

## 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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

### 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:

*Administrative request* encompasses any official request for information needed in tax administration other than in a return.

*Alteration* is an activity or action that causes a direct physical change to existing property.

*Assessed valuation* means the value derived by applying the applicable percentage specified in section 15.1-81 to collector's determination of 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.

*Computer software* means any computer program, part of such a program, or any sequence

of instructions for automatic data processing equipment. Computer software which is not "custom computer software/programming" is deemed to be tangible personal property for the purposes of this chapter, regardless of the method by which title, possession, or right to use the software is transferred to the user.

*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 or modify any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof. "Construction contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction project except for remediation contracting. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract. Construction contracting does not include maintenance, repair, replacement or alteration activities.

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

*Custom computer software/programming* means any computer software which is written or prepared exclusively for a single customer, including those services represented by separately stated charges for the modification of existing prewritten programs.

- (1) The term does not include a prewritten program which is held or existing for general or repeated sale, lease, or license, even if the program was initially developed on a custom basis for in-house, or for a single customer's use.
- (2) Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification, and only to the extent that the actual amount charged for the modification is separately

stated on invoices, statements, and other billing documents supplied to the customer.

*Digital property* means any files, including but not limited to pictures, movies, songs, video games, or the like, not including computer software or custom computer software which may be delivered electronically.

*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.

*Excise tax* is a tax imposed on the sale or use of goods or on an occupation or activity.

*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 for consumption on the premises* means any of the following:

- (1) Hot prepared food means those products, items, or ingredients of food which are prepared and intended for consumption in a heated condition. "Hot prepared food" includes a combination of hot and cold food items or ingredients if a single price has been established.
- (2) Hot or cold sandwiches.
- (3) Food served by an attendant to be eaten at tables, chairs, benches, booths, stools, counters, and similar conveniences and within parking areas for the convenience of in-car consumption of food.
- (4) Food served with trays, glasses, dishes, or other tableware.
- (5) Beverages sold in cups, glasses, or open containers.
- (6) Food sold by caterers.
- (7) Food sold within the premises of theatres, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals,

circuses, amusement parks, fairs, races, contests, games, athletic events, rodeos, billiard and pool parlors, bowling alleys, public dances, dance halls, boxing, wrestling and other matches, and any business which charges admission, entrance, or cover fees for exhibition, amusement, entertainment, or instruction.

- (8) Any items contained above in subsections (1) through (7) of this definition, even though they are sold on a "take-out" or "to go" basis, and whether or not the item is packaged, wrapped, or is actually taken from the premises.

*Food for home consumption* means all food, except food for consumption on the premises, if sold by any of the following:

- (1) A grocery business.
- (2) A person who conducts a business whose primary business is not the sale of food but who sells food which is displayed, packaged, and sold in a similar manner as an eligible grocery business.
- (3) A person who sells food and does not provide or make available any facilities for the consumption of food on the premises.
- (4) A person who conducts a delicatessen business either from a counter which is separate from the place and cash register where taxable sales are made or from a counter which has two cash registers and which are used to record taxable and tax exempt sales, or a retailer who conducts a delicatessen business who uses a cash register which has at least two tax computing keys which are used to record taxable and tax exempt sales.
- (5) Vending machines and other types of automatic retailers.

*Full cash value* 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

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, hostelry, tourist home, house, motel, rooming house, 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.

*Maintenance* is the upkeep of property or equipment. Examples of maintenance include: an annual HVAC system checkup that includes topping off any fluids, restaining a wood deck, and refinishing hardwood floors.

*Manufacturing* means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition, or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character, or use.

*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.

*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.

*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 partnership 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 personalty 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.

*Repair* is an activity that returns real property to a usable state from a partial or total state of inoperability or nonfunctionality. Examples of repairs include: recharging partially or totally nonfunctional air-conditioning units with refrigerant, fixing a leak from a bathtub or shower, clearing partially or completely blocked pipes of debris, readjusting satellite dishes to restore reception, and replacing worn washers in leaky or totally inoperable faucets.

*Replacement* is the removal of one component or system of existing property or tangible personal property installed in existing property, including machinery or equipment, and the installation of a new component or system or new tangible personal property, including machinery and equipment, that provides the same or upgraded design or functionality, regardless of the contract amount. Examples of replacements include: any required removal and installation of bathroom fixtures, a tile roof, a sprinkler system, or an HVAC unit.

*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.

*Return* is a report by a taxpayer setting forth the facts necessary to establish the amount of tax that the person is liable to pay.

*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 personal 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.

*Subcontractor* means a construction contractor performing work for either:

- (1) A construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his privilege license number.
- (2) An owner-builder who has provided the subcontractor with a written declaration that:
  - a. The owner-builder is improving the property for sale; and
  - b. The owner-builder is liable for the tax for such construction contracting activity; and
  - c. The owner-builder has provided the contractor his privilege license number.
  - d. Subcontractor also includes a construction contractor performing work for another subcontractor as defined above.

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

*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 on their own expense or at the expense of another obtains lodging or the use of any lodging space on a daily or weekly basis, or on any other basis, for period of less than 30 consecutive days.

*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.

*Utility service* means the service of providing telecommunications, gas, water, electric power, sewerage, or other utility services or commodities.

*Valuation* is the collector's determination of full cash value.

*Valuation year* is the calendar year before the calendar year in which a tax year begins. (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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

### **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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

### **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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

### **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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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.

- (3) With respect to the possessory interest tax, the tax collector may disclose to an appraiser engaged to assist in the valuation of a possessory interest such interest income and expense data as are necessary to the valuation, provided the appraiser pledges to keep the date confidential; similarly the collector may disclose such date to a hearing officer engaged pursuant to section 15.1-17(d).

- (4) The tax collector may disclose to the public data of a statistical nature derived from returns and administrative requests so long as the figures pertaining to a specific taxpayer cannot be deduced.

(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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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 considered 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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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 history 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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

#### **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.

- (1) In the event of an underpayment of the tax liability due, interest begins to accrue starting on the due date of the applicable return.

- (2) On January 1 of each year any interest outstanding as of that date is thereafter considered a part of the principal amount of the tax and accrues interest pursuant to this section.

- (3) For credits or refunds authorized pursuant to subsection (b)(3) of this section, interest shall be calculated from the date the tax collector receives the claimant's written claim following the date of notice to the claimant authorizing the credit or refund.

(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 exercised ordinary business care and prudence, i.e., had a reasonable basis for believing that the tax did not apply to the business activity or the storage or use of the taxpayer's tangible personal property 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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

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

(a) 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.

(b) The tax collector may waive or adjust penalties imposed by section 15.1-10(b)(1)—(4) above upon a finding that:

- (1) In the past, the taxpayer has consistently filed and paid the taxes imposed by this chapter in a timely manner; or
- (2) The amount of the penalty is greatly disproportionate to the amount of the tax; or
- (3) The failure of a taxpayer to file a return and/or pay any tax by the delinquency date was caused by any of the following circumstances which must occur prior to the delinquency date of the return or payment in question:
  - a. The return was timely filed but was inadvertently forwarded to another taxing jurisdiction.

- b. Erroneous or insufficient information was furnished the taxpayer by the tax collector or his employee or agent.
- c. Death or serious illness of the taxpayer, member of his immediate family, or the preparer of the reports immediately prior to the due date.
- d. Unavoidable absence of the taxpayer immediately prior to the due date.
- e. Destruction, by fire or other casualty, of the taxpayer's place of business or records.
- f. Prior to the due date, the taxpayer made application for proper forms which could not be furnished in sufficient time to permit a timely filing.
- g. The taxpayer was in the process of pursuing an active protest of the tax in question in another taxing jurisdiction at the time the tax and/or return was due.
- h. The taxpayer establishes through competent evidence that the taxpayer contacted a tax advisor who is competent on the specific tax matter and, after furnishing necessary and relevant information, the taxpayer was incorrectly advised that no tax was owed and/or the filing of a return was not required.
- i. The taxpayer has never been audited by the Community for the tax or on the issue in question and relied, in good faith, on a Community exemption or interpretation.
- j. The taxpayer can provide some public record (court case, report in a periodical, professional journal or publication, etc.) stating that the transaction is not subject to tax.

(c) A taxpayer may also request a waiver or adjustment of penalty for a reason thought to be equally substantive to those reasons itemized above. All requests for waiver or adjustment of penalty must be in writing and shall contain all

pertinent facts and other reliable and substantive evidence to support the request. In all cases, the burden of proof is upon the taxpayer.

(d) No request for waiver of penalty under subsection (b) above may be granted unless written request for waiver is received by the tax collector within 30 days following the imposition of penalty. Any taxpayer aggrieved by the refusal to grant a waiver under subsection (b) above may appeal under the provisions of section 15.1-17 provided that a petition of appeal or request for an extension is submitted to the tax collector within 30 days of the taxpayer's receipt of notice by the Community that waiver has been denied. (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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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.

(b) *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.

(c) 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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

#### **Sec. 15.1-13. Closing agreements.**

(a) If the tax collector determines that noncompliance with tax obligations results from a reasonable cause, 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, penalties, and/or interest that the taxpayer failed to remit. 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.

(d) For the purpose of this section, the term "reasonable cause" means that the taxpayer exercised ordinary business care and prudence, i.e., had a reasonable basis for believing that the tax did not apply to the business activity or the storage or use of the taxpayer's tangible personal property in the Community.

(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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

#### **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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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. 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.

(f) When it is determined that taxes due to the Community have been reported and paid to the wrong taxing jurisdiction, the taxpayer bears all responsibility to recover any erroneous payment, and the taxpayer remains liable on all tax due to 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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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.

(5) *Failure to file.* If a request for administrative review and petition for hearing or redetermination of an assessment made by the tax collector is not filed within the period required by subsection (1) above, such person shall be deemed to have waived and abandoned the right to question the amount determined to be due and any tax, interest, or penalty determined to be due shall be final.

(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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

#### **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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Sec. 15.1-23. Proof of exemption—Sale for resale; sale, rental, lease, or license of rental equipment.**

A claim of purchase for resale or of purchase, rental, lease, or license for rent, lease, or license is valid only if the evidence is sufficient to persuade a reasonably prudent businessman that

the particular item is being acquired for resale or for rental, lease, or license in the ordinary course of business. The fact that the acquiring person possesses a privilege license number, and makes a verbal claim of "sale for resale or lease" or "lease for re-lease" does not meet this burden and is insufficient to justify an exemption. The "reasonable evidence" must be evidence which exists objectively, and not merely in the mind of the vendor, that the property being acquired is normally sold, rented, leased, or licensed by the acquiring person in the ordinary course of business. Failure to obtain such reasonable evidence at the time of the transaction will be a basis for disallowance of any claimed deduction on returns filed for such transactions.

(Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Sec. 15.1-24. Proof of exemption—Exemption certificate.**

For the purpose of proof of exemption, the minimum acceptable proof and documentation for each transaction shall be the completion, at the time of the transaction, in all material respects, of a certificate containing all the information set forth below. For the purpose of validating the vendor's claim of exemption, such certificate is sufficient if executed by any person with apparent authority to act for the customer, and the information provided validates the claim.

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**INVALID UNLESS COMPLETED IN FULL**

VENDOR'S NAME \_\_\_\_\_

Sales Invoice No. \_\_\_\_\_

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**Customer's Exemption Claim**  
**SRPMIC Privilege License (Sales) Tax**

Customer's Business Name: \_\_\_\_\_

Customer's Business Address: \_\_\_\_\_

Specific Business Activity: (e.g., if retailer, lessor, or manufacturer, specify items leased, sold or made, i.e., cars, computers, clothes, etc.) \_\_\_\_\_

Customer's License Nos. \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

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ITEMS CLAIMED AS EXEMPT FROM TAX

\_\_\_\_\_: All Items on This Invoice or Purchase Order  
or

\_\_\_\_\_: Only Those Items marked with An "E".

REASON FOR CLAIMED EXEMPTION:

\_\_\_\_\_: The items claimed as exempt are sold, rented, leased, or licensed by the above named customer in the normal course of its business activity.

or

\_\_\_\_\_: The items claimed as exempt are exempt from the Transaction Privilege Tax for the following specific reason(s):

CUSTOMER'S CERTIFICATE

I certify that the above information is accurate to the best of my information and belief, and that I am authorized by the Customer above to acquire the items claimed as exempt on a tax-free basis on its behalf. I further understand that the making of a false or fraudulent claim to obtain a tax exemption would subject me to any applicable civil or criminal penalties.

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

(Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Sec. 15.1-25. Conducting Community business.**

(a) *Purpose.* The Salt River Pima-Maricopa Indian Community ("Community") recognizes the need for retaining flexibility in the manner in which the Community conducts business on and off Community lands. In recent years, the Community has conducted Community business in various forms, including Community divisions organized by ordinance as subordinate economic entities of the Community, as well as wholly owned Community limited liability companies. By this chapter, the Community recognizes certain additional entities under Community law, including entities established under the laws of another jurisdiction and entities that include non-Community members or owners. The Community deems this flexibility essential to achieving its goals of self-determination, including the expertise that can be obtained and learned through securing non-Community partners. The arrangements recognized through this chapter

are deemed critical to the Community's ability to raise revenues for the purpose of providing core essential government functions.

(b) *Recognition of foreign entities.* The Community may conduct its business by establishing an entity organized under the laws of any state, including, without limitation, a state chartered corporation or a state chartered limited liability company. Such entities, when wholly owned by the Community, shall automatically have dual status as a state chartered entity and an entity recognized under and subject to the laws of the Community. Such entities shall be treated as Community-owned entities for purposes of federal preference laws, the Buy Indian act, and similar purposes.

(c) *Community owned entities.* A business entity with both Community and non-Community owners or members will be considered a Community-owned entity, regardless of form or

of the jurisdiction in which it is established, organized or chartered, provided that each of the following are met:

- (1) The entity must be majority owned by the Community;
- (2) The entity must conduct its business on land within the Community's boundaries;
- (3) The Community retains the right to appoint (or control the majority voting rights for such appointment) the managing member or highest officer of the entity; and
- (4) The Community shares in a majority of profits or losses of the entity; and
- (5) The Community must control the daily operations of the entity.

(d) *Sovereign immunity.* This chapter shall not be construed as a waiver of the Community's sovereign immunity, which may be waived only by express resolution of the Community Council. Nothing herein shall waive the sovereign immunity of an entity that otherwise retained sovereign immunity as a subordinate economic entity of the Community. Community-owned entities shall be subject to regulation, taxation, and oversight under Community law. (Ord. No. SRO-489-2017, 2-8-2017)

#### **Sec. 15.1-26. Tax entity or operator.**

(a) *Purpose.* The Community imposes certain transaction privilege taxes for the privilege of conducting business within the Community. As some Community-owned business entities utilize management contracts and contracted service providers in the conduct of business, the Community desires to define the appropriate business entity for purposes of imposing transaction privilege taxes.

(b) *Business operator.* A Community-owned business enterprise, regardless of form or of the jurisdiction in which it is established, organized or chartered, shall be treated as the "business" or "operator" for purposes of transaction privilege taxes, regardless of whether the entity contracts with a management company or other service

providers in the conduct of the business, so long as (1) the Community-owned entity holds itself out as the business or business operator and not just a lessor of property, (2) the Community or the Community-owned entity reserves the right to terminate the business or change its business purpose, and (3) the Community or the Community-owned entity reserves the right to continue the business if the management or other service contract is terminated. The Community recognizes, particularly in the early years of an enterprise, that Community-owned businesses may require outside expertise in order to succeed. These arrangements, such as but not limited to franchise arrangements, vendor services, hotel management services, purchasing arrangements, or food and beverage services, are recognized as merely support services to a Community-owned business. The intention of the Community in this regard shall be the primary factor in determining the proper business/operator for tax purposes. A business entity that is qualified as a Community-owned entity shall be presumed to be the owner-operator and taxpayer unless the business contracts or other documents expressly provide to the contrary, or unless there is other clear and convincing evidence that the manager or other contractor, as applicable, retains actual control over all business operations, including the ability to terminate the business or change the scope or purpose of the enterprise.

(c) *Conforming amendments or references.* Other Community ordinances or regulations using the term Community-owned entity or business, or similar words and phrases not otherwise defined to the contrary, shall have the meanings set forth herein. Without limitation, section 15.1-2 (definition of Community), section 15.1-50(1)f. (the business of operating a hotel), and section 15.1-50(9) (business or division of the Community) shall be construed and applied consistently with this chapter.

(d) *Treasurer's authority and council review.* The Community treasurer is vested with authority in construing sections 15.1-25 and 15.1-26 consistent with its expressed purpose and the furtherance of Community self-determination, and in the event of a challenge to the status of an

entity under these sections, the Community Council's decision shall be final and binding upon all parties concerned.  
(Ord. No. SRO-489-2017, 2-8-2017)

**Secs. 15.1-27—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) *1.75 percent schedule.* An amount equal to 1.75 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 business:
  - 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. Maintenance repair, replacement or alteration activities, which are not included in the definition of construction contracting, are subject to tax on the cost of materials. Retail sales of tangible personal property occur within the Community if (i) the seller receives the order at a business location within the Community or (ii) the stock from which such tangible personal property was taken was within the Community and then shipped from seller's Community facilities directly to the purchaser. An order is deemed received at a business location of the seller within the Community, when all of the information necessary to fulfill and ship the order has been received by or on behalf of the seller within the Community, regardless of if the order is accepted or approved by the seller outside of the Community. The place of business or residence of the purchaser does not determine where the order is received.

- b. Operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, skating rinks, tennis courts, golf courses, video games, pinball machines, public dances, dance halls, sports events, jukeboxes, batting and driving ranges, animal rides, or any other business charging admission for exhibition, amusement, or instruction other than projects of bona fide religious or educational, or entertainment, including all events held at Enterprise facilities. The tax prescribed under the terms of this subsection shall not apply to events sponsored and conducted by the Community. For purposes of this

subsection only, "Community" is defined to mean the Salt River Pima-Maricopa Indian Community government and any of its departments or agencies.

- c. Selling manure at wholesale.
- d. Construction contracting; construction contractors. To be computed as follows: On the gross income of every construction contractor engaging or continuing in the business activity of construction contracting within the Community. Gross income derived from acting as a subcontractor shall be exempt from the tax imposed by this section if the taxpayer 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. All construction contracting gross income subject to tax and not deductible herein shall be allowed a deduction of 35 percent. Also excluded are gross proceeds of sales or gross income attributable to construction contracting services provided to persons engaging or continuing in the business of farming, ranching, or feeding livestock or poultry.
- 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; gross income related to or derived from the termination of an actual possession, or the standing of the tenant, including but not limited to continuation of rent payments or liquidating damages; provided, that this tax does not apply to leases or rentals to enrolled members of the

Community; provided also, 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.

- f. Engaging or continuing in the business of operating a hotel charging for lodging and/or lodging space furnished to any transient for period of less than 30 consecutive days.

(2) *Transaction privilege tax schedules.*

- a. *8.05 percent schedule.* An amount equal to 8.05 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 member 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.* Television signal tax. 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) *2.25 percent schedule.* An amount equal to 2.25 percent of gross income derived from the business of leasing or renting real property to the tenant in actual possession 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. This schedule does not apply to transient lodging.
- (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 1.75 percent, are taxable only under subsection (1) of this section.
- (7) *Utility tax.* An amount equal to 1.75 percent of the gross income derived from the sale of telecommunications service, gas, water, electric power or other utility services or commodities (to the extent the gross income is not already subject to tax under subsection (3) above) 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 controlling 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. The person must make a declaration to claim the exemption. The exemption shall become effective on the date of the declaration.

- (9) *7.27 percent schedule.* An amount equal to 7.27 percent of the gross proceeds or gross income from the business of leasing or renting hotel lodging to a tenant who is a transient in actual possession, by any business or division of the Community or any business of any enrolled Community member, in addition to all other applicable taxes; provided, that this tax does not apply to leases or rentals to enrolled members of the Community.

(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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015; Ord. No. SRO-504-2019, § 1, 12-12-2018; Ord. No. SRO-527-2021, 11-18-2020)

#### **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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

#### **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 transaction 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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

#### **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 utility services, 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) Certain sales of food.
  - a. Sales of prepared food by a vendor or in a restaurant owned by the Community or by an enrolled member of the Community, providing such business has a gross income of less than \$50,000.00 per annum, including gross income from within and without the Community.
  - b. Food purchased with food stamps provided through the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302; 42 United States Code Section 1786), but only to the extent that food stamps or food instruments were actually used to purchase such food, and that such food was purchased for home consumption.
  - c. Sales of food and beverage provided by the Round House Café and vending machines in Community government owned and operated buildings.
- (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.
- (8) Charges for repair services, when separately charged and separately maintained in the books and records of the taxpayer.
- (9) Tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of business. Tangible personal property which is consumed or used up in manufacturing or production process is not an ingredient nor component part of a product.
- (10) Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining. For purposes of this section, machinery or equipment used in manufacturing or processing includes machinery or equipment that constitutes the entire primary manufacturing or processing operation from the initial stage where actual

processing begins through the completion of the finished end product, processing, finishing or packaging of articles of commerce.

- (11) Gross proceeds of sale or gross income from the business of leasing or renting hotel lodging to enrolled members of the Community which would otherwise be subject to tax under subsection (1)f. of section 15.1-50.

- (12) Sales of motor vehicles to enrolled members of the Community.

(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-473-2015, Exh. A, 8-12-2015; Ord. No. SRO-510-2019, 7-31-2019)

**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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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 collector annually shall determine the full cash value of each class one possessory interest as of January 1 of the valuation year. The collector shall use standard appraisal methods and techniques in making such determinations. These standards shall be set forth in standard operating procedures.

(d) The collector may require taxpayers to furnish information needed to value each assessable possessory interest, including the submission of income and expenses surveys.

(e) If the collector finds that the taxpayer has failed to provide complete and accurate information, the collector may retroactively reassess the property for up to four years.

(f) In valuing each possessory interest, the collector may consider the effect on value of improvements made to structures made by sublessees.

(g) In valuing possessory interests, the collector shall consider the occupancy level of each structure and the state of completion of partially complete structures.

(h) 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 assessed valuation of the possessory interest. The collector shall then apply the appropriate possessory interest tax rate to the assessed valuation of the possessory interest to determine the tax owed.

(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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Sec. 15.1-82. Exemptions to taxation.**

All possessory interests shall be subject to taxation except:

- (1) Possessory interests held by Community members.

- (2) Possessory interests held by the following types of entities and used for the stated purposes:
  - a. Community government.
  - b. United States government.
  - c. Religious worship, including land and improvements appurtenant to and used in religious worship, provided that the religious organization does not receive rent from such land and improvements.
  - d. Education, including instructional and administrative facilities, public libraries, and land appurtenant to such facilities, provided that the educational organization does not receive rent from such land and improvements and maintains a nonprofit status under 26 U.S.C § 501(c)(3).
  - e. Leases for businesses operated by enrolled Community members.
  - f. Partially completed improvements not yet in use for intended purpose.
- (3) Property in taxable possessory interest leased to Community members.

The collector may require an application for an exemption to provide documentation in support of the exemption claimed in this section.

(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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Sec. 15.1-83. Administrative review of possessory interest tax assessments.**

(a) Informal conference. A taxpayer may file a request for an informal conference within 30 days of the mailing of the tax valuation notice. A taxpayer shall have the right to discuss any dispute regarding the correctness of his possessory interest tax assessment with the tax collector or the collector's designated representative prior to petitioning for a formal administrative

review pursuant to subsection (b) of this section, provided that the time for filing a petition for administrative review has not expired.

(b) Administrative review. A taxpayer may seek administrative review of his assessment by filing a petition with the collector within 30 days of the issuance of an informal conference decision.

(c) Requirement for a petition. The petition shall be on a form issued by the collector and shall state the ground (or grounds) that are the basis for the petition, together with information in support of the petition. Any petition for review filed which is based upon the income or expenses attributable to your property will not be considered unless the required income and expense information was filed in a timely manner.

(d) Grounds for a petition. A taxpayer may file a petition of his assessment on the basis of (1) factual errors in the assessment, (2) improper classification, (3) inaccurate valuation, (4) improper denial of an exemption, (5) inequitable valuation, or (6) some combination of the above factors. The taxpayer may not contend inaccurate valuation if he did not timely supply the collector with requested income and expense information.

(e) The taxpayer has the burden of proving that the assessment is incorrect.

(f) The taxpayer may request a hearing with the collector to review the petition.

(g) The collector shall schedule hearings and render informal conference decisions regarding petitions by March 1 of the year following the valuation year.

(h) A taxpayer unsatisfied with the collector's decision regarding the petition may bring it to a hearing officer for further consideration as provided in section 15.1-17(d).

(Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Editor's note**—Ord. No. SRO-473-2015, Exh. A, adopted Aug. 12, 2015, renumbered the former §§ 15.1-83 and 15.1-84 as §§ 15.1-84 and 15.1-85 and enacted a new § 15.1-83 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

**Sec. 15.1-84. Setting possessory interest tax rate.**

(a) The Community Council shall meet at the council chambers of the Community on or before the third Wednesday of September of each year and fix the rate of taxation on class one possessory interests. The rate shall not exceed the mean of the rates then in effect in Maricopa County tax rate area codes 031400, 311400, 481400, 691400, 931400 and 981400.

(b) 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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Note**—See the editor's note to § 15.1-83.

**Sec. 15.1-85. 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 of November and the remaining one-half on or before the first of 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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Note**—See the editor's note to § 15.1-83.

**ARTICLE IV. UTILITIES TAX**

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

On or before September 1 of each calendar year, the tax collector 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 tax collector 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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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 tax collector annually 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 pursuant to section 15.1-84(a).

(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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

#### **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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

#### **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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

#### **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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

#### **Secs. 15.1-144—15.1-149. Reserved.**

**ARTICLE VI. USE TAX\*****Sec. 15.1-150. Definitions.**

For the purposes of this article only, the following definitions shall apply in addition to definitions provided in article I:

*Acquire* (for storage or use) means purchase, rent, lease, or license for storage or use.

*Retailer*, in addition to the definition in article I, also means any person selling, renting, licensing for use, or leasing tangible personal property under circumstances which would render such transactions subject to the transaction privilege tax, if such transactions had occurred within this Community.

*Storage* (within the Community) means the keeping or retaining of tangible personal property at a place within the Community for any purpose, except for those items acquired specifically and solely for the purpose of sale, rental, lease, or license for use in the regular course of business or for the purpose of subsequent use solely outside the Community.

*Use* (of tangible personal property) means consumption or exercise of any other right or power over tangible personal property incident to the ownership thereof except the holding for the sale, rental, lease, or license for use of such property in the regular course of business. (Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Sec. 15.1-151. Imposition of tax; presumption.**

(a) There is hereby levied and imposed, subject to all other provisions of this chapter, an excise tax on the storage or use in the Community of tangible personal property, for the purpose of raising revenue to be used in defraying the necessary expenses of the Community, such taxes to be collected by the tax collector.

\*Editor's note—Ord. No. SRO-473-2015, Exh. A, adopted Aug. 12, 2015, renumbered the former Art. VI as Art. VII and enacted a new Art. VI, §§ 15.1-150—15.1-156, as set out herein.

(b) The tax rate shall be at an amount equal to 1.55 percent of the:

- (1) Cost of tangible personal property, upon every person storing or using such property in this Community.
- (2) Gross income from the business activity upon every person meeting the requirements of section 15.1-152(2) or (3) who is engaged or continuing in the business activity of sales, rentals, leases, or licenses of tangible personal property to persons within the Community for storage or use within the Community, to the extent that tax has been collected upon such transaction.
- (3) Cost of the tangible personal property provided under the conditions of a warranty, maintenance, or service contract.
- (4) Cost of complimentary items provided to patrons without itemized charge by a restaurant, hotel, or other business.
- (5) Cost of food consumed by the owner or by employees or agents of the owner of a restaurant or bar.

(c) It shall be presumed that all tangible personal property acquired by any person who at the time of such acquisition resides in the Community is acquired for storage or use in this Community, until the contrary is established by the taxpayer. (Ord. No. SRO-473-2015, Exh. A, 8-12-2015; Ord. No. SRO-504-219, § 2, 12-12-2018)

**Sec. 15.1-152. Liability for tax.**

The following persons shall be deemed liable for the tax imposed by this article; and such liability shall not be extinguished until the tax has been paid to this Community, except that a receipt from a retailer separately charging the tax imposed by this chapter is sufficient to relieve the person acquiring such property from further liability for the tax to which the receipt refers:

- (1) Any person who acquires tangible personal property from a retailer, whether or not

such retailer is located in this Community, when such person stores or uses said property within the Community.

- (2) Any retailer not located within the Community, selling, renting, leasing, or licensing tangible personal property for storage or use of such property within the Community, may obtain a license from the tax collector and collect the use tax on such transactions. Such retailer shall be liable for the use tax to the extent such use tax is collected from his customers.
  - (3) Every agent within the Community of any retailer not maintaining an office or place of business in this Community, when such person sells, rents, leases, or licenses tangible personal property for storage or use in this Community shall, at the time of such transaction, collect and be liable for the tax imposed by this article upon the storage or use of the property so transferred, unless such retailer or agent is liable for an equivalent excise tax upon the transaction.
  - (4) Any person who acquires tangible personal property from a retailer located in the Community and such person claims to be exempt from the Community privilege or use tax at the time of the transaction, and upon which no Community privilege tax was charged or paid, when such claim is not sustainable.
  - (5) Every person storing or using tangible personal property under the conditions of a warranty, maintenance, or service contract.
- (Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Sec. 15.1-153. Recordkeeping requirements.**

All deductions, exclusions, exemptions, and credits provided in this article are conditional upon adequate proof of documentation as required by article I or elsewhere in this chapter.  
(Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Sec. 15.1-154. Credit for equivalent excise taxes paid another jurisdiction.**

In the event that an equivalent excise tax has been levied and paid upon tangible personal property which is acquired to be stored or used within this Community, full credit for any and all such taxes so paid shall be allowed by the tax collector but only to the extent use tax is imposed upon that transaction by this article.

(Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Sec. 15.1-155. Exclusion when acquisition subject to use tax is taxed or taxable elsewhere in this chapter; limitation.**

The tax levied by this article does not apply to the storage or use in this Community of tangible personal property acquired in this Community, the gross income from the sale, rental, lease, or license of which were included in the measure of the tax imposed by article II of this chapter; provided, however, that any person who has acquired tangible personal property from a vendor in this Community without paying the transaction privilege tax because of a representation to the vendor that the property was not subject to such tax, when such claim is not sustainable, may not claim the exclusion from such use tax provided by this section.

(Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**Sec. 15.1-156. Exemptions.**

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

- (1) Tangible personal property brought into the Community by an individual who was not a resident of the Community at the time the property was acquired for his own use, if the first actual use of such property was outside the Community, unless such property is used in conducting a business in this Community.
- (2) Tangible personal property, the value of which does not exceed the amount of \$1,000.00 per item, acquired by an

individual outside the limits of the Community for his personal use and enjoyment.

- (3) 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.
- (4) Food consumed as a "shift meal" by the employees of an establishment, for the convenience of the employer, where greater than 50 percent of the establishment's gross income is derived from the sale of food for consumption on the premises, subject to a daily limit that shall not exceed a cost to the aforementioned establishment of \$12.00 per shift meal.
- (5) Tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of business. Tangible personal property which is consumed or used up in manufacturing or production process is not an ingredient nor component part of a product.
- (6) Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.
- (7) Tangible personal property that if sold within the Community, would generate gross income or proceeds subject to tax under article II.

(b) The following entities or persons shall be exempt from the use tax imposed by this article:

- (1) Community.
- (2) Enrolled members of the Community.

(3) United States government.  
(Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

## **ARTICLE VII. 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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

### **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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

### **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

**\*Note**—See the editor's note to Art. VI.

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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)

**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; Ord. No. SRO-473-2015, Exh. A, 8-12-2015)