

ORDINANCE NO. 274

AN ORDINANCE OF THE TOWN OF JEROME, ARIZONA, RELATING TO THE PRIVILEGE LICENSE TAX; ADOPTING "THE 1995 AMENDMENTS TO THE TOWN TAX CODE OF THE TOWN OF JEROME, ARIZONA" BY REFERENCE; ESTABLISHING EFFECTIVE DATES AND PROVIDING PENALTIES FOR VIOLATIONS.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, ARIZONA:

Section 1: That certain document known as "The 1995 Amendments to the Town Tax Code of the Town of Jerome, Arizona," three copies of which are on file in the office of the town clerk of the Town of Jerome, Arizona, which document was made a public record by Resolution No. 305 of the Town of Jerome, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2: The provisions of this ordinance and the public record adopted herein are effective from and after January 31, 1995 with the exception of the deletion of the definition of manufacturing in Section 1; Section 2; Section 15; subsection (u) of Section 16; Section 19; Section 20 and Section 28 which shall be effective from and after June 30, 1995.

Section 3: 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 4: 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 Town of Jerome, Arizona, this 11th day of April, 1994.



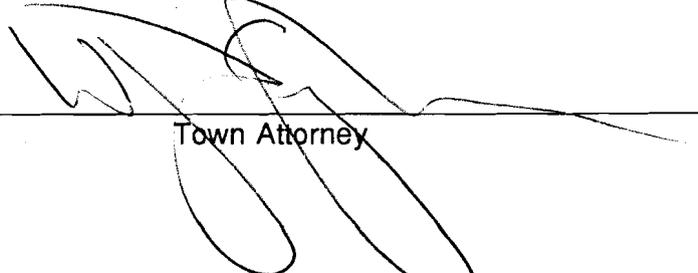
Mayor

ATTEST:



Town Clerk

APPROVED AS TO FORM:



Town Attorney

ORDINANCE NO. 274

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PASSED AND ADOPTED by the Mayor and Council of the Town of Jerome, Arizona, this _____ day of _____, 1995.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

**THE 1995 AMENDMENTS TO THE TOWN TAX CODE
OF THE TOWN OF JEROME, ARIZONA**

Section 1. Section 8A-100 of the Jerome Town Tax Code is amended to read:

Sec. 8A-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 OFFICE, 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. 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 GOVERNMENTS 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 Town 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.

"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.

"Manufacturing"

- ~~(1) For the purposes of this Chapter, an activity shall be considered "manufacturing" only if such activity is not defined as something else in this Chapter and if it involves the physical combining (but not merely mixing), separating (but not merely sorting or sifting), or otherwise physically changing of tangible personal property ("raw materials") into another form of tangible personal property available for sale ("finished goods").~~
- ~~(2) The activity of manufacturing shall be deemed to begin when the first act of physically combining (but not merely mixing), separating (but not merely sorting or sifting), or otherwise physically changing tangible personal property ("raw materials") occurs; the activity will be deemed to end when the last act of physically combining, separating, or otherwise physically changing the tangible personal property ends.~~

"Mining and Metallurgical Supplies" means all tangible personal property acquired by persons engaged in activities defined in ~~subsection 8A-430 (a)(1)~~ SECTION 8A-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-Town 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 Town; and
- (2) the stock from which such personal property was taken was not within the corporate limits of the Town; and
- (3) the order is received at a permanent business location of the seller located outside the Town; 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 Town, including, but not limited to, accounting, invoicing, payments, centralized purchasing, and supply to out-of-Town storehouses and out-of-Town retail branch outlets from a primary storehouse within the Town.

"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 Town"; 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 and insulin syringes, 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.

"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.

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

"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 8A-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 Town, 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 Town Council or their 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 8A-110 of the Jerome Town Tax Code is amended to read:

Sec. 8A-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 ~~which is purchased or leased for use primarily during the activity of~~ USED DIRECTLY IN manufacturing, PROCESSING, FABRICATING, or job printing, REFINING OR METALLURGICAL OPERATIONS. ~~Machinery or equipment having multiple uses shall be included only if such machinery and equipment is not used by the vendee for any purpose other than during the activity of manufacturing or job printing to an extent greater than fifteen percent (15%) of its actual use.~~ 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.
 - (2) (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 ~~other electromagnetic carrier wave transmission equipment;~~ CARRIER EQUIPMENT INCLUDING OPTICAL FIBER, coaxial cable, ~~when so used by persons engaged in the business of providing telecommunication services~~ AND OTHER TRANSMISSION MEDIA WHICH ARE COMPONENTS OF CARRIER SYSTEMS.
 - (3) (4) machinery, equipment, or transmission lines used directly in ~~the production or transmission of~~ PRODUCING OR TRANSMITTING electrical power, but not including ~~items used for distribution. or transformers and control equipment used at~~

~~transmission substation sites. For the purposes of this Chapter, all machinery, equipment, or transmission lines rated for power of less than sixty thousand (60,000) volts or actually used for power of less than 60,000 volts shall be considered to be used for distribution.~~ TRANSFORMERS AND CONTROL EQUIPMENT USED AT TRANSMISSION SUBSTATION SITES CONSTITUTE EQUIPMENT USED IN PRODUCING OR TRANSMITTING ELECTRICAL POWER.

- (4) (5) pipes or valves ~~for such pipes~~, four inches (4") in interior diameter or larger, used ~~for transporting~~ TO TRANSPORT oil, natural gas, artificial gas, water, or coal slurry.
- (5) (6) ~~airplanes~~ AIRCRAFT, navigational and communication instruments, and other accessories and related equipment SOLD TO: ~~used by airlines holding a federal or state certificate of public convenience and necessity or foreign air carrier permit for air transportation; provided that such tangible personal property is used in conjunction with or become part of aircraft to be used in transportation of persons, property, or U.S. Mail in intrastate, interstate, or foreign air transportation for hire.~~
 - (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.
- (6) (8) RAILROAD rolling stock, rails, ties, ~~or~~ AND signal control equipment used ~~by railroads directly in the transportation of~~ TO TRANSPORT persons or property in intrastate or interstate transportation for hire.
- (7) (9) machinery or equipment used directly ~~by~~ TO DRILL FOR oil or gas ~~drilling or extracting companies in the drilling for or in the~~ OR USED DIRECTLY IN THE process of extracting oil or gas from the earth for commercial purposes.
- (8) (10) ~~tangible personal property actually and directly used or consumed by the business of operating any bus company or other urban mass transit system, when such system is operated by a governmental entity or by any person contracting~~ 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 TOWN, TOWN OR OTHER GOVERNMENTAL ENTITY OR BY ANY PERSON CONTRACTING with such a governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

- (9) (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.
 - ~~(10) machinery and equipment used directly in mining and metallurgical activity, as prescribed by subsection 8A-430(a)(1), by persons engaging or continuing in the business of such activity.~~
 - (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.
- (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 items MATERIALS. Any item having a net unit cost to the vendee of less than two hundred fifty dollars (\$250.00) shall be deemed "expendable"; unless such item is treated in the vendee's books and records as a capital asset and the vendee supplies the vendor with a certificate of proof of exemption at the time of the transaction, as provided by Regulation.~~

- (2) janitorial equipment and ~~supplies~~ HAND TOOLS.
 - ~~(3) hand tools.~~
 - ~~(4)~~ (3) office equipment, furniture, and supplies.
 - ~~(5)~~ (4) tangible personal property used in selling or distributing activities.
 - ~~(6)~~ ~~tangible personal property used in research.~~
 - ~~(7)~~ (5) motor vehicles required to be licensed by the State of Arizona, ~~without regard to the use of such motor vehicles, but not including buses and similar vehicles used to transport passengers as part of an urban mass transportation system described in~~ EXCEPT BUSES OR OTHER URBAN MASS TRANSIT VEHICLES SPECIFICALLY EXEMPTED PURSUANT TO subsection (a)~~(8)~~(10) above WITHOUT REGARD TO THE USE OF SUCH MOTOR VEHICLES.
 - ~~(8)~~ (6) shops, buildings, docks, depots, ~~or other alterations of real property~~ 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 8A-120 of the Jerome Town Tax Code is amended to read:

Sec. 8A-120. Definitions: food for home consumption.

- (a) For the purposes of this Section only, the following definitions shall be applicable:
 - (1) "Eligible grocery business" means an establishment whose sales of food are such that it is eligible to participate in the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.), according to regulations in effect on January 1, 1979. An establishment is deemed eligible to participate in the Food Stamp Program if it is authorized to participate in the program by the United States Department of Agriculture Food and Nutrition Service Field Office on the effective date of this Section, or if, prior to a reporting period for which the return is filed, such retailer proves to the satisfaction of the Tax Collector that the establishment, based on the nature of the retailer's food sales, could be eligible to participate in the food stamp program established by the Food Stamp Act of 1977 according to regulations in effect on January 1, 1979.
 - (2) "Facilities for the consumption of food" means tables, chairs, benches, booths, stools, counters, and similar conveniences, trays, glasses, dishes, or other tableware and parking areas for the convenience of in-car consumption of food in or on the premises on which the retailer conducts business.

- (3) "Food for consumption on the premises" means any of the following:
- (A) "Hot prepared food" as defined below.
 - (B) Hot or cold sandwiches.
 - (C) Food served by an attendant to be eaten at tables, chairs, benches, booths, stools, counters, and similar conveniences and within parking areas for the convenience of in-car consumption of food.
 - (D) Food served with trays, glasses, dishes, or other tableware.
 - (E) Beverages sold in cups, glasses, or open containers.
 - (F) Food sold by caterers.
 - (G) Food sold within the premises of theatres, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, fairs, races, contests, games, athletic events, rodeos, billiard and pool parlors, bowling alleys, public dances, dance halls, boxing, wrestling and other matches, and any business which charges admission, entrance, or cover fees for exhibition, amusement, entertainment, or instruction.
 - (H) Any items contained in subsections (a)(3)(A) through (G) above even though they are sold on a "take-out" or "to go" basis, and whether or not the item is packaged, wrapped, or is actually taken from the premises.
- (4) "Hot prepared food" means those products, items, or ingredients of food which are prepared and intended for consumption in a heated condition. "Hot prepared food" includes a combination of hot and cold food items or ingredients if a single price has been established.
- (5) "Premises" means the total space and facilities in or on which a vendor conducts business and which are owned or controlled, in whole or in part, by a vendor or which are made available for the use of customers of the vendor or group of vendors, including any building or part of a building, parking lot, or grounds.
- (b) "Food for home consumption" means all food, except food for consumption on the premises, if sold by any of the following:
- (1) An eligible grocery business.
 - (2) A person who conducts a business whose primary business is not the sale of food but who sells food which is displayed, packaged, and sold in a similar manner as an eligible grocery business.
 - (3) A person who sells food and does not provide or make available any facilities for the consumption of food on the premises.
 - (4) A person who conducts a delicatessen business either from a counter which is separate from the place and cash register where taxable sales are made or from a counter which has two cash registers and which are used to record taxable and tax exempt sales, or a retailer who conducts a delicatessen business who uses a cash register which has at least two tax computing keys which are used to record taxable and tax exempt sales.
 - (5) (Reserved)
 - (6) Vending machines and other types of automatic retailers ~~provided that there are no facilities for the consumption of food on the premises where such automatic retailers are located.~~

Section 4. Section 8A-240 of the Jerome Town Tax Code is amended to read:

Sec. 8A-240. Exclusion of cash discounts, returns, refunds, trade-in values, vendor-issued coupons, and rebates from gross income.

- (a) The following items are not included in gross income:
- (1) Cash discounts allowed by the vendor for timely payment, but only discounts allowed against taxable gross income.

- (2) The value of property returned by customers to the extent of the amount actually refunded either in cash or by credit and the amount refunded was included in taxable gross income.
 - (3) The trade-in allowance for tangible personal property accepted as payment, not to exceed the full sales price for any tangible personal property sold, when the full sales price is included in taxable gross income. TRADE-IN ALLOWANCES ARE NOT ALLOWED FOR MANUFACTURED BUILDINGS TAXABLE UNDER SECTION 8A-427.
 - (4) When coupons issued by a vendor are later accepted by the vendor as a discount against the transaction, the discount may be excluded from gross income as a cash discount. Amounts credited or refunded by a vendor for redemption of coupons issued by any person other than the vendor may not be excluded from gross income.
 - (5) Rebates issued by the vendor to a customer as a discount against the transaction may be excluded from gross income as a cash discount. Rebates issued by a person other than the vendor may not be excluded from gross income, even when the vendee assigns his right to the rebate to the vendor.
- (b) If the amount specified in subsection (a) above is credited by a vendor subsequent to the reporting period in which the original transaction occurs, such amount may be excluded from the taxable gross income of that subsequent reporting period, but only to the extent that the excludable amount was reported as taxable gross income in that prior reporting period.

Section 5. The Jerome Town Tax Code is amended by the addition of Section 8A-265 to read:

Sec. 8A-265. (RESERVED)

Section 6. The Jerome Town Tax Code is amended by the addition of Section 8A-266 to read:

Sec. 8A-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.R.S. TITLE 28, CHAPTER 9, ARTICLE 6.
- (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) LEASING, RENTING OR LICENSING A MOTOR VEHICLE, INCLUDING LIGHTWEIGHT MOTOR VEHICLES, SUBJECT TO AND UPON WHICH THE TAX HAS BEEN PAID UNDER A.R.S. TITLE 28, CHAPTER 9, ARTICLE 6.
- (d) 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 TITLE 28, CHAPTER 9, ARTICLE 6 AND WHO IS ENGAGED IN THE BUSINESS OF LEASING, RENTING OR LICENSING SUCH PROPERTY.

Section 7. Section 8A-300 of the Jerome Town Tax Code is amended to read:

Sec. 8A-300. Licensing requirements.

- (a) The following persons shall make application to the Tax Collector for a Privilege License, accompanied by a nonrefundable fee of two dollars (\$2.00), and no person shall engage or continue in business or engage in such activities until he shall have such a license:
 - (1) every person desiring to engage or continue in business activities within the Town upon which a Privilege Tax is imposed by this Chapter.
 - (2) (Reserved)
 - (3) (Reserved)
- (b) A person engaged in more than one activity subject to Town Privilege and Use Taxes at any one business location is not required to obtain a separate license for each activity; provided that, at the time such person makes application for a license, he shall list on such application each category of activity in which he is engaged. The licensee shall inform the Tax Collector of any changes in his business activities, LOCATION, OR MAILING ADDRESS within thirty (30) days.
- (c) Limitation. The issuance of a Privilege License by the Tax Collector shall in no way be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.

Section 8. Section 8A-410 of the Jerome Town Tax Code is amended to read:

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

- (a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the following TYPE OR NATURE OF businesses:
 - (1) operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, skating rinks, tennis courts, golf courses, video games, pinball machines, public dances, dance halls, sports events, jukeboxes, batting and driving ranges, animal rides, or any other business charging admission for exhibition, amusement, OR entertainment, ~~or instruction.~~
 - (2) (Reserved)
- (b) (Reserved)

Section 9. Section 8A-415 of the Jerome Town Tax Code is amended to read:

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

- (a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the Town.
 - (1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.
 - (2) (Reserved)

- (3) GROSS INCOME FROM CONSTRUCTION CONTRACTING SHALL NOT INCLUDE GROSS INCOME FROM THE SALE OF MANUFACTURED BUILDINGS TAXABLE UNDER SECTION 8A-427.
- (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 percent (35%).
- (c) Subcontractor means a construction contractor performing work for either:
- (1) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his Town 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 Town Privilege License number.
 - (3) A PERSON SELLING NEW MANUFACTURED BUILDINGS WHO HAS PROVIDED THE SUBCONTRACTOR WITH A WRITTEN DECLARATION THAT HE IS LIABLE FOR THE TAX FOR THE SITE PREPARATION AND SET-UP; AND PROVIDED THE SUBCONTRACTOR HIS TOWN PRIVILEGE LICENSE NUMBER.

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

Section 10. Section 8A-425 of the Jerome Town Tax Code is amended to read:

Sec. 8A-425. Job printing.

- (a) The tax rate shall be at an amount equal to three percent (3%) 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-Town sales.
 - (3) out-of-State sales.
 - (4) (Reserved)
 - (5) 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. Section 512.
 - (6) (RESERVED)

Section 11. The Jerome Town Tax Code is amended by the addition of Section 8A-427 to read:

SEC. 8A-427 MANUFACTURED BUILDINGS

- (a) THE TAX RATE SHALL BE AT AN AMOUNT EQUAL TO THREE PERCENT (3%) 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 TOWN. 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) THE SALE OF USED MANUFACTURED BUILDINGS ARE NOT TAXABLE.
- (c) THE SALES PRICE 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. THE SALE OF SUCH ITEMS ARE SUBJECT TO THE TAX UNDER SECTION 8A-460.
- (d) UNDER THIS SECTION, A TRADE-IN WILL NOT BE ALLOWED FOR THE PURPOSE OF REDUCING THE TAX LIABILITY.

Section 12. Section 8A-430 of the Jerome Town Tax Code is amended to read:

Sec. 8A-430. ~~Mining, timbering,~~ TIMBERING and other extraction.

- (a) The tax rate shall be at an amount equal to three percent (3%) 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)~~ (1) felling, producing, or preparing timber or any product of the forest for sale, profit, or commercial use.
 - ~~(3)~~ (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 ~~mined, smelted,~~ extracted, refined, produced, or prepared for sale, profit, or commercial use, when such activity occurs within the Town, regardless of the place of sale of the product or the fact that delivery may be made to a point without the Town 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.
- (d) (RESERVED)

Section 13. The Jerome Town Tax Code is amended by the addition of Section 8A-432 to read:

Sec. 8A-432. MINING

- (a) THE TAX RATE SHALL BE AT AN AMOUNT EQUAL TO ONE TENTH OF ONE PERCENT (.1%), 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 TOWN, REGARDLESS OF THE PLACE OF SALE OF THE PRODUCT OR THE FACT THAT DELIVERY MAY BE MADE TO A POINT WITHOUT THE TOWN 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.

Section 14. Section 8A-445 of the Jerome Town Tax Code is amended to read:

Sec. 8A-445. Rental, leasing, and licensing for use of real property.

- (a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing, ~~licensing for use,~~ or renting real property located within the Town for a consideration, to the tenant in actual possession, OR THE LICENSING FOR USE OF REAL PROPERTY LOCATED WITHIN THE TOWN 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 8A-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 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 8A-444 of this code.
- (k) (Reserved)
- (l) (RESERVED)
- (m) (RESERVED)
- (n) NOTWITHSTANDING THE PROVISIONS OF SECTION 8A-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 15. Section 8A-450 of the Jerome Town Tax Code is amended to read:

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

- (a) The tax rate shall be at an amount equal to three percent (3%) 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 Town 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 8A-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, 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.
 - (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) ~~(Reserved)~~ 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 16. Section 8A-465 of the Jerome Town Tax Code is amended to read:

Sec. 8A-465. Retail sales: exemptions

Income derived from the following sources is exempt from the tax imposed by Section 14-460:

- (a) sales of tangible personal property to a person regularly engaged in the business of selling such property.
- (b) out-of-Town sales ~~and~~ 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) (Reserved)
- (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, 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.
- (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) (Reserved)
- (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 8A-445 8A-455 or the equivalent excise tax upon such income.
- (p) sales of tangible personal property 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. Section 512.
- (q) sales of food for home consumption.
- (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) ~~(Reserved)~~ SALES OF AIRCRAFT ACQUIRED FOR USE OUTSIDE THE STATE, AS PRESCRIBED BY REGULATION.
- (v) (Reserved)
- (w) (Reserved)
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

Section 17. Section 8A-480 of the Jerome Town Tax Code is amended to read:

Sec. 8A-480. Utility services.

- (a) The tax rate shall be at an amount equal to three percent (3%) 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 Town.
 - (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 8A-460 and 8A-465, and not considered gross income taxable under this Section.
- (c) Resale utility services. Sales of utility services to another provider of the same utility services for the purpose of providing such utility services either to another properly licensed utility provider or directly to such purchaser's customers or ratepayers shall be exempt and deductible from the gross income subject to the tax imposed by this Section, provided that the purchaser is properly licensed by all applicable taxing jurisdictions to engage or continue in the business of providing utility services, and further provided that the seller maintains proper documentation, in a manner similar to that for sales for resale, of such transactions.
- (d) Tax credit offset for franchise fees. There shall be allowed as an offset any franchise fees paid to the Town pursuant to the terms of a franchise agreement, ~~when such franchise fees are based on gross income realized from utility services provided to a specified class of customers within the Town.~~ However, such offset shall not be allowed against taxes imposed by any other Section of this Chapter. Such offsets shall not be deemed in conflict with or violation of subsection 8A-400(b).
- (e) The tax imposed by this Section shall not apply to sales of utility services to 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. Section 512.

Section 18. Section 8A-590 of the Jerome Town Tax Code is amended to read:

Sec. 8A-590. Civil actions.

(a) Liens.

- (1) Any tax, penalty, or interest imposed under this Chapter which has become final, as provided in this Chapter, shall become a lien when the Town perfects a notice and claim of lien setting forth the name of the taxpayer, the amount of the tax, penalty, and interest, the period or periods for which THE SAME IS due, AND the date of accrual thereof, THE AMOUNT OF THE RECORDING COSTS BY THE COUNTY RECORDER IN ANY COUNTY IN WHICH THE TAXPAYER OWNS REAL PROPERTY AND THE DOCUMENTATION AND LIEN PROCESSING FEES IMPOSED BY THE TOWN COUNCIL and FURTHER, stating that the Town claims a lien therefor.
- (2) The notice of claim of lien shall be signed by the ~~Town Council~~ TAX COLLECTOR under his official seal or the official seal of the Town, and, with respect to real property, shall be recorded in the office of the County Recorder of any county in which the taxpayer owns real property, and, with respect to personal property shall be filed in the office of the Secretary of State. After the notice and claim of lien is recorded or filed, the taxes, penalties, and interest AND RECORDING COSTS AND LIEN PROCESSING FEES REFERRED TO ABOVE in the amounts specified therein shall be a lien on all real property of the taxpayer located in such county where recorded, and all tangible personal property of the taxpayer within the State, superior to all other liens and assessments recorded or filed subsequent to the recording or filing of the notice and claim of lien.
- (3) Every tax imposed by this Chapter, and all increases, interest, and penalties thereon AND ANY INCREASES, INTEREST, PENALTIES, AND RECORDING COSTS AND LIEN PROCESSING FEES REFERRED TO ABOVE, shall become from the time the same is due and payable a personal debt from the person liable to the Town, but shall be payable to and recoverable by the Tax Collector and which may be collected in the manner set forth in subsection (b) below.
- (4) Any lien perfected pursuant to this Section shall, upon payment of the taxes, penalties, and interest, RECORDING COSTS AND LIEN PROCESSING FEES REFERRED TO ABOVE AND LIEN RELEASE FEES IMPOSED BY THE COUNTY RECORDER IN ANY COUNTY IN WHICH THE LIEN WAS RECORDED, affected thereby, be released by the Tax Collector in the same manner as mortgages and judgments are released. The Tax Collector may, at his sole discretion, release a lien in part, that is, against only specified property, for partial payment of moneys due the Town.

- (b) Actions to recover tax. The Arizona Department of Revenue, or any agent or representative authorized by that Department, may bring action, in the name of the Town, to recover taxes as provided in A.R.S. Section 42-125.

Section 19. Regulation 8A-110.1, relating to income-producing capital equipment: in general, of the Jerome Town Tax Code is repealed.

Section 20. Regulation 8A-110.2, relating to income-producing capital equipment: manufacturing equipment; job printing equipment, of the Jerome Town Tax Code is repealed.

Section 21. Regulation 8A-200.1 of the Jerome Town Tax Code is amended to read:

Reg. 8A-200.1. When refundable deposits are includable in gross income.

- (a) ~~In General.~~ Refundable deposits shall be includable as gross income of the taxpayer for the month in which received, and will be allowed as deductible refunds for the month in which actually paid back, unless the taxpayer:
- ~~(1) maintains all such deposits in a separate investment or liability account which is not subject to use or expenditure by the taxpayer; and~~
 - ~~(2) pays interest at least one half of one percent (1/2%) per month from the date of deposit to the depositor, payable upon refund which shall not be later than thirty (30) days subsequent to the return of the equipment or other end of period of possession involved; and~~
 - ~~(3) includes forfeited deposits in gross income at time of forfeiture~~ THE DEPOSITS ARE FORFEITED BY THE LESSEE.
- (b) ~~Lodging.~~ "Security deposits" and other refundable deposits relating to lodging shall be includable as gross income of the taxpayer for the month in which received, and will be allowed as refunds for the month in which actually paid back, unless the taxpayer complies with both the provisions of subsection (a) above and the provisions of the Arizona Residential Landlord and Tenant Act, Chapter 10, Title 33, Arizona Revised Statutes. If there is a conflict between these two provisions, the more stringent of the two shall apply in that case. NONREFUNDABLE DEPOSITS FOR CLEANING, KEYS, PET FEES, MAINTENANCE, OR FOR ANY OTHER PURPOSE ARE DEEMED GROSS INCOME UPON RECEIPT.

Section 22. Regulation 8A-415.2 of the Jerome Town Tax Code is amended to read:

Reg. 8A-415.2. Distinction between construction contracting and certain related activities.

- (a) Certain rentals, leases, and licenses for use in connection with construction contracting. Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:
- (1) Rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.
 - (2) Rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.
 - (3) Rental of pumps or cranes is rental of tangible personal property, whether or not an operator is provided with the equipment rented.
- (b) Distinction between construction contracting, retail, and certain direct customer service activities.
- (1) When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.
 - (2) Items attached or installed on tangible personal property are retail sales.
 - (3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscaping maintenance).

(4) Demolition, earth moving, and wrecking activities are considered construction contracting.

~~(e) Prefabricated buildings; manufactured housing.~~

~~(1) Any prefabricated building or manufactured housing with respect to which an affidavit of affixture has been recorded pursuant to A.R.S. Section 42-641.01 shall be deemed an improvement of real property, and any improvement or alteration of such prefabricated building or manufactured housing shall be deemed construction contracting activity.~~

~~(2) Any prefabricated building or manufactured housing with respect to which an affidavit of affixture has not been recorded shall be deemed tangible personal property for all purposes of this Chapter.~~

~~(3) A "mobile home" shall qualify for this definition only to the extent that such affidavit of affixture has been recorded at the time of sale.~~

~~(e)(c) Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.~~

~~(e)(d) Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.~~

~~(1) "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.~~

~~(2) Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.~~

~~(3) Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.~~

~~(4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.~~

Section 23. Regulation 8A-416.1 of the Jerome Town Tax Code is amended to read:

Reg. 8A-416.1. Speculative builders: homeowner's bona fide non-business sale of a family residence.

(a) ~~A sale of real property which has been improved within twenty four (24) months prior to the sale~~ A CUSTOM HOME, REGARDLESS OF THE STAGE OF COMPLETION OF SUCH HOME shall be considered a "homeowner's bona fide non-business sale" and not subject to the tax on speculative builders if:

(1) the property was actually used as the principal place of family residence or vacation residence by the immediate family of the seller for the six (6) months next prior to the offer for sale; and

(2) the seller has not sold more than two (2) such residences (or, if the residence is a vacation residence, two (2) such vacation residences) within the thirty-six (36) months immediately prior to the offer for sale; and

(3) the seller has not licensed, leased, or rented the sold premises for any period within the twenty-four (24) ~~month period~~ MONTHS prior to the offer for sale.

- (b) In the event that a homeowner of a family residence contracts with a licensed construction contractor for improvements to a residence, ~~all construction contractors shall be considered prime contractors for the imposition of the tax.~~ THE construction contracting on a family residence shall be presumed to be for an owner's bona fide non-business purpose and all construction contractors shall be required to report and pay the tax imposed on all such improvements.
- (c) Purchases by a homeowner of tangible personal property for inclusion in any construction, alteration, or repair of his residence shall be subject to tax as retail sales to the ultimate consumer.
- (d) "Owner" and "Homeowner" as used in this Regulation shall only mean an individual, and no other entity, association, or representative shall qualify; except that an administrator, executor, personal representative, or guardian in guardianship or probate proceedings, for the estate of a deceased or incompetent person or a minor, may claim "homeowner" status for such person if such person would have otherwise qualified with respect to the specific property involved.

Section 24. Regulation 8A-416.2 of the Jerome Town Tax Code is amended to read:

Reg. 8A-416.2. Reconstruction contracting.

- (a) "Reconstruction (of Real Property)" shall mean the subdividing of real property and, in addition, all construction contracting activities performed upon said real property; provided, however, that each of the following conditions are met:
 - (1) a structure existed on said real property prior to the reconstruction activity; and
 - (2) the "prior value" of said structure exceeds fifteen percent (15%) of the "prior value" of the integrated property (land, improvements, and structure); and
 - (3) the total cost of all construction contracting activities performed on said real property in the twenty-four (24) month period prior to the sale of any part of the real property exceeds fifteen percent (15%) of the "prior value" of the real property; and
 - (4) the structure which existed on the real property prior to the reconstruction activity still exists in some form upon the property, and is included, in whole or in part, in the property sold.
- (b) Except as provided in subsection (c) below, "prior value" means the value of the total integrated property, with improvements, as existing immediately prior to any reconstruction activity. Such value shall be the full cash value of the property for secondary taxes as determined by the County Assessor, as such statement of value includes both the land and improvements, without any deduction or diminution. The value shall be as set in the year which is immediately preceding the year in which the reconstruction improvements are or could have been included in the County Assessor's valuation. If the County Assessor's valuation is contested or appealed, the final determination at either the administrative or judicial level shall apply.
- (c) "Alternative Prior Value" shall mean that as an alternative to the "prior value" defined above, the taxpayer may use his actual cost of the reconstructed property prior to reconstruction, provided that evidence of such cost is presented to the Tax Collector and is determined by the Tax Collector, in his sole discretion, to be satisfactory. Such evidence shall consist, as a minimum, of proof of the actual, arms-length acquisition price, accompanied by a full appraisal of all property involved which appraisal shall have been performed by a real estate

broker or MAI appraiser specifically for the purpose of assisting in the acquisition and further shall have been performed on behalf of the seller or a lending institution which has lent at least sixty-five PERCENT (65%) ~~percent~~ of the acquisition price. (Only long term lending - not interim or construction financing will be considered.) This alternative value shall be used only if the property was acquired by the reconstruction taxpayer not more than thirty-six (36) months prior to a "sale" as defined below.

- (d) A "sale" for the purpose of determining "alternative prior value" or "reconstruction" only shall be deemed to have occurred as of the date of the execution of a contract of sale or a deed (joint tenancy or warranty) whichever is earlier, to a purchaser or grantee of any single residential or other occupancy unit. In addition to the foregoing, a lease with option to purchase a single residential unit shall be considered a "sale" at the date of execution of such lease if said option is exercisable by the lessee in not later than nine (9) months. Further in the case of cooperative apartments, the sale date shall be the date of execution of the contract selling (subject or not to encumbrances, liens or security interests) of a share, or a sufficient number of shares which entitle the purchaser to the occupancy of a residential unit. In all cases a person shall include a husband and wife as a community, or any co-occupants of a single unit as joint tenants.

Section 25. Regulation 8A-445.2 relating to rental, leasing, and licensing of real property as lodging: refundable and non-refundable deposits of the Jerome Town Tax Code is repealed.

Section 26. Regulation 8A-445.3 of the Jerome Town Tax Code is amended to read:

Reg. 8A-445.3. Rental, leasing, and licensing of real property as lodging: room and board; furnished lodging.

- (a) Room and board.
- (1) Rooming houses, lodges, or other establishments providing both lodging and meals, shall maintain a record of the separate charges made for the lodging and the meals.
 - (2) The charge for lodging shall be subject to the tax imposed by Section 8A-444 OR SECTION 8A-445. The charge for meals is subject to the tax upon restaurants and bars prescribed by Section 8A-455.
- (b) Furnished lodging. A person who provides lodging with furnishings shall be deemed to be only in the business of rental, leasing, and licensing of lodging, and not in the business of rental, leasing, and licensing of such furnishings as tangible personal property, unless:
- (1) Any tenant of any lodging space may choose to rent, lease, or license such lodging space either furnished or unfurnished; and
 - (2) The lessor separately charges tenants for lodging and for furnishings; and
 - (3) The lessor separately maintains his gross income from lodging and from furnishings separately in his accounting books and records.

If all of the above conditions are met, such person shall report both sources of income separately to the Town.

Section 27. Regulation 8A-465.3 of the Jerome Town Tax Code is amended to read:

Reg. 8A-465.3. Retail sales: sale of containers, paper products, and labels.

- (a) The sale of a ~~"primary container" to a retailer or manufacturer is exempt.~~ "Primary Container" means OR SIMILAR packaging material ~~or a container such as a bottle, can, cup, bag, box, etc.,~~ which contains personal property ~~prior to such property's sale and which is~~

necessarily transferred with the tangible personal property it contains at the time of sale TO THE CUSTOMER WITH THE SALE OF THE PRODUCT IS NOT TAXABLE AS A SALE FOR RESALE. Examples of such exempt primary NONTAXABLE containers include but are not limited to:

- (1) packaging materials sold to a manufacturer of video equipment for containment of the product during shipment.
 - (2) cellophane-type wrap sold to a meat department or butcher for containment of the individually wrapped or contained meat.
 - (3) bags used to contain loose fungible goods such as fruits, vegetables, and other products sold in bulk, where such bags or containers are necessary USED to contain and measure the amount purchased by the customer.
 - (4) SHOPPING BAGS AND SIMILAR MERCHANDISING BAGS SOLD TO GROCERY STORES, DEPARTMENT STORES OR OTHER RETAILERS.
 - (5) GIFT WRAPPINGS AND GIFT BOXES SOLD TO DEPARTMENT STORES OR OTHER RETAILERS.
- (b) Sales of NON-RETURNABLE OR DISPOSABLE PAPER (AND SIMILAR PRODUCTS SUCH AS PLASTIC OR STYROFOAM) CUPS, LIDS, PLATES, BAGS, NAPKINS, STRAWS, KNIVES, FORKS AND OTHER SIMILAR FOOD ACCESSORIES TO A RESTAURANT OR OTHERS TAXABLE UNDER SECTION 8A-455 FOR TRANSFER BY THE RESTAURANT TO ITS CUSTOMER TO CONTAIN OR FACILITATE THE CONSUMPTION OF THE FOOD, DRINK OR CONDIMENT ARE SALES FOR RESALE AND NOT TAXABLE. ~~containers, other than primary containers as defined above, are not exempt and are thus subject to tax. Examples of such taxable containers include but not limited to:~~
- ~~(1) shopping bags sold to grocery stores, department stores, or other retailers.~~
 - ~~(2) gift wrapping and gift boxes provided to the customer without charge.~~
 - ~~(3) paper bags and similar containers sold to restaurants for containment of individually wrapped or contained food for consumption off the premises (including food which was originally sold for consumption on the premises but a portion of which is removed thereafter).~~
- (c) Where a retailer imposes a charge for gift wrapping and the charge includes the container, paper, and other appropriate materials, the wrapping charge shall be considered a direct customer service and not a sale. ~~Such gift paper, boxes, tissue paper, ribbons, etc., shall be subject to tax when sold to the retailer.~~
- ~~(d) Restaurants are not retailers, and are taxed under Section 8A-455. Paper (and similar products, such as plastic or styrofoam) cups, lids, plates, bags, napkins, straws, knives, forks, etc., sold to restaurants and others taxable under Section 8A-455 are taxable at the time of purchase.~~
- (e)(d) Charges for returnable containers, where the charges are imposed on the customer, are subject to tax at the time of the transaction. A credit may be taken for the amount of refund after such refund is made.
- (f)(e) The sale of labels to a purchaser who affixes them to a primary container is a sale for resale and not taxable. Directional or instructional material included with products sold are considered to be part of the product and a sale for resale. However, the sale of items such as price tags, shipping tags, and advertising matter delivered to the customer in connection with the retail sale is taxable to the retailer as a retail sale to it, and is not exempt as a sale for resale.

Section 28. Regulation 8A-465.4 of the Jerome Town Tax Code is amended to read:

Reg. 8A-465.4. ~~(Reserved)~~ RETAIL SALES: AIRCRAFT ACQUIRED FOR USE OUTSIDE THE STATE.

"AIRCRAFT ACQUIRED FOR USE OUTSIDE THE STATE" MEANS AIRCRAFT, NAVIGATIONAL AND COMMUNICATION INSTRUMENTS, AND OTHER ACCESSORIES AND RELATED EQUIPMENT SOLD TO:

- (a) ANY FOREIGN GOVERNMENT FOR USE BY SUCH GOVERNMENT OUTSIDE OF THIS STATE.
- (b) 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 SUBSECTION 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.