICROBES THAT ARE NONPATHOGENIC, NONOPPORTUNISTIC AND THAT ARE NATURALLY OCCURRING. REMEDIATION ACTIVITIES MAY INCLUDE COMMUNITY INFORMATION AND PARTICIPATION COSTS AND PROVIDING AN ALTERNATIVE DRINKING WATER SUPPLY.

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

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

"Rental Supply" means an expendable or nonexpendable repair or replacement part sold to become part of "rental equipment", provided that:

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

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

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

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

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

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

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

"Speculative Builder" means either:

- (1) an owner-builder who sells or contracts to sell, at anytime, improved real property (as provided in Section 7A-416) consisting of:
  - (A) custom, model, or inventory homes, regardless of the stage of completion of such homes; or
  - (B) improved residential or commercial lots without a structure; or
- (2) an owner-builder who sells or contracts to sell improved real property, other than improved real property specified in subsection (1) above:
  - (A) prior to completion; or
  - (B) before the expiration of twenty-four (24) months after the improvements of the real

property sold are substantially complete.

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

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

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

"Tax Collector" means the City Council or its designee or agent for all purposes under this Chapter.

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

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

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

Section 2. Section 7A-110 of the Tax Code of the City of San Luis is amended to read:

**Sec. 7A-110. Definitions: Income-producing capital equipment.**

- (a) The following tangible personal property, other than items excluded in subsection (d) below, shall be deemed "income-producing capital equipment" for the purposes of this Chapter:
- (1) machinery or equipment used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining", and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.
  - (2) mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.
  - (3) tangible personal property, sold to persons engaged in business classified under the telecommunications classification, consisting of central office switching equipment; switchboards; private branch exchange equipment; microwave radio equipment, and carrier equipment including optical fiber, coaxial cable, and other transmission media which are components of carrier systems.
  - (4) machinery, equipment, or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.
  - (5) pipes or valves four inches (4") in diameter or larger, used to transport oil, natural gas, artificial gas, water, or coal slurry.
  - (6) aircraft, navigational and communication instruments, and other accessories and related equipment sold to:
    - (A) a person holding a federal certificate of public convenience and necessity or foreign

air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or united states mail in intrastate, interstate or foreign commerce.

- (B) any foreign government for use by such government outside of this State.
  - (C) persons who are not residents of this State and who will not use such property in this State other than in removing such property from this State. This subdivision also applies to corporations that are not incorporated in this State, regardless of maintaining a place of business in this State, if the principal corporate office is located outside this State and the property will not be used in this State other than in removing the property from this State.
- (7) machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.
  - (8) railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property in intrastate or interstate transportation for hire.
  - (9) machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.
  - (10) buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by a city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.
  - (11) metering, monitoring, receiving, and transmitting equipment acquired by persons engaged in the business of providing utility services or telecommunications services; but only to the extent that such equipment is to be used by the customers of such persons and such persons separately charge or bill their customers for use of such equipment.
  - (12) groundwater measuring devices required under A.R.S. § 45-604.
  - (13) machinery or equipment used in research and development. In this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.
  - (14) (Reserved)
  - (15) included in income producing capital equipment are liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations or research and development if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involving direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This subsection does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this Regulation CODE. CHEMICALS MEETING THE REQUIREMENTS OF THIS SUBSECTION ARE DEEMED NOT TO BE EXPENDABLE UNDER SUBSECTION (d) OF THIS SECTION.
  - (16) CLEANROOMS THAT ARE USED FOR MANUFACTURING, PROCESSING, FABRICATION OR RESEARCH AND DEVELOPMENT, AS DEFINED IN PARAGRAPH (13) OF THIS SUBSECTION, OF SEMICONDUCTOR PRODUCTS. FOR PURPOSES OF THIS PARAGRAPH, "CLEANROOM" MEANS ALL PROPERTY THAT COMPRISES OR CREATES AN ENVIRONMENT WHERE HUMIDITY, TEMPERATURE, PARTICULATE MATTER AND

CONTAMINATION ARE PRECISELY CONTROLLED WITHIN SPECIFIED PARAMETERS, WITHOUT REGARD TO WHETHER THE PROPERTY IS ACTUALLY CONTAINED WITHIN THAT ENVIRONMENT OR WHETHER ANY OF THE PROPERTY IS AFFIXED TO OR INCORPORATED INTO REAL PROPERTY. CLEANROOM:

- (A) INCLUDES THE INTEGRATED SYSTEMS, FIXTURES, PIPING, MOVABLE PARTITIONS, LIGHTING AND ALL PROPERTY THAT IS NECESSARY OR ADAPTED TO REDUCE CONTAMINATION OR TO CONTROL AIRFLOW, TEMPERATURE, HUMIDITY, CHEMICAL PURITY OR OTHER ENVIRONMENTAL CONDITIONS OR MANUFACTURING TOLERANCES, AS WELL AS THE PRODUCTION MACHINERY AND EQUIPMENT OPERATING IN CONJUNCTION WITH THE CLEANROOM ENVIRONMENT.
  - (B) DOES NOT INCLUDE THE BUILDING OR OTHER PERMANENT, NONREMOVABLE COMPONENT OF THE BUILDING THAT HOUSES THE CLEANROOM ENVIRONMENT.
- (17) MACHINERY AND EQUIPMENT THAT ARE PURCHASED BY OR ON BEHALF OF THE OWNERS OF A SOUNDSTAGE COMPLEX AND PRIMARILY USED FOR MOTION PICTURE, MULTIMEDIA OR INTERACTIVE VIDEO PRODUCTION IN THE COMPLEX. THIS PARAGRAPH APPLIES ONLY IF THE INITIAL CONSTRUCTION OF THE SOUNDSTAGE COMPLEX BEGINS AFTER JUNE 30, 1996 AND BEFORE JANUARY 1, 2002 AND THE MACHINERY AND EQUIPMENT ARE PURCHASED BEFORE THE EXPIRATION OF FIVE YEARS AFTER THE START OF INITIAL CONSTRUCTION. FOR PURPOSES OF THIS PARAGRAPH:
- (A) "MOTION PICTURE, MULTIMEDIA OR INTERACTIVE VIDEO PRODUCTION" INCLUDES PRODUCTS FOR THEATRICAL AND TELEVISION RELEASE, EDUCATIONAL PRESENTATIONS, ELECTRONIC RETAILING, DOCUMENTARIES, MUSIC VIDEOS, INDUSTRIAL FILMS, CD-ROM, VIDEO GAME PRODUCTION, COMMERCIAL ADVERTISING AND TELEVISION EPISODE PRODUCTION AND OTHER GENRES THAT ARE INTRODUCED THROUGH DEVELOPING TECHNOLOGY.
  - (B) "SOUNDSTAGE COMPLEX" MEANS A FACILITY OF MULTIPLE STAGES INCLUDING PRODUCTION OFFICES, CONSTRUCTION SHOPS AND RELATED AREAS, PROP AND COSTUME SHOPS, STORAGE AREAS, PARKING FOR PRODUCTION VEHICLES AND AREAS THAT ARE LEASED TO BUSINESSES THAT COMPLEMENT THE PRODUCTION NEEDS AND ORIENTATION OF THE OVERALL FACILITY.
- (18) TANGIBLE PERSONAL PROPERTY THAT IS USED BY EITHER OF THE FOLLOWING TO RECEIVE, STORE, CONVERT, PRODUCE, GENERATE, DECODE, ENCODE, CONTROL OR TRANSMIT TELECOMMUNICATIONS INFORMATION:
- (A) ANY DIRECT BROADCAST SATELLITE TELEVISION OR DATA TRANSMISSION SERVICE THAT OPERATES PURSUANT TO 47 CODE OF FEDERAL REGULATIONS PARTS 25 AND 100.
  - (B) ANY SATELLITE TELEVISION OR DATA TRANSMISSION FACILITY, IF BOTH OF THE FOLLOWING CONDITIONS ARE MET:
    - (i) OVER TWO-THIRDS OF THE TRANSMISSIONS, MEASURED IN MEGABYTES, TRANSMITTED BY THE FACILITY DURING THE TEST PERIOD WERE TRANSMITTED TO OR ON BEHALF OF ONE OR MORE DIRECT BROADCAST SATELLITE TELEVISION OR DATA TRANSMISSION SERVICES THAT OPERATE PURSUANT TO 47 CODE OF FEDERAL REGULATIONS PARTS 25 AND 100.
    - (ii) OVER TWO-THIRDS OF THE TRANSMISSIONS, MEASURED IN MEGABYTES, TRANSMITTED BY OR ON BEHALF OF THOSE DIRECT BROADCAST TELEVISION OR DATA TRANSMISSION SERVICES DURING THE TEST PERIOD WERE TRANSMITTED BY THE FACILITY TO OR ON BEHALF OF THOSE SERVICES.
- FOR PURPOSES OF SUBDIVISION (B) OF THIS PARAGRAPH, "TEST PERIOD" MEANS

THE THREE HUNDRED SIXTY-FIVE DAY PERIOD BEGINNING ON THE LATER OF THE DATE ON WHICH THE TANGIBLE PERSONAL PROPERTY IS PURCHASED OR THE DATE ON WHICH THE DIRECT BROADCAST SATELLITE TELEVISION OR DATA TRANSMISSION SERVICE FIRST TRANSMITS INFORMATION TO ITS CUSTOMERS.

- (b) The term "income-producing capital equipment" shall further include ancillary machinery and equipment used for the treatment of waste products created by the business activities which are allowed to purchase "income-producing capital equipment" defined in subsection (a) above.
- (c) The term "income-producing capital equipment" shall further include repair and replacement parts, other than the items in subsection (d) below, where the property is acquired to become an integral part of another item itemized in subsections (a) or (b) above.
- (d) The tangible personal property defined as income-producing capital equipment in this Section shall not include:
  - (1) expendable materials.
  - (2) janitorial equipment and hand tools.
  - (3) office equipment, furniture, and supplies.
  - (4) tangible personal property used in selling or distributing activities.
  - (5) motor vehicles required to be licensed by the State of Arizona, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection (a)(10) above without regard to the use of such motor vehicles.
  - (6) shops, buildings, docks, depots, and all other materials of whatever kind or character not specifically included as exempt.
  - (7) motors and pumps used in drip irrigation systems.
- (e) For the purposes of this Section:
  - (1) "aircraft" includes:
    - (A) an airplane flight simulator that is approved by the Federal Aviation Administration for use as a Phase II or higher flight simulator under Appendix H, 14 Code of Federal Regulations Part 121.
    - (B) tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.
  - (2) "other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

Section 3. Section 7A-266 of the Tax Code of the City of San Luis is amended to read:

**Sec. 7A-266. Exclusion of motor carrier revenues from gross income.**

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

- (a) A motor carrier's use on the public highways in this State if the motor carrier is subject to tax under A FEE PRESCRIBED IN A.R.S. Title 28, Chapter 9, ~~Article 6~~ 16.
- ~~(b) A person's use of a lightweight motor vehicle on the public highways in this State if such person is subject to tax under A.R.S. Title 28, Chapter 9, Article 6.~~
- (c) (b) Leasing, renting or licensing a motor vehicle, including lightweight motor vehicles, subject to and upon which the tax FEE has been paid under A.R.S. Title 28, Chapter 9, ~~Article 6~~ 16.

- (c) The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle, to a licensed motor carrier or ~~lightweight motor vehicle operator~~ who is subject to ~~tax under~~ A FEE PRESCRIBED IN A.R.S. Title 28, Chapter 9, Article 6 16 and who is engaged in the business of leasing, renting or licensing such property.
- (d) FOR THE PURPOSES OF THESE EXCLUSIONS, "MOTOR CARRIER" INCLUDES A MOTOR VEHICLE WEIGHING 26,000 POUNDS OR MORE, A LIGHTWEIGHT MOTOR VEHICLE WHICH WEIGHS 12,001 POUNDS TO 26,000 POUNDS AND A LIGHT MOTOR VEHICLE WEIGHING 12,000 POUNDS OR LESS, WHICH PAY THE FEE PRESCRIBED IN A.R.S. TITLE 28, CHAPTER 16.

Section 4. Section 7A-425 of the Tax Code of the City of San Luis is amended to read:

**Sec. 7A-425. Job printing.**

- (a) The tax rate shall be at an amount equal to two and one-half percent (2.5%) 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 ~~any nonprofit primary health care facility~~ 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)

Section 5. Section 7A-435 of the Tax Code of the City of San Luis is amended to read:

**Sec. 7A-435. Publishing and periodicals distribution.**

- (a) The tax rate shall be at an amount equal to two and one-half percent (2.5%) 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 7A-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 ~~any nonprofit primary health care facility~~ 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.

Section 6. Section 7A-445 of the Tax Code of the City of San Luis is amended to read:

**Sec. 7A-445. Rental, leasing, and licensing for use of real property.**

- (a) The tax rate shall be at an amount equal to two and one-half percent (2.5%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the City for a consideration, to the tenant in actual possession, or the licensing for use of real property TO THE FINAL LICENSEE located within the City for a consideration including any improvements, rights, or interest in such property; provided further that:
  - (1) Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.
  - (2) Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.
  - (3) However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section 7A-470.
- (b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.
- (c) Charges by ~~primary health care facilities~~ A QUALIFYING HOSPITAL, QUALIFYING COMMUNITY HEALTH CENTER OR A QUALIFYING HEALTH CARE ORGANIZATION to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.
- (d) 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 are exempt from the tax imposed by this Section.
- (e) (Reserved)
- (f) (Reserved)

- (g) (Reserved)
- (h) (Reserved)
- (i) (Reserved)
- (j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 7A-444 of this code.
- (k) (Reserved)
- (l) (Reserved)
- (m) (Reserved)
- (n) Notwithstanding the provisions of Section 7A-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this Section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this Section.

Section 7. Section 7A-450 of the Tax Code of the City of San Luis is amended to read:

**Sec. 7A-450. Rental, leasing, and licensing for use of tangible personal property.**

- (a) The tax rate shall be at an amount equal to two and one-half percent (2.5%) 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 ~~any nonprofit primary health care facility~~ 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.

Section 8. Section 7A-455 of the Tax Code of the City of San Luis is amended to read:

**Sec. 7A-455. Restaurants and Bars.**

- (a) The tax rate shall be at an amount equal to two and one-half percent (2.5%) 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 ~~any nonprofit primary health care facility~~ A QUALIFYING HOSPITAL, QUALIFYING COMMUNITY HEALTH CENTER OR A QUALIFYING HEALTH CARE ORGANIZATION, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
- (d) THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO SALES OF FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES USED FOR SERVING FOOD AND BEVERAGES TO A COMMERCIAL AIRLINE, AS DEFINED IN A.R.S. § 42-1310.01(A)(48), THAT SERVES THE FOOD AND BEVERAGES TO ITS PASSENGERS, WITHOUT ADDITIONAL CHARGE, FOR CONSUMPTION IN FLIGHT.
- (e) THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO SALES OF PREPARED FOOD, BEVERAGES, CONDIMENTS OR ACCESSORIES TO A PUBLIC EDUCATIONAL ENTITY, PURSUANT TO ANY OF THE PROVISIONS OF TITLE 15, ARIZONA REVISED STATUTES, TO THE EXTENT SUCH ITEMS ARE TO BE PREPARED OR SERVED TO INDIVIDUALS FOR CONSUMPTION ON THE PREMISES OF A PUBLIC EDUCATIONAL ENTITY DURING SCHOOL HOURS.

- (f) FOR THE PURPOSES OF THIS SECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.

Section 9. Section 7A-465 of the Tax Code of the City of San Luis is amended to read:

**Sec. 7A-465. Retail sales: exemptions.**

Income derived from the following sources is exempt from the tax imposed by Section 7A-460:

- (a) sales of tangible personal property to a person regularly engaged in the business of selling such property.
- (b) out-of-City sales or out-of-State sales.
- (c) charges for delivery, installation, or other direct customer services as prescribed by Regulation.
- (d) charges for repair services as prescribed by Regulation, when separately charged and separately maintained in the books and records of the taxpayer.
- (e) sales of warranty, maintenance, and service contracts, when separately charged and separately maintained in the books and records of the taxpayer.
- (f) sales of prosthetics.
- (g) sales of income-producing capital equipment.
- (h) sales of rental equipment and rental supplies.
- (i) sales of mining and metallurgical supplies.
- (j) sales of motor vehicle fuel and use fuel which are subject to a tax imposed under the provisions of Article I or II, ~~Chapter 9~~ CHAPTER 16, Title 28, Arizona Revised Statutes; or sales of use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. Section ~~28-1559~~ 28-5739, or sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.
- (k) sales of tangible personal property to a construction contractor who holds a valid Privilege Tax License for engaging or continuing in the business of construction contracting where the tangible personal property sold is incorporated into any structure or improvement to real property as part of construction contracting activity.
- (l) sales of motor vehicles to nonresidents of this State for use outside this State if the vendor ships or delivers the motor vehicle to a destination outside this State.
- (m) sales of tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines, or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.
- (n) (Reserved)
  - (1) (Reserved)
  - (2) (Reserved)

- (o) sales to hotels, bars, restaurants, dining cars, lunchrooms, boarding houses, or similar establishments of articles consumed as food, drink, or condiment, whether simple, mixed, or compounded, where such articles are customarily prepared or served to patrons for consumption on or off the premises, where the purchaser is properly licensed and paying a tax under Section 7A-455 or the equivalent excise tax upon such income.
- (p) sales of tangible personal property to ~~any nonprofit primary health care facility~~ A QUALIFYING HOSPITAL, QUALIFYING COMMUNITY HEALTH CENTER OR A QUALIFYING HEALTH CARE ORGANIZATION, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 OR SALES OF TANGIBLE PERSONAL PROPERTY PURCHASED IN THIS STATE BY A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(C)(3) OF THE UNITED STATES INTERNAL REVENUE CODE AND THAT ENGAGES IN AND USES SUCH PROPERTY EXCLUSIVELY FOR TRAINING, JOB PLACEMENT OR REHABILITATION PROGRAMS OR TESTING FOR MENTALLY OR PHYSICALLY HANDICAPPED PERSONS.
- (q) Food purchased with food stamps provided through the Food Stamp Program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 Et Seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302), but only to the extent that food stamps or food instruments were actually used to purchase such food.
- (r) (Reserved)
  - (1) (Reserved)
  - (2) (Reserved)
  - (3) (Reserved)
  - (4) (Reserved)
- (s) sales of groundwater measuring devices required by A.R.S. Section 45-604.
- (t) (Reserved)
- (u) sales of aircraft acquired for use outside the State, as prescribed by Regulation.
- (v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.
- (w) (Reserved)
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)
- (aa) THE SALE OF TANGIBLE PERSONAL PROPERTY USED IN REMEDIATION CONTRACTING AS DEFINED IN SECTION 7A-100 AND REGULATION 7A-100.5.
- (bb) SALES OF MATERIALS THAT ARE PURCHASED BY OR FOR PUBLICLY FUNDED LIBRARIES INCLUDING SCHOOL DISTRICT LIBRARIES, CHARTER SCHOOL LIBRARIES, COMMUNITY COLLEGE LIBRARIES, STATE UNIVERSITY LIBRARIES OR FEDERAL, STATE, COUNTY OR MUNICIPAL LIBRARIES FOR USE BY THE PUBLIC AS FOLLOWS:
  - (1) PRINTED OR PHOTOGRAPHIC MATERIALS.
  - (2) ELECTRONIC OR DIGITAL MEDIA MATERIALS.

- (cc) SALES OF FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES USED FOR SERVING FOOD AND BEVERAGES TO A COMMERCIAL AIRLINE, AS DEFINED IN A.R.S. § 42-1310.01(A)(48), THAT SERVES THE FOOD AND BEVERAGES TO ITS PASSENGERS, WITHOUT ADDITIONAL CHARGE, FOR CONSUMPTION IN FLIGHT. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.
- (dd) IN COMPUTING THE TAX BASE IN THE CASE OF THE SALE OR TRANSFER OF WIRELESS TELECOMMUNICATION EQUIPMENT AS AN INDUCEMENT TO A CUSTOMER TO ENTER INTO OR CONTINUE A CONTRACT FOR TELECOMMUNICATION SERVICES THAT ARE TAXABLE UNDER SECTION 7A-470, GROSS PROCEEDS OF SALES OR GROSS INCOME DOES NOT INCLUDE ANY SALES COMMISSIONS OR OTHER COMPENSATION RECEIVED BY THE RETAILER AS A RESULT OF THE CUSTOMER ENTERING INTO OR CONTINUING A CONTRACT FOR THE TELECOMMUNICATIONS SERVICES.
- (ee) FOR THE PURPOSES OF THIS SECTION, A SALE OF WIRELESS TELECOMMUNICATION EQUIPMENT TO A PERSON WHO HOLDS THE EQUIPMENT FOR SALE OR TRANSFER TO A CUSTOMER AS AN INDUCEMENT TO ENTER INTO OR CONTINUE A CONTRACT FOR TELECOMMUNICATION SERVICES THAT ARE TAXABLE UNDER SECTION 7A-470 IS CONSIDERED TO BE A SALE FOR RESALE IN THE REGULAR COURSE OF BUSINESS.
- (ff) SALES OF ALTERNATIVE FUEL AS DEFINED IN A.R.S. § 1-215, TO A USED OIL FUEL BURNER WHO HAS RECEIVED A DEPARTMENT OF ENVIRONMENTAL QUALITY PERMIT TO BURN USED OIL OR USED OIL FUEL UNDER A.R.S. § 49-426 OR § 49-480.
- (gg) SALES OF FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES TO A PUBLIC EDUCATIONAL ENTITY, PURSUANT TO ANY OF THE PROVISIONS OF TITLE 15, ARIZONA REVISED STATUTES; TO THE EXTENT SUCH ITEMS ARE TO BE PREPARED OR SERVED TO INDIVIDUALS FOR CONSUMPTION ON THE PREMISES OF A PUBLIC EDUCATIONAL ENTITY DURING SCHOOL HOURS. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.
- (hh) SALES OF PERSONAL HYGIENE ITEMS TO A PERSON ENGAGED IN THE BUSINESS OF AND SUBJECT TO TAX UNDER SECTION 7A-444 OF THIS CODE IF THE TANGIBLE PERSONAL PROPERTY IS FURNISHED WITHOUT ADDITIONAL CHARGE TO AND INTENDED TO BE CONSUMED BY THE PERSON DURING HIS OCCUPANCY.

Section 10. Section 7A-480 of the Tax Code of the City of San Luis is amended to read:

**Sec. 7A-480. Utility services.**

- (a) The tax rate shall be at an amount equal to two and one-half percent (2.5%) 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) (Reserved)
- (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 7A-460 and 7A-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 7A-400(b).
- (e) The tax imposed by this Section shall not apply to sales of utility services to ~~any nonprofit primary health care facility~~ 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.

Section 11. Section 7A-660 of the Tax Code of the City of San Luis is amended to read:

**Sec. 7A-660. Use tax: exemptions.**

The storage or use in this City of the following tangible personal property is exempt from the use tax imposed by this article:

- (a) tangible personal property brought into the City by an individual who was not a resident of the City at the time the property was acquired for his own use, if the first actual use of such property was outside the City, unless such property is used in conducting a business in this City.
- (b) tangible personal property, the value of which does not exceed the amount of one thousand dollars (\$1,000) per item, acquired by an individual outside the limits of the City for his personal use and enjoyment.

- (c) charges for delivery, installation, or other customer services, as prescribed by regulation.
- (d) charges for repair services, as prescribed by regulation.
- (e) separately itemized charges for warranty, maintenance, and service contracts.
- (f) prosthetics.
- (g) income-producing capital equipment.
- (h) rental equipment and rental supplies.
- (i) mining and metallurgical supplies.
- (j) motor vehicle fuel and use fuel which are used upon the highways of this state and upon which a tax has been imposed under the provisions of article I or II, Chapter 9, Title 28, Arizona Revised Statutes.
- (k) tangible personal property purchased by a construction contractor, but not an owner-builder, when such person holds a valid privilege license for engaging or continuing in the business of construction contracting, and where the property acquired is incorporated into any structure or improvement to real property in fulfillment of a construction contract.
- (l) sales of motor vehicles to nonresidents of this State for use outside this State if the vendor ships or delivers the motor vehicle to a destination outside this State.
- (m) tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.
- (n) rental, leasing, or licensing for use of film, tape, or slides by a theater or other person taxed under Section 7A-410, or by a radio station, television station, or subscription television system.
- (o) food served to patrons for a consideration by any person engaged in a business properly licensed and taxed under Section 7A-455, but not food consumed by owners, agents, or employees of such business.
- (p) tangible personal property acquired by ~~any nonprofit health care facility~~ A QUALIFYING HOSPITAL, QUALIFYING COMMUNITY HEALTH CENTER OR A QUALIFYING HEALTH CARE ORGANIZATION, except when the property is in fact used in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
- (q) food purchased with food stamps provided through the food stamp program established by the food stamp act of 1977 (P.L. 95-113; 91 stat. 958.7 U.S.C. section 2011 et seq.) or purchased with food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 stat. 3603; and P.L. 99-669; section 4302).
- (r) (Reserved)
  - (1) (Reserved)
  - (2) (Reserved)
  - (3) (Reserved)
- (s) groundwater measuring devices required by A.R.S. Section 45-604.
- (t) (Reserved)

- (u) aircraft acquired for use outside the State, as prescribed by Regulation.
- (v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.
- (w) (Reserved)
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)
- (aa) TANGIBLE PERSONAL PROPERTY USED IN REMEDIATION CONTRACTING AS DEFINED IN SECTION 7A-100 AND REGULATION 7A-100.5.
- (bb) MATERIALS THAT ARE PURCHASED BY OR FOR PUBLICLY FUNDED LIBRARIES INCLUDING SCHOOL DISTRICT LIBRARIES, CHARTER SCHOOL LIBRARIES, COMMUNITY COLLEGE LIBRARIES, STATE UNIVERSITY LIBRARIES OR FEDERAL, STATE, COUNTY OR MUNICIPAL LIBRARIES FOR USE BY THE PUBLIC AS FOLLOWS:
  - (1) PRINTED OR PHOTOGRAPHIC MATERIALS.
  - (2) ELECTRONIC OR DIGITAL MEDIA MATERIALS.
- (cc) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES USED FOR SERVING FOOD AND BEVERAGES BY A COMMERCIAL AIRLINE, AS DEFINED IN A.R.S. § 42-1310.01(A)(48), THAT SERVES THE FOOD AND BEVERAGES TO ITS PASSENGERS, WITHOUT ADDITIONAL CHARGE, FOR CONSUMPTION IN FLIGHT. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.
- (dd) WIRELESS TELECOMMUNICATION EQUIPMENT THAT IS HELD FOR SALE OR TRANSFER TO A CUSTOMER AS AN INDUCEMENT TO ENTER INTO OR CONTINUE A CONTRACT FOR TELECOMMUNICATION SERVICES THAT ARE TAXABLE UNDER SECTION 7A-470.
- (ee) (RESERVED)
- (ff) ALTERNATIVE FUEL AS DEFINED IN A.R.S. § 1-215, BY A USED OIL FUEL BURNER WHO HAS RECEIVED A DEPARTMENT OF ENVIRONMENTAL QUALITY PERMIT TO BURN USED OIL OR USED OIL FUEL UNDER A.R.S. § 49-426 OR § 49-480.
- (gg) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES PURCHASED BY OR FOR A PUBLIC EDUCATIONAL ENTITY, PURSUANT TO ANY OF THE PROVISIONS OF TITLE 15, ARIZONA REVISED STATUTES; TO THE EXTENT SUCH ITEMS ARE TO BE PREPARED OR SERVED TO INDIVIDUALS FOR CONSUMPTION ON THE PREMISES OF A PUBLIC EDUCATIONAL ENTITY DURING SCHOOL HOURS. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.
- (hh) PERSONAL HYGIENE ITEMS PURCHASED BY A PERSON ENGAGED IN THE BUSINESS OF AND SUBJECT TO TAX UNDER SECTION 7A-444 OF THIS CODE IF THE TANGIBLE PERSONAL PROPERTY IS FURNISHED WITHOUT ADDITIONAL CHARGE TO AND INTENDED TO BE CONSUMED BY THE PERSON DURING HIS OCCUPANCY.

Section 12. The Tax Code of the City of San Luis is amended by adding Regulation 7A-100.5:

**Reg. 7A-100.5. REMEDIATION CONTRACTING**

THE FOLLOWING ACTIVITIES ARE CONSIDERED REMEDIATION CONTRACTING AND ARE EXEMPT:

- (1) EXCAVATION, TRANSPORTATION, TREATMENT, AND/OR DISPOSAL OF CONTAMINATED SOIL FOR PURPOSES OF SITE REMEDIATION (RATHER THAN CHARACTERIZATION);
- (2) INSTALLATION OF GROUNDWATER EXTRACTION AND/OR INJECTION WELLS FOR PURPOSES OF GROUNDWATER REMEDIATION;
- (3) INSTALLATION OF PUMPS AND PIPING INTO GROUNDWATER EXTRACTION WELLS FOR REMEDIATION PURPOSES;
- (4) INSTALLATION OF VAPOR EXTRACTION WELLS FOR THE PURPOSE OF SOIL OR GROUNDWATER REMEDIATION;
- (5) CONSTRUCTION OF REMEDIATION SYSTEMS, SUCH AS GROUNDWATER TREATMENT PLANTS, VAPOR EXTRACTION SYSTEMS, OR AIR INJECTION SYSTEMS;
- (6) CONNECTION OF REMEDIATION SYSTEMS TO UTILITIES;
- (7) ABANDONMENT OF GROUNDWATER OR VAPOR EXTRACTION WELLS;
- (8) REMOVAL/DEMOLITION OF REMEDIATION SYSTEMS;
- (9) CAPPING/CLOSURE CONSTRUCTION ACTIVITIES; AND
- (10) SERVICE OR HANDLING CHARGES FOR SUBCONTRACTED REMEDIATION CONTRACTING ACTIVITIES.