

ORDINANCE NO. 289

AN ORDINANCE OF THE TOWN OF JEROME, ARIZONA, RELATING TO THE PRIVILEGE LICENSE TAX; ADOPTING "THE 1996 AMENDMENTS TO THE TOWN TAX CODE OF THE TOWN OF JEROME, ARIZONA" BY REFERENCE; ESTABLISHING AN EFFECTIVE DATE AND PROVIDING PENALTIES FOR VIOLATIONS.

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

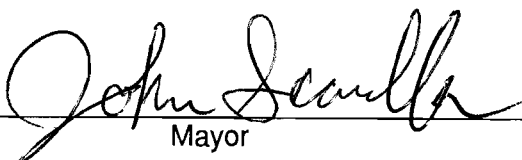
Section 1: That certain document known as "The 1996 Amendments to the Town Tax Code of the Town of Jerome, Arizona," three copies of which are on file in the office of the Town clerk of the Town of Jerome, Arizona, which document was made a public record by Resolution No. \_\_\_ of the Town of Jerome, 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 February 14, 1997.

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 14<sup>th</sup> day of Jan, 1997.

  
\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
Town Attorney

# PUBLISHER'S AFFIDAVIT

STATE OF ARIZONA, }  
County of Yavapai, } ss

Richard E. Larson .....first having

been duly sworn, on his oath says:

That he is the Publisher of The Verde Independent, a Twice Weekly  
Newspaper published at Cottonwood, Yavapai County, Arizona; that the  
notice attached hereto, namely, Ordinance No. 289

.....  
.....  
.....  
.....

to the personal knowledge of affiant, been published and legally  
printed in said County of Yavapai in the newspaper aforesaid, according  
to law, from the 20th day of November 1996, to the 27th day  
of November 1996, both inclusive, without change, interrup-  
tion or omission, amounting in all to 2 insertions, made on the  
following dates:

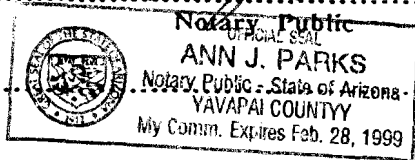
November 20, 27, 1996

*Richard E. Larson*  
.....  
(Signature)

Subscribed and sworn to before me this 29th day of November, 1996,  
in witness whereof I have hereunto set my hand and seal of office.

*Ann J. Parks*  
.....

My Commission Expires .....



ORDINANCE NO. 289  
AN ORDINANCE OF THE TOWN OF  
JEROME, ARIZONA, RELATING TO THE  
PRIVILEGE LICENSE TAX; ADOPTING "THE  
1996 AMENDMENTS TO THE TOWN TAX  
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BY REFERENCE; ESTABLISHING AN EFFEC-  
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COUNCIL OF THE TOWN OF JEROME, ARI-  
ZONA

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1996 Amendments to the Town Tax Code of the  
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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. .... 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 December 31, 1996.

Section 3: Any person found guilty of violating  
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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,  
phrase or portion of 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  
day of ....., 1996.

Mayor  
ATTEST:  
Town Clerk  
APPROVED AS TO FORM:  
Town Attorney  
2TVIPublish: November 20, 27, 1996.

## THE 1996 AMENDMENTS TO THE TOWN TAX CODE OF THE TOWN OF JEROME, ARIZONA

Section 1. Section 8A-100 of the Town Tax Code of the Town of Jerome 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 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. 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 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.

**"Mining and Metallurgical Supplies"** means all tangible personal property acquired by persons engaged in activities defined in 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, **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.

**"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-230 of the Town Tax Code of the Town of Jerome is amended to read:

**Sec. 8A-230. Determination of gross income based upon method of reporting.**

The method of reporting chosen by a taxpayer, as provided in Section 8A-520, necessitates the following adjustments to gross income for all purposes under this Chapter:

- (a) Cash basis - When a person elects to report and pay taxes on a cash basis, gross income for the reporting period shall include:
  - (1) the total amounts received on "paid in full" transactions, against which are allowed all applicable deductions and exclusions; and
  - (2) all amounts received on accounts receivable, conditional sales contract, or other similar transactions, against which no deductions and no exclusions from gross income are allowed. INTEREST ON FINANCE CONTRACTS MAY BE DEDUCTED IF SEPARATELY ITEMIZED ON ALL BOOKS AND RECORDS.
- (b) Accrual basis - When a person elects to report and pay taxes on an accrual basis, gross income shall include all gross income for the applicable period regardless of whether receipts are for cash, credit, conditional, or partially deferred transactions, and regardless of whether or not any security document or instrument is sold, assigned, or otherwise transferred to another. Persons reporting on the accrual basis may deduct bad debts, provided that:
  - (1) the amount deducted for the bad debt must be deducted from gross income of the month in which the actual charge-off was made, and only to the extent that such amount was actually charged-off, and also only to the extent that such amount is or was included as taxable gross income; and
  - (2) if any amount is subsequently collected on such charged-off account, it shall be included in gross income for the month in which it was collected, without deduction for expense of collection.

Section 3. Section 8A-240 of the Town Tax Code of the Town of Jerome 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.
- (6) IN COMPUTING THE TAX BASE, GROSS PROCEEDS OF SALES OR GROSS INCOME DOES NOT INCLUDE A MANUFACTURER'S CASH REBATE ON THE SALES PRICE OF A MOTOR VEHICLE IF THE BUYER ASSIGNS THE BUYER'S RIGHT IN THE REBATE TO THE RETAILER.

- (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 4. Section 8A-260 of the Town Tax Code of the Town of Jerome is amended to read:

**Sec. 8A-260. Exclusion of motor vehicle fees and taxes from gross income; limitations.**

- (a) There shall be excluded from gross income of vendors of motor vehicles those motor vehicle registration fees, license fees and taxes, and lieu taxes imposed pursuant to Title 28, Arizona Revised Statutes in connection with the initial purchase of a motor vehicle, but only to the extent that such taxes or fees or both have been separately itemized and collected from the purchaser of the motor vehicle by the vendor, actually remitted to the proper registering, licensing, and taxing authorities, and the provisions of Article III, regarding recordkeeping, are met. For the purpose of the exclusion provided by this subsection only, the terms vendor and vendee shall also apply to a lessor and lessee respectively, of a motor vehicle if, in addition to all other requirements of this subsection, the lease agreement specifically requires the lessee to pay such fees or taxes, and such amounts are separately itemized in the documentation provided to the lessee.
- (b) There shall be excluded from gross income of vendors at retail of heavy trucks and trailers, the amount attributable to Federal Excise Taxes imposed by 26 U.S.C. Section 4051, but only to the extent that the provisions of Article III, relating to recordkeeping, have been met.
- (c) THERE SHALL BE EXCLUDED FROM GROSS INCOME THE FOLLOWING FEES, TAXES, AND LIEU TAXES, BUT ONLY TO THE EXTENT THAT SUCH TAXES OR FEES OR BOTH HAVE BEEN SEPARATELY ITEMIZED AND COLLECTED FROM THE PURCHASER BY THE VENDOR, ACTUALLY REMITTED TO THE PROPER REGISTERING, LICENSING, AND TAXING AUTHORITIES, AND THE PROVISIONS OF ARTICLE III, REGARDING RECORDKEEPING, ARE MET:
  - (1) EMERGENCY TELECOMMUNICATION SERVICES EXCISE TAX IMPOSED PURSUANT TO A.R.S. SECTION 42-1472. "EMERGENCY TELECOMMUNICATION SERVICES" MEANS TELECOMMUNICATION SERVICES OR SYSTEMS THAT USE NUMBER 911 OR A SIMILARLY DESIGNATED TELEPHONE NUMBER FOR EMERGENCY CALLS;



- (2) THE TELECOMMUNICATION DEVICES FOR THE DEAF AND THE SEVERELY HEARING AND SPEECH IMPAIRED EXCISE TAX IMPOSED PURSUANT TO A.R.S. SECTION 42-1472;
  - (3) FEDERAL EXCISE TAXES ON COMMUNICATIONS SERVICES AS IMPOSED BY 26 U.S.C. § 4251;
  - (4) CAR RENTAL SURCHARGE IMPOSED PURSUANT TO A.R.S. SECTION 48-4234;
  - (5) FEDERAL EXCISE TAXES ON PASSENGER VEHICLES AS IMPOSED BY 26 U.S.C. §4001(.01);
  - (6) WASTE TIRE DISPOSAL FEES, IMPOSED PURSUANT TO A.R.S. SECTION 44-1302; LEAD ACID BATTERY FEES, IMPOSED PURSUANT TO A.R.S. SECTION 44-1323; AND USED OIL FEES IMPOSED PURSUANT TO A.R.S. SECTION 49-814(B), (C).
- (d) THERE SHALL BE EXCLUDED FROM GROSS INCOME OF VENDORS OF MOTOR VEHICLES DEALER DOCUMENTATION FEES, BUT ONLY TO THE EXTENT THAT SUCH FEES HAVE BEEN SEPARATELY ITEMIZED AND COLLECTED FROM THE PURCHASER OF THE MOTOR VEHICLE BY THE VENDOR.

Section 5. Section 8A-350 of the Town Tax Code of the Town of Jerome is amended to read:

**Sec. 8A-350. Recordkeeping requirements.**

- (a) It shall be the duty of every person subject to the tax imposed by this Chapter to keep and preserve suitable records and such other books and accounts as may be necessary to determine the amount of tax for which he is liable under this Chapter. The books and records must contain, at a minimum, such detail and summary information as may be required by Regulation; OR WHEN RECORDS ARE MAINTAINED WITHIN AN ELECTRONIC DATA PROCESSING (EDP) SYSTEM, THE REQUIREMENTS ESTABLISHED BY THE ARIZONA DEPARTMENT OF REVENUE FOR PRIVILEGE TAX FILINGS WILL BE ACCEPTED. It shall be the duty of every person to keep and preserve such books and records for a period equal to the applicable limitation period for assessment of tax, and all such books and records shall be open for inspection by the Tax Collector during any business day.
- (b) The Tax Collector may direct, by letter, a specific taxpayer to keep specific other books, records, and documents. Such letter directive shall apply:
  - (1) only for future reporting periods, and
  - (2) only by express determination of the Tax Collector that such specific recordkeeping is necessary due to the inability of the Town to conduct an adequate examination of the past activities of the taxpayer, which inability resulted from inaccurate or inadequate books, records, or documentation maintained by the taxpayer.

Section 6. Section 8A-460 of the Town Tax Code of the Town of Jerome is amended to read:

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

- (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 selling tangible personal property at retail.
- (b) The burden of proving that a sale of tangible personal property is not a taxable retail sale shall be upon the person who made the sale.
- (c) Exclusions. For the purposes of this Chapter, sales of tangible personal property shall not include:
  - (1) sales of stocks, bonds, options, or other similar materials.

- (2) sales of lottery tickets or shares pursuant to Article I, Chapter 5, Title 5, Arizona Revised Statutes.
  - (3) sales of platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by Regulation.
  - (4) gross income derived from the transfer of tangible personal property which is specifically included as the gross income of a business activity upon which another Section of this Article imposes a tax, shall be considered gross income of that business activity, and are not includable as gross income subject to the tax imposed by this Section.
  - (5) sales by professional or personal service occupations where such sales are inconsequential elements of the service provided.
- (d) (Reserved)
  - (e) ~~Except as provided in Section 8A-567, when~~ WHEN this Town and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a retail sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence, and for the purposes of this Chapter such city or town has sole and exclusive right to such tax.
  - (f) The appropriate tax liability for any retail sale where the order is received at a permanent business location of the seller located in this Town or in an Arizona city or town that levies an equivalent excise tax shall be at the tax rate of the city or town of such seller's location.

Section 7. Section 8A-465 of the Town Tax Code of the Town of Jerome is amended to read:

**Sec. 8A-465. Retail sales: exemptions.**

Income derived from the following sources is exempt from the tax imposed by Section 8A-460:

- (a) sales of tangible personal property to a person regularly engaged in the business of selling such property.
- (b) out-of-Town 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) ~~(Reserved)~~ 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, 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, 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) ~~(Reserved)~~ 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 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) sales of aircraft acquired for use outside the State, as prescribed by Regulation.
- (v) ~~(Reserved)~~ 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)

Section 8. Section 8A-480 of the Town Tax Code of the Town of Jerome 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. 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.
- (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.

Section 9. Section 8A-500 of the Town Tax Code of the Town of Jerome is amended to read:

**Sec. 8A-500. Administration of this Chapter; rule making.**

- (a) The administration of this Chapter is vested in and exercised by the Town of Jerome, and except as otherwise provided, and all payments shall be made to the Town of Jerome. The Town may, pursuant to an intergovernmental agreement, contract with the State of Arizona Department of Revenue for the administration of the tax. In such cases, "Tax Collector" shall also mean the Arizona Department of Revenue, when acting as agent in administering this tax.
- (b) The Tax Collector shall prescribe the forms and procedures necessary for the administration of the taxes imposed by this Chapter.
- (c) Except where such Regulations would conflict with administrative regulations adopted by the Town Council or with provisions of this Chapter, all regulations on the Transaction Privilege Tax adopted by the Arizona Department of Revenue under the authority of A.R.S. Section 42-105 shall be considered Regulations of this Chapter and enforceable as such.
- (d) TAXPAYERS SHALL BE SUBJECT TO THE STATE TAXPAYER BILL OF RIGHTS (A.R.S. § 42-139 ET SEQ.).

Section 10. Article V of the Town Tax Code of the Town of Jerome is amended by adding the following sections as "Reserved":

**Sec. 8A-515. (RESERVED)**

**Sec. 8A-516. (RESERVED)**

**Sec. 8A-517. (RESERVED)**

**Sec. 8A-541. (RESERVED)**

**Sec. 8A-546. (RESERVED)**

**Sec. 8A-556. (RESERVED)**

**Sec. 8A-572. (RESERVED)**

**Sec. 8A-578. (RESERVED)**

**Sec. 8A-596. (RESERVED)**

**Sec. 8A-597. (RESERVED)**

Section 11. Section 8A-540 of the Town Tax Code of the Town of Jerome is amended to read:

**Sec. 8A-540. Interest and civil penalties.**

Any taxpayer who shall have failed to timely pay any taxes imposed by this Chapter, or file a report for the same in a timely manner, or fail or refuse to allow examination of records by the Tax Collector, shall be subject to any interest or civil penalties on such tax in like manner as such interest and penalties are provided in A.R.S. Sections 42-134 and 42-136 for the State Transaction Privilege Tax.

- (a) (Reserved)
- (b) (Reserved)

- (c) (Reserved)
- (d) (Reserved)
- (e) (Reserved)
- (f) (Reserved)
- (g) (Reserved)
- (h) (RESERVED)
- (i) (RESERVED)

Section 12. Section 8A-555 of the Town Tax Code of the Town of Jerome is amended to read:

**Sec. 8A-555. Tax Collector may examine books and other records; failure to provide records.**

- (a) The Tax Collector may require the taxpayer to provide and may examine any books, records, or other documents of any person who, in the opinion of the Tax Collector, might be liable for any tax under this Chapter, for any periods available to him under Section 8A-550.
- (b) (Reserved)
- (c) (Reserved)
- (d) The Tax Collector may use any generally accepted auditing procedures, including sampling techniques, to determine the correct tax liability of any taxpayer. ~~The only responsibility of the Tax Collector is~~ SHALL ENSURE that the procedures used are in accordance with generally accepted auditing standards. ~~The taxpayer must prove by clear and convincing evidence that the methods chosen do not comply with generally accepted auditing standards.~~
- (e) The fact that the taxpayer has not maintained or provided such books and records which the Tax Collector considers necessary to determine the tax liability of any person does not preclude the Tax Collector from making any assessment. In such cases, the Tax Collector is authorized to use estimates, projections, or samplings, to determine the correct tax. The provisions of Section 8A-545(b), concerning estimates, shall apply.
- (f) (Reserved)

Section 13. Section 8A-560 of the Town Tax Code of the Town of Jerome is amended to read:

**Sec. 8A-560. Erroneous payment of tax; credits and refunds; limitations.**

- (a) Except as provided in Section 8A-565, the period within which a claim for credit may be filed, or refund allowed or made if no claim is filed, shall be as provided in A.R.S. Sections 42-115 and 42-129.
- (b) (Reserved)
- (c) (Reserved)
- (d) ~~(Reserved)~~ INTEREST SHALL BE ALLOWED AT THE RATE SET FORTH IN SECTION 8A-540(a) ON ANY CREDIT OR REFUND AUTHORIZED PURSUANT TO THE PROVISIONS OF THIS CHAPTER. INTEREST SHALL BE CALCULATED FROM THE TIME OF THE CLAIM MADE TO THE TOWN BY THE TAXPAYER.
- (e) (Reserved)

- (f) The denial of a refund by the Tax Collector is subject to the provisions of A.R.S. Section 42-130.
- (g) Any refund paid under the provisions of this Section shall be paid from the Privilege Tax revenue accounts.

Section 14. Section 8A-565 of the Town Tax Code of the Town of Jerome is amended to read:

**Sec. 8A-565. Payment of tax BY THE INCORRECT TAXPAYER OR to the incorrect Arizona city or town.**

- (a) WHEN IT IS DETERMINED THAT TAXES HAVE BEEN REPORTED AND PAID TO THE TOWN BY THE WRONG TAXPAYER, ANY TAXES ERRONEOUSLY PAID SHALL BE TRANSFERRED BY THE TOWN TO THE PRIVILEGE TAX ACCOUNT OF THE PERSON WHO ACTUALLY OWES AND SHOULD HAVE PAID SUCH TAXES, PROVIDED THAT THE TOWN RECEIVES AN ASSIGNMENT AND WAIVER SIGNED BY BOTH THE PERSON WHO ACTUALLY PAID THE TAX AND THE PERSON WHO SHOULD HAVE PAID THE TAX.
- (b) AN ASSIGNMENT AND WAIVER PROVIDED UNDER THIS SECTION, MUST:
  - (1) IDENTIFY THE NAME AND TOWN PRIVILEGE LICENSE NUMBER OF THE PERSON WHO ERRONEOUSLY PAID THE TAX AND THE PERSON WHO SHOULD HAVE PAID THE TAX.
  - (2) PROVIDE THAT THE PERSON WHO ERRONEOUSLY PAID THE TAX WAIVES ANY RIGHT SUCH PERSON MAY HAVE TO A REFUND OF THE TAXES ERRONEOUSLY PAID.
  - (3) AUTHORIZE THE TOWN TREASURER TO TRANSFER THE ERRONEOUSLY PAID TAX TO THE PRIVILEGE TAX ACCOUNT OF THE PERSON WHO SHOULD HAVE PAID THE TAX.
- (a)(c) When it is determined that taxes have been reported and paid to the wrong Arizona city or town, ~~a refund or assessment~~ SUCH TAXES shall be ~~made~~ REMITTED to the correct city or town; PROVIDED THAT THE CITY OR TOWN TO WHOM THE TAXES WERE ERRONEOUSLY PAID RECEIVES AN ASSIGNMENT AND WAIVER SIGNED BY BOTH THE PERSON WHO ACTUALLY PAID THE TAX AND THE PERSON WHO SHOULD HAVE PAID THE TAX. WHERE THE PERSON WHO ACTUALLY PAID THE TAX AND THE PERSON WHO SHOULD HAVE PAID THE TAX ARE ONE AND THE SAME, NO ASSIGNMENT AND WAIVER NEED BE PROVIDED. ~~The refund or assessment period shall be limited to the forty-eight (48) month period prior to the date the Town receives or gives written request of the taxes due.~~ The Town shall neither pay nor charge any interest or penalty on any overpayment or underpayment except such interest and penalty actually paid by the taxpayer relating to such tax.
- (b)(d) THIS SECTION IN NO WAY LIMITS OR RESTRICTS THE APPLICABILITY OF ANY REMEDIES WHICH MAY OTHERWISE BE AVAILABLE UNDER A.R.S. SECTION 42-1452. The limitations and procedures set forth in A.R.S. Section 42-1452 shall apply to all payments under this Section.
- (c)(e) When reference is made in this Section to THIS TOWN OR an Arizona city or town, and payments made to or requested from ~~such~~ THIS TOWN OR AN ARIZONA city or town, the provisions shall be applicable to the Arizona Department of Revenue when it is acting for or on behalf of THIS TOWN OR an Arizona city or town.

Section 15. Section 8A-567 of the Town Tax Code of the Town of Jerome is amended to read:

**Sec. 8A-567. Allocation of tax on retail sales when more than one Arizona city or town has nexus: (Reserved)**

- (a) ~~In cases of retail sales where the tangible personal property sold was delivered from stock located at a point without the state of Arizona, the tax imposed upon the retail sale in question shall be shared equally between this Town and the other city or town involved; provided that the tangible personal property is not "mobile equipment" and either:~~
- ~~(1) transfer of title and possession occurred within the Town, but the order was received at a permanent business location of the seller located in another Arizona city or town that imposes an equivalent excise tax upon the transaction; or~~
  - ~~(2) transfer of title and possession occurred in another Arizona city or town that imposes an equivalent excise tax upon the transaction, but the order was received at a permanent business location of the seller located within the Town.~~
- (b) ~~"Mobile Equipment", for the purposes of subsection (a) above, includes any automobile, bicycle, motorcycle, truck, aircraft, boat, tractor, forklift, or any other equipment that can move under its own power or is designed as a method of transportation.~~
- (c) ~~"Shared Equally", for the purposes of subsection (a) above, shall mean:~~
- ~~(1) in cases where tax was collected as a separate charge from the customer, that each city or town shall have the right to half of the actual tax collected, even if the rate at which such tax was collected differs from the appropriate tax rate of either city.~~
  - ~~(2) in cases where the tax was not separately charged to the customer but was reported and paid to one of the cities or towns in question, that each city or town shall have the right to half of the actual tax so paid, even if the rate at which such tax was reported and paid differs from the appropriate tax rate of either city.~~
  - ~~(3) in all other cases, each city or town shall have the right to half of the tax liability on such a sale, to be determined by the tax rate of the city or town of the seller's permanent business location.~~
- (d) ~~Claim, payment, and collection of taxes allocated between Arizona cities and towns by the provisions of this Section shall be made in the same manner as provided in Section 8A-565 relating to tax paid to the incorrect city or town.~~

Section 16. Section 8A-570 of the Town Tax Code of the Town of Jerome is amended to read:

**Sec. 8A-570. Administrative review; petition for hearing or for redetermination; hearing or redetermination; finality of order.**

- (a) ~~Closing agreements~~ between the Tax Collector and a taxpayer have no force of law unless made in accordance with the provisions of A.R.S. Section 42-123.
- (b) ~~Payment of tax under protest.~~ Payment under protest of tax, penalty or interest due or assessed under this Chapter shall be deemed as normal, unprotested payment of such unless the provisions of A.R.S. Section 42-126 have been met.
- (c)(b) Administrative review.
- (1) Petitions of appeal shall be made to, and hearings shall be conducted by, the Arizona Department of Revenue, in accordance with the provisions of A.R.S. Section 42-122, as modified by Section 8A-571.
  - (2) (Reserved)
  - (3) (Reserved)
  - (4) (Reserved)



- (5) Hearings shall be held by the Arizona Department of Revenue in accordance with the provisions of A.R.S. Section 42-122. The Department's decision may be appealed to the State Board of Tax Appeals, in accordance with the provisions of A.R.S. Section 42-124.
- (6) (Reserved)
- (7) (Reserved)
- (8) (RESERVED)

(d)(c) (Reserved)

(e)(d) (Reserved)

- (e) TAXPAYERS SHALL BE SUBJECT TO THE STATE TAXPAYER BILL OF RIGHTS (A.R.S. § 42-139 ET. SEQ.).

Section 17. Regulation 8A-416.2 of the Town Tax Code of the Town of Jerome 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~~ WHERE, ACCORDING TO TITLE 42 OF THE ARIZONA REVISED STATUTES, A PROPERTY'S FULL CASH VALUE FOR SECONDARY TAX PURPOSES IS INTENDED TO REPRESENT THE PROPERTY'S FAIR MARKET VALUE, "PRIOR VALUE" SHALL BE THE PROPERTY'S FULL CASH VALUE FOR SECONDARY PROPERTY TAX PURPOSES 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~~ IMPROVEMENT(S) 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. WHERE, ACCORDING TO TITLE 42 OF THE ARIZONA REVISED STATUTES, A PROPERTY'S FULL CASH VALUE FOR SECONDARY PROPERTY TAX PURPOSES IS NOT INTENDED TO REPRESENT THE PROPERTY'S FAIR MARKET VALUE, "PRIOR VALUE" SHALL BE THE PROPERTY'S FAIR MARKET VALUE PRIOR TO THE RECONSTRUCTION IMPROVEMENT(S).
- (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 the 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~~ AT 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%) 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 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 18. Regulation 8A-450.2 of the Town Tax Code of the Town of Jerome is amended to read:

**Reg. 8A-450.2. Rental, leasing, and licensing for use of tangible personal property: membership fees; other charges.**

- (a) Membership, admission, or other fees charged by any rental club or limited access lessor are considered part of taxable gross income.
- (b) Gross income from rental, leasing, or licensing for use of tangible personal property must include all charges by the lessor to the lessee for repair, maintenance, or other service upon the tangible personal property rented, leased, or licensed.
- (c) ~~(Reserved)~~ SALE OF A WARRANTY, MAINTENANCE, OR SERVICE CONTRACT AS A REQUIREMENT OF, OR IN CONJUNCTION WITH, A RENTAL, LEASING, OR LICENSING CONTRACT IS EXEMPT.

Section 19. Regulation 8A-450.5 of the Town Tax Code of the Town of Jerome is amended to read:

**Reg. 8A-450.5. Rental, leasing, and licensing for use of tangible personal property: delivery, installation, repair, and maintenance charges.**

- (a) Delivery and installation charges in connection with the rental, leasing, and licensing of tangible personal property are exempt from the tax imposed by Section 8A-450; provided that the provisions of Regulation 8A-100.2 have been met.
- (b) Gross income from the sale of a warranty, maintenance, or similar service contract in connection with the rental, leasing, and licensing of tangible personal property shall be EXEMPT.  
(1) ~~includable as gross income subject to the tax imposed by Section 8A-450, regardless of whether such contract is optional with the customer.~~  
(2) ~~(Reserved)~~
- (c) Separately stated charges for repair not included as part of a warranty, maintenance, or similar service contract relating to the rental, leasing, or licensing of tangible personal property are exempt from the tax imposed by Section 8A-450; however, such income is subject to the provisions of Sections 8A-460 and 8A-465, and the provisions of Regulation 8A-465.1.

Section 20. Regulation 8A-465.2 of the Town Tax Code of the Town of Jerome is amended to read:

**Reg. 8A-465.2. (Reserved) RETAIL SALES: WARRANTY, MAINTENANCE, AND SIMILAR SERVICE CONTRACTS.**

- (a) GROSS INCOME FROM SALES OF WARRANTY, MAINTENANCE, AND SERVICE CONTRACTS IS EXEMPT FROM THE TAX IMPOSED BY SECTION 8A-460.
- (b) TRANSFERS OF TANGIBLE PERSONAL PROPERTY IN CONNECTION WITH A SERVICE, WARRANTY, GUARANTY, OR MAINTENANCE AGREEMENT BETWEEN A VENDOR AND A VENDEE SHALL BE SUBJECT TO TAX UNDER SECTION 8A-460 ONLY TO THE EXTENT OF GROSS INCOME RECEIVED FROM SEPARATELY ITEMIZED CHARGES MADE FOR THE ITEMS OF PROPERTY TRANSFERRED.
- (c) THE GROSS INCOME DERIVED FROM A MAINTENANCE INSURANCE AGREEMENT, WHICH AGREEMENT IS ENTERED INTO BETWEEN THE PURCHASER AND ANY PERSON OTHER THAN THE SELLER IS NOT SUBJECT TO TAX IMPOSED BY SECTION 8A-460. IF THE PROVIDER OF THE MAINTENANCE INSURANCE AGREEMENT PAYS FOR TANGIBLE PERSONAL PROPERTY ON BEHALF OF THE INSURED IN THE PERFORMANCE OF THE AGREEMENT, SUCH SALES ARE SUBJECT TO ALL APPLICABLE TAXES IMPOSED BY THIS CHAPTER.
- (d) CHARGES FOR TANGIBLE PERSONAL PROPERTY PROVIDED UNDER THE TERMS OF A WARRANTY, MAINTENANCE, OR SERVICE CONTRACT EXEMPTED UNDER SECTION 8A-465 ARE SUBJECT TO TAX AS RETAIL SALES.
- (e) HOWEVER, GROSS INCOME RECEIVED BY A DEALER FROM A MANUFACTURER FOR WORK PERFORMED UNDER A MANUFACTURER'S WARRANTY IS NOT TAXABLE UNDER SECTION 8A-460.