

Chapter 15.1

TAXATION

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ARTICLE I. IN GENERAL

Sec. 15.1-1. Authority to tax and regulate.

The Community has the inherent sovereign authority to regulate the conduct of persons and activities within its territory and jurisdiction, and also to control economic activity within its boundaries. The provisions of this Community Code of Ordinances shall be liberally construed in accordance with the fullest interpretation of the Community's taxing and regulatory authority permitted by applicable laws, including the provisions of the Constitution of the Community. (Code 2012, § 15.1a; Ord. No. SRO-402-2012, § 15.1a, 5-30-2012)

Sec. 15.1-2. Definitions.

As used in this chapter, unless the context indicates otherwise, the following terms shall have the meanings herein ascribed to them:

Assessed valuation means the value derived by applying the applicable percentage specified in section 15.1-81 to the full cash value of the possessory interest.

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 to the public.

Collector (also sometimes tax collector) means the Community treasurer or his or her designee.

Community means the Salt River Pima-Maricopa Indian Community, its government and any of its political subdivisions, departments, agencies or enterprises.

Current usage means the use to which the possessory interest is put at the time of valuation by the assessor or the department.

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

Enrolled Community member means an enrolled member of the Salt River Pima-Maricopa Indian Community.

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.

Full cash value or valuation for possessory interest tax purposes is synonymous with market value which means that estimate of value is derived annually by the use of standard appraisal methods and techniques or as provided by law. Full cash value or valuation in the context of utility taxes means that estimate of value as derived annually by the use of standard appraisal methods and techniques or as otherwise reasonably determined by the collector to fairly estimate value or as otherwise set forth in this chapter.

Gross income means the gross receipts of a taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and without any deduction on account of losses. In the context of a hotel occupancy tax, gross income means the gross receipts of a taxpayer derived solely from the use or possession or for the right to the use or possess a room or space in a hotel operated by the taxpayers, in which the room costs \$2.00 or more each day.

Gross proceeds of sales means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, expense of any kind or losses; but cash discounts allowed and taken on sale shall not be included as gross income; the term "gross income" or "gross proceeds of sale" shall not be construed to include goods, wares or merchandise, or value thereof, returned by customers when the sale price is refunded either in cash or by credit, nor the sale of any article accepted as part payment on any new article sold, if and when the full sale price of the new article is included in the gross income or gross proceeds of sales, as the case may be.

Gross receipts means the total amount of the sale, lease or rental price, as the case may be, of the retail sales of retailers, including any services that are a part of the sales, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of every kind or nature, any amount for which credit is allowed by the seller to the purchaser, without any deduction therefrom on account of the cost of the property sold, materials used, labor or service performed, interest paid, losses or any other expense, but not including cash discounts allowed and taken, nor the sale price of property returned by customers, when the full sale price thereof is refunded either in cash or by credit.

Hearing officer means a person appointed by the Community manager for administrative review purposes as provided in section 15.1-17(d).

Hotel means any public or private hotel, inn, hostel, tourist home, house, motel, roominghouse, apartment house, trailer, or other lodging place within the Community offering lodging, wherein the owner thereof, for compensation, furnishes lodging to any transient; provided, however that hotel does not mean licensed foster homes, rest homes, sheltered care homes, nursing homes, group homes or primary health care facilities.

Hotel occupancy tax means the tax levied by the Community on hotel stays within the Community.

Nonmember means persons who are not members of the Community and corporations or partnerships which are more than 50 percent owned by persons who are not members of the Community.

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 the property.

Person means any individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, the federal government, state, any Indian tribe or any of the aforementioned political subdivisions, departments or agencies. For the purposes of this chapter, a person will be considered a distinct and separate person from any general or limited part-

nership or joint venture or other association with which the person is affiliated. A subsidiary corporation will be considered a separate person from its parent corporation for purposes of taxation of transactions with its parent corporation.

Possessory interest means possession or claim to or right in the possession of any leasehold in real property together with any improvements thereon whether considered personal or realty held by any nonmember of the Community.

Property interest means real and personal property located within the Community and rights to the use of real and personal property within the Community.

Retail sale or sale at retail means a sale for any purpose other than the resale in the form of tangible personal property, but the expressions "transfer of possession," "lease" and "rental" as used in the definition of "sale" mean only such transactions as are found upon investigation to be in lieu of sales as defined without the word "lease" or "rental."

Retailer means a person engaged in the business of making sales at retail and, when in the opinion of the council it is necessary for the efficient administration of this chapter, including dealers, distributors, supervisors, employers and salesmen, representatives, peddlers or canvassers and the agents of such dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, whether in making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers.

Sale means a transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property, for a consideration or any agreement therefor, including any transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price; it also includes the fabrication of tangible personal property for consumers who furnish either directly or indirectly the materials used in the fabrication work and the furnishing, preparing or serving for a consideration of any tangible per-

sonal property consumed on the premises of the person furnishing, preparing or serving such tangible personal property; it also includes the furnishing of telecommunications services, gas, electric power, water and other utility service commodity.

Standard appraisal methods and techniques means valuation processes through which a value indication is derived which includes, but is not limited to, the use of cost approach, sales comparison approach and income approach, depending on the type of property, quality and quantity of data available for analysis.

Standard rental or leasing schedule means the tax rate applicable to the gross proceeds of the consideration for the use or occupancy of real property and the improvements on such real property in Scottsdale, Arizona, including taxes imposed by the State of Arizona, the county, the City of Scottsdale and any other taxing authority.

Tangible personal property means personal property which may be seen, weighed, measured, felt, touched or is in any other manner perceptible to the senses.

Tax collector. See *Collector*.

Tax year or taxable year means the year beginning October 1.

Taxpayer means any person liable for any tax under this chapter.

Transient means any person who for any period of not more than 30 consecutive days obtains lodging or the use of any lodging space in any hotel.

Utility companies means companies or other business entities that supply, manufacture, deliver or otherwise make available by pipeline or other mechanism gas, water, telephone, telecommunications and/or electricity to other persons or entities.
(Code 1981, § 15.1-1; Code 2012, § 15.1-1; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-1, 5-30-2012)

Sec. 15.1-3. Forms for making returns.

The returns required under this chapter shall be made upon forms to be prescribed by the collector.

(Code 1981, § 15.1-2; Code 2012, § 15.1-2; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-2, 5-30-2012)

Sec. 15.1-4. Separate returns of proceeds of sales made in more than one class.

A person engaged in any business that makes sales on which more than one tax rate applies, or in two or more businesses with respect to which different tax rates apply, shall make separate returns of the gross proceeds of sales or the gross income earned under each applicable tax rate.

(Code 1981, § 15.1-3; Code 2012, § 15.1-3; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-3, 5-30-2012)

Sec. 15.1-5. Partnerships.

All taxes assessed under the provisions of this chapter upon the business activities of a partnership shall be a liability chargeable against each and all of the individual partners; but when paid by the partnership, such liability against each and all of the individual partners shall cease. Licenses issued as hereinafter provided to persons engaged in business as partners shall be in the name of the partnership.

(Code 1981, § 15.1-4; Code 2012, § 15.1-4; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-4, 5-30-2012)

Sec. 15.1-6. Exemptions in accordance with constitutional prohibitions.

The taxes herein levied shall not be construed to apply to transactions in interstate commerce which, under the Constitution of the United States, the Community is prohibited from taxing.

(Code 1981, § 15.1-5; Code 2012, § 15.1-5; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-5, 5-30-2012)

Sec. 15.1-7. Administration of this chapter; rule making; confidentiality.

(a) The administration of this chapter is vested in the tax collector, except as otherwise specifically provided, and all payments shall be made to the tax collector.

(b) The tax collector shall, subject to the approval of the Community Council, prescribe the regulations necessary for the administration of this chapter.

(c) It shall be unlawful for the tax collector or any other Community employee to reveal to any person, other than another Community employee acting in an official capacity on behalf of the Community government or legal counsel acting in a professional capacity on behalf of the Community government, any information contained in the return of any taxpayer or any other information about any taxpayer acquired as a result of the collector's or other employee's employment with the Community, except:

- (1) The tax collector may disclose information, including but not limited to the measure and amounts of any unpaid tax, interest, and penalties owed by a specific taxpayer, to persons acting in their legal capacity as successors, receivers, trustees, personal representatives, executors, guardians, administrators, and assignees with respect to a direct interest in the business operations or financial affairs of the specific taxpayer.
- (2) The Community Council may authorize an examination of any return or audit of a specific taxpayer made pursuant to this chapter in matters being investigated by authorized agents of the federal government, a federal tax court, federal court of appeals, or the United States Supreme Court. In no event shall any state, municipality, Community, county, or their political subdivisions or entities, be given jurisdiction to examine any return or audit of a specific taxpayer made pursuant to this chapter without the prior written approval of the taxpayer or the Community Council.

(Code 1981, § 15.1-6; Code 2012, § 15.1-6; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-6, 5-30-2012)

Sec. 15.1-8. Reporting of tax.

(a) *Returns.* The returns required under this chapter shall be made upon forms provided or approved by the tax collector, and shall be consid-

ered filed only when the accuracy of the return has been attested to, by signature upon the form, by the taxpayer or an authorized agent of the taxpayer, and when such form has been received by the tax collector.

(b) *Method of reporting transaction privilege taxes.* Each taxpayer shall elect to report on either a cash receipts basis or an accrual basis and shall indicate the choice on the privilege license application. A taxpayer shall not change his or her reporting method without receiving prior written approval by the tax collector.

- (1) Taxpayers shall report all gross income subject to the tax using the same basis of reporting.
- (2) Gross income from construction of improvements pursuant to a construction contract shall be reported either on cash receipts basis or on a progressive billing (accrual) basis. Where the construction is not pursuant to a construction contract, the value of the constructed improvement shall be reported as gross income upon completion of construction.

(c) *Returns by the tax collector.* If a taxpayer fails timely to file a return for any period, the tax collector, after prior written notice and demand to the taxpayer, may prepare such a return using reasonable estimates of gross income, property valuation, or sales volume based on any information available to him or her. The tax collector shall mail, by certified United States mail, or hand-deliver a copy of the return to the taxpayer and the date of filing of such return shall be the date that the copy was mailed or delivered.

(Code 1981, § 15.1-7; Code 2012, § 15.1-7; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-7, 5-30-2012)

Sec. 15.1-9. When tax due; when delinquent; verification of return; extensions.

(a) *Generally.* Except as provided elsewhere in this section, the taxes shall be due and payable monthly on or before the 20th day of the month next succeeding the month in which the tax accrues.

- (1) *Quarterly returns.* The tax collector may authorize a taxpayer whose reporting his-

tory indicates an estimated annual Community privilege tax liability on taxable gross income in excess of \$5,000.00, but less than \$50,000.00, to file returns on a calendar-quarterly basis. The taxes for each calendar quarter shall be due and payable on or before the 20th day of the month next succeeding the end of each calendar quarter.

- (2) *Annual returns.* The tax collector may authorize a taxpayer whose reporting history indicates an estimated annual Community privilege tax liability on gross income of not more than \$5,000.00 to file returns for such taxes on a calendar-annual basis. The taxes for each calendar year shall be due and payable on or before January 20 of the following year.

(b) *Special requirements of taxpayers filing quarterly or annual returns.* No taxpayer may report on a quarterly or annual basis until he or she has established, to the tax collector's satisfaction, six months' reporting history. It is the taxpayer's responsibility to notify the tax collector and increase his or her reporting frequency (to quarterly or monthly as applicable) when his or her gross income exceeds the maximum limits for his or her current reporting frequency. Failure to do so may be deemed negligence or evasion, and penalties may apply. Failure to file returns timely, without good cause shown to the satisfaction of the tax collector, is sufficient cause for the tax collector to deny future filings by the taxpayer on a quarterly or annual basis.

(c) *Delinquency date.* Except as provided in subsection (d) of this section, all returns and remittances received within the tax collector's office on or before the last business day of the month when due shall be regarded as timely filed. The start of business of the first business day following the month when due shall be the delinquency date. It shall be the taxpayer's responsibility to cause his or her return and remittance to be timely received. Mailing the return or remittance on or before the due date or delinquency date does not relieve the taxpayer of the responsibility of causing his or her return or remittance to be received by the last business day of the month when due.

(d) *Jeopardy reporting.* If the tax collector determines that the collection of any tax due to the Community is in jeopardy, the tax collector may direct the taxpayer to file his or her return and remit the tax on a weekly, daily, or transaction-by-transaction basis. Such return and remittance shall be due upon the date fixed by the tax collector, and the delinquency date shall be the following day.

(e) *Extensions.* The tax collector may extend the time for filing a return, for good cause shown, and only when requested in writing and received by the tax collector prior to the tax due date. However, the time for filing such return shall not be extended beyond the last business day of the month next succeeding the due date of such return. In such cases, only the penalties for late filing and late payment may be waived by the tax collector for filing and payment within the extension period. Notwithstanding the granting of an extension, the interest payable for late payment of taxes shall be paid for the period commencing upon the original delinquency date and ending on the date the tax is paid. The interest may not be waived by the tax collector.

(f) *Final return.* The final return of a taxpayer who ceases to engage in activities taxable under this chapter shall be due ten days after cessation of such activities.

(Code 1981, § 15.1-8; Code 2012, § 15.1-8; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-8, 5-30-2012)

Sec. 15.1-10. Interest and civil penalties.

(a) Any taxpayer who fails to pay any of the taxes imposed by this chapter when due shall be subject to and shall pay interest upon such tax at the rate of one percent per month, or fraction of a month, until paid. Said interest may not be waived by the tax collector other than on the basis that section 15.1-11 applies. From and after September 1, 2013, the rate of interest on overpayments shall be one-quarter of one percent per month, or fraction of a month.

(b) In addition to interest assessed under subsection (a) of this section, any taxpayer who fails to pay before the delinquency date any tax due

under this chapter shall, in addition to any other penalties prescribed by this chapter, pay civil penalties as follows:

- (1) A taxpayer who fails to timely file a return for a tax imposed by this chapter shall pay a penalty of five percent of the tax for each month or fraction of a month elapsing between the delinquency date of the return and the date on which it is filed, unless the taxpayer shows to the satisfaction of the tax collector that the failure to timely file is due to reasonable cause and not due to willful neglect. This penalty shall not exceed 25 percent of the tax due.
- (2) A taxpayer who fails to pay an applicable tax within the time prescribed shall pay a penalty of ten percent of the unpaid tax, unless the taxpayer shows to the satisfaction of the tax collector that the failure to timely pay is due to reasonable cause and not due to willful neglect.
- (3) A taxpayer who fails to file a return within 30 days of having received a written notice and demand from the tax collector shall pay a penalty of 25 percent of the tax, unless the taxpayer shows to the satisfaction of the tax collector that the failure is due to reasonable cause and not due to willful neglect or the tax collector agrees to a longer time period.
- (4) If the cause of a tax deficiency is determined by the tax collector to be negligence, but without intent to defraud, the taxpayer shall pay a penalty of ten percent of the amount of the deficiency.
- (5) If the cause of a tax deficiency is determined by the tax collector to be due to civil fraud or evasion of the tax, the taxpayer shall pay a penalty of 50 percent of the amount of deficiency.

(c) Interest imposed under subsection (a) of this section and penalties imposed by subsections (b)(1) and (2) of this section are due and payable upon notice by the tax collector and may be challenged by the taxpayer only after application for a refund and denial of such application. Penalties under subsections (b)(3), (4) and (5) of this

section must be asserted by the tax collector in a notice of determination of a deficiency and may be challenged by the taxpayer before payment.

(d) For the purpose of this section, the term "reasonable cause" means that the taxpayer had a reasonable basis for believing that the tax did not apply to the business activity in the Community.

(e) For the purpose of this section, the term "negligence" shall be characterized chiefly by inadvertence, thoughtlessness, inattention or the like, rather than an "honest mistake." Examples of negligence include:

- (1) The taxpayer's failure to maintain records as required by the regulations;
- (2) Repeated failures to timely file returns; or
- (3) Gross ignorance of the law.

(Code 1981, § 15.1-9; Code 2012, § 15.1-9; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-9, 5-30-2012; Ord. No. SRO-426-2013, § A, 9-1-2013)

Sec. 15.1-11. Erroneous advice or misleading statements by the tax collector; abatement of penalties and interest; definition.

Notwithstanding section 15.1-10(a), a deficiency shall not bear interest if either:

- (1) The deficiency is directly attributable to erroneous written advice furnished to the taxpayer by the tax collector in response to a specific request from the taxpayer and not from the taxpayer's failure to provide adequate or accurate information; or
- (2) All of the following are true:
 - a. A tax return form or instruction related to the form prepared by the tax collector contains a statement that, if followed by a taxpayer, would cause the taxpayer to misapply this chapter.
 - b. The taxpayer reasonably relies on the statement.

c. The taxpayer's underpayment directly results from this reliance. (Code 1981, § 15.1-10; Code 2012, § 15.1-10; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-10, 5-30-2012)

Sec. 15.1-12. Deficiencies; when inaccurate return is filed; when no return is filed.

(a) If the taxpayer has failed to file a return, or if the tax collector is not satisfied with the return and payment of the amount of tax required, and additional taxes are determined by the tax collector to be due, including interest and penalties due pursuant to section 15.1-10, the tax collector shall send, by certified United States mail, or shall hand-deliver a written determination of a deficiency to the taxpayer, and such deficiency shall include any applicable penalties and interest. The deficiency shall be due and payable 30 days after its effective date unless the taxpayer files a petition for review of the deficiency determination within that period.

- (1) *When a return is filed.* If the tax collector is not satisfied with a return and payment of the amount of tax required by this chapter, he or she may examine the return or examine the records of the taxpayer, and re-determine the amount of tax, penalties, and interest required to be paid, for any periods available to the tax collector under section 15.1-14, based upon the information contained in the return or records or based upon any information within his or her possession or which comes into his or her possession.
- (2) *When no return is filed.* The tax collector may not make a determination of a deficiency with respect to a tax return the tax collector prepares pursuant to section 15.1-8(c).

(b) The tax collector shall give notice to the taxpayer of any determination of a deficiency by certified United States mail or hand-delivery of a notice to the taxpayer at the taxpayer's last address of record. The effective date of a notice given by certified United States mail shall be the date of mailing as shown on the postmark and the

effective date of a notice that is hand-delivered shall be the date of delivery. The notice shall advise the taxpayer of his or her right to contest the deficiency by filing a petition for review pursuant to section 15.1-17.

(Code 1981, § 15.1-11; Code 2012, § 15.1-11; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-11, 5-30-2012)

Sec. 15.1-13. Closing agreements.

(a) If the tax collector determines that noncompliance with tax obligations results from a reasonable misunderstanding or misapplication of provisions of this chapter, the tax collector may enter into a closing agreement with a taxpayer that may abate some or all of the tax that the taxpayer failed to remit together with interest and penalties. All closing agreements shall be subject to the approval of the Community treasurer.

(b) The closing agreement shall require the taxpayer to properly account for and pay such taxes in the future. If a taxpayer fails to adhere to such a requirement, the closing agreement is voidable by the tax collector and he or she may issue a notice of deficiency for the abated tax, interest and penalties. The tax collector may issue a proposed notice of deficiency at any time within six months after the date that he or she declares the closing agreement void or within the period prescribed by section 15.1-14.

(c) After a closing agreement has been signed pursuant to this section, it is final and conclusive, and neither it nor any determination, assessment, collection, payment abatement, refund or credit made pursuant to the agreement shall be reopened, annulled, modified, set aside or disregarded in any way, except on a showing of fraud, malfeasance or misrepresentation of a material fact.

(Code 1981, § 15.1-12; Code 2012, § 15.1-12; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-12, 5-30-2012)

Sec. 15.1-14. Limitation periods.

(a) *Generally.* The following limitation periods apply to all taxes referred to in this chapter:

- (1) Except as provided elsewhere in this section, the tax collector may issue a notice of

deficiency with respect to any tax return at any time within four years after the date on which the tax return was due, or within four years after the date on which the tax return is filed, whichever period expires later.

- (2) Notwithstanding subsection (a)(1) of this section, if a taxpayer does not report an amount properly reportable that is in excess of 25 percent of the taxable amount stated on the return, the tax collector may assess additional tax due at any time within six years after the date on which the return was filed.
- (3) If a taxpayer fails to file a return, files a fraudulent return, or commits other fraud with the intent to evade (or that has the effect of evading) taxes, the tax collector may assess the amount due, plus interest and penalties, at any time within ten years after the date on which the return was either due or the date on which the return was filed, whichever is later.
- (4) Any delay in commencement or completion of any examination by the tax collector, which is requested or agreed to in writing by the taxpayer, shall be excluded from the computation of any limitation periods prescribed by this section and such limitation periods shall be extended for a length of time equivalent to the period of the agreed upon delay. However, the tax collector shall not be required to exclude any such period of delay from the tax collector's calculation of taxes and interest due.
- (5) A deficiency notice shall be sent by certified mail or hand-delivered to the taxpayer at the taxpayer's address of record or to the taxpayer's agent at the agent's address of record.

(b) *Extension of limitation period.* Any applicable limitation period may be extended by written agreement of the tax collector and taxpayer. (Code 1981, § 15.1-13; Code 2012, § 15.1-13; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-13, 5-30-2012)

Sec. 15.1-15. 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 not barred by limitations under section 15.1-14.

(b) In order to perform any examination authorized by this chapter, the tax collector may issue an administrative request for the attendance of witnesses or for the production of documents.

(c) If within 30 calendar days of receiving a written request for information in the possession of the taxpayer, the taxpayer fails or refuses to furnish the requested information, the tax collector may, in addition to penalties prescribed under section 15.1-10, impose an additional penalty of 25 percent of the amount of any tax deficiency attributable to the information that the taxpayer failed to provide, unless the taxpayer shows that the failure was due to reasonable cause and not due to willful neglect.

(d) The tax collector may use any generally accepted auditing procedures, including sampling techniques, to determine the correct tax liability of any taxpayer. The tax collector shall ensure that the procedures used are in accordance with generally accepted auditing standards.

(e) The fact that the taxpayer has not maintained or provided one or more books or records requested by the tax collector shall not preclude the tax collector from making a determination of deficiency. In such cases, the tax collector shall be authorized to use reasonable estimates, projections, or samplings, to determine the correct tax. (Code 1981, § 15.1-14; Code 2012, § 15.1-14; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-14, 5-30-2012)

Sec. 15.1-16. Erroneous payment of tax; credits and refunds; limitations.

(a) A taxpayer may apply to the tax collector for a refund of any taxes that were paid but not due. The application for refund must be filed before the expiration of the limitation period set

forth in section 15.1-14(a)(1). Taxpayers seeking a refund shall provide all information requested and reasonably required by the tax collector to make a determination as to the taxpayer's entitlement to a refund.

(b) The tax collector shall promptly consider an application for refund and shall issue to the taxpayer a notice of acceptance or denial of the application for refund.

(c) The tax collector shall refund any overpayment of taxes within ten days after determining that the refund is properly owed without regard to whether the taxpayer has made application for the refund. If the taxpayer is delinquent in its obligation to pay taxes to the Community, or is delinquent in any other financial obligation to the Community, the tax collector shall apply some or all of the refund as may be necessary to satisfy as much of the obligation as possible.

(d) No credit shall be allowed or refund paid where it appears that the taxpayer has collected from its customers, by separately stated itemization, the amount of the tax, except that a credit or refund may be allowed in such case if the taxpayer can present documentation satisfactory to the tax collector identifying each customer from whom the excess taxes were collected and establishing that any taxes refunded pursuant to this section will be remitted to those customers within 60 days of receipt of the refund.

(e) Interest shall be allowed at the rate set forth in section 15.1-10(a) on any refund applied for and authorized pursuant to the provisions of this chapter. Interest shall be calculated from the date of the taxpayer's application for refund filed with the Community.

(Code 1981, § 15.1-15; Code 2012, § 15.1-15; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-15, 5-30-2012)

Sec. 15.1-17. Administrative review; petition for hearing or for redetermination; finality of order.

(a) *Applicability.* This section describes the procedures under which a taxpayer may dispute any determination by the tax collector related to taxes owed or asserted to be owed by the taxpayer.

(b) *Informal conference.* A taxpayer shall have the right to discuss any dispute subject to this section by informal conference with the tax collector or with an auditor before seeking administrative review pursuant to subsection (c) of this section, provided that the time for filing a petition for administrative review shall not be extended by such informal conference, except by written agreement between the tax collector and the taxpayer.

(c) *Administrative review.*

(1) *Filing a petition.* A taxpayer may seek administrative review of a dispute that is subject to this section by filing with the tax collector a petition for review within 30 days of mailing or delivery to the taxpayer of the notice that is the subject of the petition.

(2) *Extension to file a petition.* The taxpayer may request only one extension from the tax collector of the time for filing a petition for review. Such request must be in writing, state the reasons for the requested delay and time of delay requested, and must be filed with the tax collector within the period set forth in subsection (c)(1) of this section for originally filing a petition. The tax collector may grant an extension that shall not exceed 15 days.

(3) *Requirements for petition.* The petition shall be in writing, shall describe the action of the tax collector which the taxpayer disputes, and shall state the bases of the taxpayer's contention that such action is erroneous.

(4) *Response to petition.* The tax collector shall mail or hand-deliver to the taxpayer and to the hearing officer (or to the Community manager if the hearing officer has not been appointed) a written response to the petition within 20 days of the filing of the petition.

(d) *The hearing officer.* Upon receipt of a petition, the tax collector shall promptly deliver a copy of the petition to the Community manager who shall appoint a hearing officer to conduct proceedings for the resolution of the dispute. The

hearing officer shall be a person with general knowledge of taxes, a member in good standing of the state bar and have previous experience serving in a judicial capacity.

(e) *The hearing.* The hearing officer shall review the petition and the response, and shall, upon consultation with the taxpayer and tax collector, schedule a hearing within 30 days of his or her appointment and advise the parties of the general rules of hearing procedure. The hearing officer shall not be required to prescribe strict rules regarding hearsay and authentication of evidentiary records. The parties may be represented by attorneys or advocates of their choice in all proceedings conducted under this section. The hearing officer shall maintain a record of the proceeding that shall include all papers filed with the hearing officer and all papers offered into evidence.

(f) *The hearing officer's decision.* The hearing officer shall, within 30 days of the hearing, render a written decision, which shall include a summary statement of the reasons for the decision. The hearing officer shall mail copies of the decision to the parties. The decision may, in the hearing officer's discretion, include an award of fees and costs to the prevailing party upon a finding that such award is both reasonable in amount and warranted under the circumstances. If neither party seeks a reconsideration, the decision becomes final 30 days after the date of the decision. Either party may seek reconsideration of the decision by written motion filed and served within 15 days of the date of the decision. If a motion for reconsideration is determined by the hearing officer to be not timely filed, the hearing officer shall notify both parties in writing of the determination of untimeliness, and the decision will be final 15 days after the date of the notice. If a motion for reconsideration is timely filed and it is denied, the hearing officer shall notify both parties in writing of the denial and the decision will be final 15 days after the date of the notice. If a motion for reconsideration is granted, the hearing officer shall issue an amended decision which will be final 15 days after the date of the new or supplemental decision. A motion for reconsideration may not be based upon evidence not in the

hearing officer's record, except upon a showing that such evidence was unavailable due to fraud.

(g) *Effect of the final decision.* Any determination of deficiency that is upheld by the hearing officer in a final decision shall be assessed, and any application for refund that is upheld by the hearing officer in a final decision shall be paid, 30 days after the decision is final unless the deficiency determination or the refund determination is challenged within that time by the filing of a complaint in the Community court.

(h) *Injunctions.* No injunction shall be awarded by any court or judge to restrain the collection of the taxes imposed by this chapter or to restrain the enforcement of this chapter.

(Code 1981, § 15.1-16; Code 2012, § 15.1-16; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-16, 5-30-2012)

Sec. 15.1-18. Jeopardy assessments.

(a) If the tax collector believes that the collection of any deficiency of any amounts imposed by this chapter will be jeopardized by delay, he or she shall deliver to the taxpayer a notice of such finding and demand immediate payment of deficiency declared to be in jeopardy.

(b) Jeopardy assessments are immediately due and payable and the tax collector may immediately begin proceedings for collection. The taxpayer, however, may stay collection by filing, within ten days after receipt of notice of jeopardy assessment, or within such additional time as the tax collector may allow, by bond or collateral in favor of the Community, in the amount declared by the tax collector in his or her notice to be in jeopardy.

(c) The bond required by this section shall be issued in favor of the Community by a surety company authorized to transact business in this state and approved by the treasurer of the Community as to solvency and responsibility. Collateral shall consist of marketable securities or cash, which will be deposited with the treasurer of the Community.

(d) If bond or collateral is not filed within the period prescribed by subsection (b) of this section, the tax collector may immediately assess and

collect the deficiency. The taxpayer nevertheless shall be entitled to initiate the review proceedings provided in sections 15.1-17 and 15.1-19. (Code 1981, § 15.1-17; Code 2012, § 15.1-17; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-17, 5-30-2012)

Sec. 15.1-19. Judicial review.

(a) A taxpayer may seek judicial review of all or any part of a hearing officer's decision by initiating an action against the Community in the Community court within 30 days of the date that the decision becomes final. A taxpayer is not required to pay any tax, penalty, or interest upheld by the hearing officer before seeking such judicial review.

(b) The tax collector may seek judicial review of all or any part of a hearing officer's decision by initiating an action against the taxpayer in the Community court within 30 days of the date the decision becomes final.

(c) The court may reverse the decision of the hearing officer in whole or in part but only upon a finding that the decision is clearly erroneous. The court shall not consider any contentions or evidentiary materials other than those found in the record of the hearing officer's proceeding. (Code 1981, § 15.1-18; Code 2012, § 15.1-18; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-18, 5-30-2012)

Sec. 15.1-20. Collection of assessed taxes.

(a) The tax collector, and other Community officials designated by the Community manager, may collect assessments in the same manner as judgments of the Community court.

(b) Every tax imposed by this chapter, and all interest and penalties thereon, shall become, from the time the same is due and payable, a personal debt to the Community from the person liable, but shall be payable to and recoverable by the collector.

(c) An action in the name of the Community may be brought at any time by the Community attorney, at the request of the collector, to recover the amount of any taxes, interest and penalties due under this chapter.

(d) There shall be no levy made which will impinge upon the federal trust. (Code 1981, § 15.1-19; Code 2012, § 15.1-19; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-19, 5-30-2012)

Sec. 15.1-21. Collection of delinquent possessory interest taxes.

If any tax imposed pursuant to article III of this chapter is not protested or paid within 60 days after becoming delinquent, or upon entry of any final judgment of the courts of the Community against a taxpayer, the collector shall issue a warrant directed to the chief of police of the Community department of public safety commanding him or her to levy upon and sell, within 60 days, to a person approved by the Community Council, the possessory interest against which the tax was assessed. The proceeds of such sale shall promptly be turned over to the collector, who shall use such proceeds to pay the amount of the delinquent tax, with the added penalties, interest, any applicable court costs, and the cost of executing the warrant. With respect to any real property possessory interest that is the subject of such a warrant, all or such number of any lessors of the real property who wish to purchase such real property at the sale shall have preference at the sale. The chief of police shall, within five days after the receipt of the warrant, file with the clerk of the Community court a copy thereof, and the clerk shall thereupon enter in the judgment docket, in the column of judgment debtors, the name of the delinquent taxpayer mentioned in the warrant, and in appropriate columns the amounts of the tax or portion thereof and penalties and interest for which the warrant is issued and the date when such copy is filed. Thereafter, the amount of such warrant so docketed shall become a lien upon the title to the possessory interest upon which levy has been made in the same manner as a judgment against the taxpayer duly docketed in the office of the clerk. After filing the copy of the warrant with the clerk, the chief of police shall execute the warrant in the same manner prescribed by law for executing judgments of the Community court, and shall be entitled to the same fees for his or her services in executing the warrant, to be collected in the same

manner. If a warrant is returned not satisfied in full, the collector shall have the same remedies to enforce the claim for taxes against the delinquent taxpayer as if the Community had recovered judgment against the delinquent taxpayer for the amount of the tax.

(Code 1981, § 15.1-20; Code 2012, § 15.1-20; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-20, 5-30-2012)

Sec. 15.1-22. Manner of making remittance of tax; collector's receipt.

All remittances of taxes imposed by this chapter shall be made by bank draft, check, cashier's check, money order, electronic funds transfer, or cash to the collector, who shall issue his or her receipts therefor to the taxpayer; provided, that no remittance for the tax assessed and levied under the provisions of the chapter shall be deemed received unless and until it has been paid in cash to the collector.

(Code 1981, § 15.1-21; Code 2012, § 15.1-21; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-21, 5-30-2012)

Secs. 15.1-23—15.1-49. Reserved.

ARTICLE II. TRANSACTION PRIVILEGE TAX

Sec. 15.1-50. Imposition of tax; tax schedule.

There are hereby levied upon persons on account of their business activities within the Community transaction privilege taxes to the extent hereinafter provided. Such taxes shall be collected by the tax collector for the purpose of raising revenue to be used in defraying the necessary expenses and obligations of the Community. Such taxes shall be measured by the gross sales or gross income of persons, whether derived from residents of the Community or not; and all of said gross sales or gross income shall be used to measure the tax in accordance with the following schedule:

- (1) *1.65 percent schedule.* An amount equal to 1.65 percent of the gross proceeds of sale or gross income from the business upon

every person engaging or continuing within the Community in the following businesses:

- a. Selling any tangible personal property whatsoever (including items also subject to a luxury tax) at retail, except gasoline, tobacco products and the sales described in subsections (2), (3) and (4) of this section. When any person is engaged in the business of selling such tangible personal property at both wholesale and retail, the retail rate shall be applied only to the gross proceeds of the sales made other than at wholesale when his or her books are kept so as to show separately the gross proceeds of sale of each class; and when books are not so kept, the retail rate shall be applied to the gross proceeds of every sale made.
- b. Operating or conducting theatres, movies, shows of any type or nature, exhibitions, concerts, carnivals, circuses, golf courses, golf driving ranges, fairs, races, contests, horse stables, boxing and wrestling matches and any business charging admission fees for exhibition, amusement or instruction other than projects of bona fide religious or educational institutions. The tax prescribed under the terms of this subsection shall not apply to events sponsored by the Community.
- c. Selling manure at wholesale.
- d. Contracting, to be computed as follows: On the gross income, less a deduction in the amount of 35 percent of said gross income, in lieu of any labor, shop or subcontractor deductions. Subcontractors or others who perform services in respect of the improvement, building, highway, road, excavation or other structure, project, development or improvement (hereinafter "job") are exempt from the privilege tax on their gross income derived from the job if they

- can demonstrate to the Community's satisfaction that the job was within the control of a prime contractor or prime contractors and that such prime contractor paid or should have paid the privilege tax upon the gross income attributable to the job and from which the subcontractors or others were paid.
- e. Leasing or renting for commercial purposes to the tenant in actual possession, including the placement of outdoor advertising billboards, of real property located within the Community by a nonmember of the Community; provided that, except as provided in division 2 of article III of chapter 15, this tax shall not apply to the leasing or renting of residential units intended primarily for persons who reside in such units as their place of abode.
- (2) *Transaction privilege tax schedules.*
 - a. *7.95 percent schedule.* An amount equal to 7.95 percent of the gross proceeds or gross income from the business of those sales described in subsection (1)a through d of this section to persons who are not members of the Community from the business of any division of the Community or the business of any enrolled Community member.
 - b. *One percent temporary tax increase; repeal from and after May 31, 2013.* Effective November 1, 2010, and continuing through May 30, 2013, a temporary tax is levied as a separate rate increment in addition to the transaction privilege tax rate set forth in subsection (2)a of this section. The temporary tax is subject to the same collection, payment, enforcement, and other rules, deductions and exclusions, if any, as apply to transaction privilege taxes in subsection (2)a of this section. The repeal of the temporary taxes under this section does not affect the continuing validity of outstanding and unpaid tax obligations that accrue under this section, including penalties and interest that accrue thereafter by law on any unpaid obligations. The temporary tax under this subsection is repealed from and after May 31, 2013.
 - c. *Cross references; construction.* During the period for which the temporary tax of subsection (2)b of this section is in force, all references to the transaction privilege tax rate established by this subsection (2) shall include both the seven and 7.95 percent and the one percent tax rates of subsections (2)a and b of this section (8.95 percent in aggregate). Following expiration of the temporary tax, any such references shall include the rate appearing in subsection (2)a of this section only.
 - (3) *Three percent schedule.* An amount equal to three percent of the gross proceeds of sale or gross income from the business upon every person engaging or continuing within the Community in the following businesses: Selling or otherwise commercially providing the service of receiving and distributing television signals by cable, dish antenna or other means within mobile home parks, travel trailer parks, shopping centers, office parks or industrial parks.
 - (4) *One percent schedule.* An amount equal to one percent of the gross proceeds of sale or gross income from the business upon every person engaging or continuing within the Community in the following businesses: Mining, quarrying, smelting or producing for sale, profit or commercial use any oil, natural gas, limestone, sand, gravel, copper, gold, silver or other mineral product, compound or combination of mineral products.
 - (5) *2.15 percent schedule.* An amount equal to 2.15 percent of the gross income derived from the business of leasing or renting real property to the tenant in actual pos-

session by any business or division of the Community or any business of any enrolled Community member, including outdoor advertising billboards, located within the Community; provided, that this tax does not apply to the leasing or renting of residential dwelling units except as provided in division 2 of article III of chapter 15, intended primarily for persons who reside in such units as their place of abode.

- (6) *Tangible personal property.* Gross proceeds from the sales of tangible personal property that, if sold in the City of Scottsdale, would be subject to tax at the rate of 1.65 percent, are taxable only under subsection (1) of this section.
- (7) *Utility tax.* An amount equal to one percent of the gross income derived from the sale of telecommunications service, gas, water, electric power or other utility services or commodities to any person who is a nonmember of the Community engaged in any nonagricultural business within the Community and which services or commodities are used within the Community.
- (8) *Hotel occupancy tax.*
 - a. *Purpose.* In addition to all other taxes imposed by this article, there is levied and shall be collected by the tax collector for the purpose of defraying the necessary expenses of the Community a hotel occupancy tax.
 - b. *Generally.* The hotel occupancy tax shall be imposed on any person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room or space in a hotel costing \$2.00 or more each day.
 - c. *Tax rate.* The hotel occupancy tax rate is five percent of the cost of the room.
 - d. *Collection of tax.* Any taxpayer owning, operating, managing, or control-

ling a hotel shall collect for the Community the hotel occupancy tax that is imposed by this article and calculated on the amount paid for a room in the hotel.

- e. *Food and personal services exempt.* The price of a room in a hotel does not include the cost of food served by the hotel and/or the cost of personal services performed by the hotel for the person, except those services related to cleaning and readying the room for use or possession.
- f. *Other exemptions.* The provisions of this subsection shall not apply to rentals made to:
 - 1. The Community.
 - 2. Enrolled members of the Community.
 - 3. The federal government.
 - 4. Persons who have the right to use or possess a room in a hotel for at least 30 consecutive days.

(Code 1981, § 15.1-30; Code 2012, § 15.1-30; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-371-2011, 11-1-2010; Ord. No. SRO-402-2012, § 15.1-30, 5-30-2012; Ord. No. SRO-425-2013, § A, 9-1-2013)

Sec. 15.1-51. Exclusion of tax in determining gross incomes or receipts.

For the purpose of any transaction privilege tax imposed by this article, the total amount of gross income, gross receipts or gross proceeds of sale shall be deemed to be the amount received, exclusive of the tax imposed by this article, providing the person upon whom the tax is imposed shall establish to the satisfaction of the collector that the tax has been added to the sales price and not absorbed by him or her.

(Code 1981, § 15.1-31; Code 2012, § 15.1-31; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-31, 5-30-2012)

Sec. 15.1-52. Presumption that all gross receipts are taxable.

For the purpose of the proper administration of this article and to prevent evasion of the transac-

tion privilege taxes hereby imposed, it shall be presumed that all gross receipts are subject to the tax until the contrary is established.

(Code 1981, § 15.1-32; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-32, 5-30-2012)

Sec. 15.1-53. Exemptions.

The provisions of this article imposing a transaction privilege tax shall not apply to business transactions as described in the following subsections. Taxpayers engaging in such transactions shall document all exempt sales using forms provided by the tax collector.

- (1) Sales of tangible personal property to a person licensed as a contractor under chapter 10 of title 32, Arizona Revised Statutes (A.R.S. §§ 32-1101—32-1171), and who holds a valid Arizona privilege tax license for engaging or continuing in the business of contracting where the tangible personal property so sold is incorporated or fabricated by the contractor into any structure, project, development or improvement in fulfillment of a contract therefor.
- (2) The gross proceeds of sale or gross income derived from the sale of livestock, poultry, seed, feed, fertilizer, insecticides, fungicides, seed-treating chemicals and other agricultural chemicals and supplies, to persons engaging or continuing in the business of farming, ranching or feeding livestock or poultry, but not including equipment for use or consumption in these businesses.
- (3) Sales of prepared food by a vendor or in a restaurant, providing such business has a gross income of less than \$50,000.00 per annum.
- (4) Sales made to the Community.
- (5) Sales made to the United States government.
- (6) Sales of motor vehicles to nonresidents of the State of Arizona for use outside the State of Arizona if the vendor ships or delivers the motor vehicle to a destination

outside of the State of Arizona. The office of the treasurer is authorized to promulgate regulations necessary to implement this exemption, including regulations on the acceptable forms of certificates to establish out-of-state delivery of motor vehicle to a nonresident and residency in another state or foreign country, and the documentation the motor vehicle seller must retain. The burden shall be on the motor vehicle seller to establish to the satisfaction of the office of the treasurer the validity of the claimed exemption.

- (7) Sales of drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

(Code 1981, § 15.1-33; Code 2012, § 15.1-33; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-404-2012, 6-13-2012; Ord. No. SRO-402-2012, § 15.1-33, 5-30-2012; Ord. No. SRO-443-2014, 6-4-2014)

Secs. 15.1-54—15.1-79. Reserved.

ARTICLE III. POSSESSORY INTEREST TAX

Sec. 15.1-80. Imposition of taxes.

There are hereby levied upon persons on account of their possessory interest in real property within the external boundaries of the Community, such possessory interest taxes as provided in this article, which taxes shall be collected by the collector for the purpose of raising revenue to be used in defraying the necessary expenses and obligations of the government of the Community. (Code 1981, § 15.1-40; Code 2012, § 15.1-4; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-40, 5-30-2012)

Sec. 15.1-81. Classification of possessory interests for taxation; assessment ratios; valuation.

(a) There are established the following classes of possessory interests for taxation:

- (1) *Class one.* All possessory interests devoted to any commercial or industrial use.

(2) *Class two.* All possessory interests used for agricultural purposes.

(b) For the purpose of classification of property under this section, partially completed or vacant improvements shall be classified according to their intended uses.

(c) For possessory interest tax purposes, the full cash value of each class one possessory interest shall be determined at its market value by the collector. The collector shall then apply an assessment ratio that shall not exceed the ratio used by the State of Arizona for the taxation of like property to determine the taxable value of the possessory interest. The collector shall then apply the appropriate possessory interest tax rate(s) to the taxable value of the possessory interest to determine the tax owed.

(d) The collector shall prepare tax rolls of all possessory interests within the Community setting forth for each such interest such information as may be required to administer this article, including the information described in subsection (c) of this section.

(Code 1981, § 15.1-41; Code 2012, § 15.1-41; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-41, 5-30-2012)

Sec. 15.1-82. Exemptions to taxation.

All possessory interests shall be subject to taxation except such possessory interests as are held by the following entities or used for the following purposes:

- (1) Community government.
- (2) United States government.
- (3) Churches and other buildings used for religious worship, and the land and improvements appurtenant to and used with such buildings, provided rent is not paid for such land or improvements, and as long as the property is not used or held for profit.
- (4) Public libraries, colleges, schoolhouses and other buildings used for education and the lands appurtenant to and used with

such buildings, as long as they are used or the purpose of education and not used or held for profit.

- (5) Leases for businesses operated by enrolled Community members.
- (6) Partially completed improvements not yet in use for intended purpose.

(Code 1981, § 15.1-42; Code 2012, § 15.1-42; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-42, 5-30-2012)

Sec. 15.1-83. Setting possessory interest tax rate.

(a) The Community Council shall meet at the council chambers of the Community on the second Wednesday of October 1982, and thereafter on or before the last Wednesday of September of each year and fix the rate of taxation on class one possessory interests.

(b) On or before the fourth Wednesday of October 1982, and thereafter on or before the fourth Wednesday of June of each year, the Community Council shall transmit to the collector a statement of changes, if any, which it has made in the rate of possessory interest taxes. In no event shall the aggregate tax rate exceed the aggregate rate of tax to be levied on real property located within the political boundaries of the City of Scottsdale.

(c) The tax on class two possessory interests shall be \$0.05 per acre per year.

(Code 1981, § 15.1-43; Code 2012, § 15.1-43; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-43, 5-30-2012)

Sec. 15.1-84. Annual tax levy; when tax due; when delinquent.

(a) On or before October 1 of each year or the day thereafter if it be a business holiday, the collector shall levy upon the possessory interests within the Community the rates of taxation as prescribed by the Community Council pursuant to this article.

(b) One-half of the taxes levied under this article shall be due and payable on or before the first Monday in November and the remaining one-half on or before the first Monday in May. The tax will be delinquent after such days.

(Code 1981, § 15.1-44; Code 2012, § 15.1-44; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-44, 5-30-2012)

Secs. 15.1-85—15.1-111. Reserved.

ARTICLE IV. UTILITIES TAX

Sec. 15.1-112. Location and valuation of utilities.

On or before September 1 of each calendar year, the Community development department shall determine the location, ownership, and full cash value of the property interests of all utility companies operating within the Salt River Pima-Maricopa Indian Reservation. The full cash value of such utility property interests shall be equivalent to their proportionate value as determined by the Arizona department of revenue as of January 1 of the tax year. The director of the Community development department may elect to use the values for such properties as determined by the state department of revenue or to make a department valuation using commonly accepted methods of appraisal.

(Code 1981, § 15.1-50; Code 2012, § 15.1-50; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-50, 5-30-2012)

Sec. 15.1-113. Imposition of tax; when payable.

(a) There are hereby levied upon utility companies, on account of their ownership of property interests within the external boundaries of the Community, utility taxes on all property interests, except such as are owned by the Community, which taxes will be collected by the collector for the purposes of raising revenue to defray the necessary expenses and obligations of the government of the Community.

(b) Tax assessments on property interests owned by utility companies shall be made by the Community Council annually on or before the last Wednesday of September of each year, and shall be based on the full cash value of all such property interests. The assessment rate utilized by the Community Council shall not exceed that utilized by the State of Arizona for the taxation of like property during any tax year.

(c) On or before November 1 of each year, the Community shall levy all taxes to be levied and collected for all Community purposes upon the property interests of utility companies upon the valuations described and provided for hereunder. (Code 1981, § 15.1-51; Code 2012, § 15.1-51; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-51, 5-30-2012)

Secs. 15.1-114—15.1-139. Reserved.

ARTICLE V. LUXURY TAX

Sec. 15.1-140. Tax on consumer.

The taxes levied by this article are intended and shall act as direct taxes on the consumer, but shall be pre-collected and remitted to the Community by the retailer for the purposes of convenience and facility only.

(Code 1981, § 15.1-60; Code 2012, § 15.1-60; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-60, 5-30-2012)

Sec. 15.1-141. Tobacco tax.

In addition to all other taxes of this Community Code of Ordinances, the following taxes on all cigarettes, cigars, smoking tobacco, plug tobacco, snuff and other forms of tobacco are levied and shall be collected by the collector for the purpose of raising revenue to be used in defraying the necessary expenses and obligations of the Community:

- (1) On each cigarette, \$0.05.
- (2) On smoking tobacco, snuff, fine cut chewing tobacco, cut and granulated tobacco, shorts and refuse of fine cut chewing tobacco, and refuse, scraps, clippings, cuttings and sweepings of tobacco, excluding tobacco powder or tobacco products used exclusively for agricultural or horticultural purposes and unfit for human consumption, \$0.113 per ounce or major fraction thereof.
- (3) On all cavendish, plug or twist tobacco, \$0.28 per ounce or fractional part thereof.

- (4) On each 20 small cigars or fractional part thereof weighing not more than three pounds per 1,000, \$0.228.
- (5) On cigars of all descriptions except those included in subsection (4) of this section, made of tobacco or any substitute thereof, if manufactured to retail at not more than \$0.05 each, \$0.11 on each three cigars, but if manufactured to retail at more than \$0.05 each, \$0.11 on each cigar.

(Code 1981, § 15.1-61; Code 2012, § 15.1-61; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-61, 5-30-2012)

Sec. 15.1-142. Community members exempt.

The tax levied by section 15.1-141 does not apply to cigarettes, cigars, smoking tobacco, plug tobacco, snuff and other forms of tobacco sold at retail within the Community to any enrolled member of the Community.

(Code 1981, § 15.1-62; Code 2012, § 15.1-62; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-62, 5-30-2012)

Sec. 15.1-143. Alcohol tax.

In addition to all other taxes of this Community Code of Ordinances, the following taxes on all alcoholic beverages are levied on the retailer and shall be collected by the collector for the purpose of raising revenue to be used in defraying the necessary expenses and obligations of the Community:

- (1) On each sealed container of spirituous liquor at the rate of \$3.00 per gallon and at a proportionate rate for any lesser or greater quantity than one gallon.
- (2) On each container of vinous liquor, except cider, of which the alcoholic content is not greater than 24 percent by volume at the rate of \$0.84 per gallon and at a proportionate rate for any lesser or greater quantity than one gallon.
- (3) On each container of vinous liquor of which the alcoholic content is greater than 24 percent by volume, \$0.25 for quantities

less than eight ounces and an additional \$0.25 for each additional eight ounces (or fraction thereof),

- (4) On each gallon of malt liquor or cider, \$0.16, and at a proportionate rate for any lesser or greater quantity than one gallon. (Code 1981, § 15.1-70; Code 2012, § 15.1-70; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-70, 5-30-2012)

Secs. 15.1-144—15.1-169. Reserved.

ARTICLE VI. PRIVILEGE LICENSE

Sec. 15.1-170. Required; fee.

Every person having a gross proceeds of sales or gross income upon which a privilege tax is imposed pursuant to article II of this chapter, desiring to engage or continue in business, shall make application to the Community collector for a privilege license, accompanied by a fee of \$20.00, and no person shall engage or continue in business until he or she shall have such license. In the event that no license is granted, the application fee shall not be returned to the applicant but shall be instead applied to the costs of processing such application. As part of the approval process, a person is required to have a valid business license as described in article II of chapter 15.

(Code 1981, § 15.1-79; Code 2012, § 15.1-79; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-79, 5-30-2012)

Sec. 15.1-171. Duration.

The privilege license required by section 15.1-170 shall be good for one year and be renewed annually.

(Code 1981, § 15.1-80; Code 2012, § 15.1-80; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-80, 5-30-2012)

Sec. 15.1-172. Cancellation.

Upon the failure of any person to pay a tax or penalty, or to make records available or to file a return as required by article II of this chapter, or have a valid Community business license, the collector shall give such person notice of intent to

cancel the privilege license. If within five days the person so notified shall request it, he or she shall be granted a hearing before the collector. Upon a finding by the collector that a tax or penalty is unpaid and has been so at least 30 days, or if no request for hearing has been made within five days after notification, as herein provided, the license issued under this article shall be cancelled and such person shall not be relicensed until all such taxes and penalties due hereunder shall have been paid.

(Code 1981, § 15.1-81; Code 2012, § 15.1-81; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-81, 5-30-2012)

Sec. 15.1-173. Reissuance.

Any person losing his privilege license, as prescribed in section 15.1-172 shall be charged a fee of \$10.00 for each reissue of a license.

(Code 1981, § 15.1-82; Code 2012, § 15.1-82; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-82, 5-30-2012)

Sec. 15.1-174. Transferability; display.

The license prescribed in section 15.1-170 shall be nontransferable, and shall be displayed in the applicant's place of business.

(Code 1981, § 15.1-83; Code 2012, § 15.1-83; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-83, 5-30-2012)

Sec. 15.1-175. Separate license for each location.

A person engaged in or conducting a business in two or more locations shall procure a license for each of such locations.

(Code 1981, § 15.1-84; Code 2012, § 15.1-84; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-84, 5-30-2012)