

## Proposed Conforming Changes to the Model City Tax Code

The Model City Tax Code ("MCTC") changes summarized below, with pertinent excerpts, are proposed for consideration by the Municipal Tax Code Commission. The proposed changes have been drafted by the Unified Audit Committee to adopt relevant tax law changes at the State level, or incorporate new language added to A.R.S. 42-6004. Full code texts that include these changes are provided in a separate file.

### Solar Energy Devices

**Section 415, 416, 417: Conforming the sunset date in the MCTC with the extended date in State statute and making a technical correction.** – HB2700 changed the sunset date under Contracting in A.R.S. 42-5075(B)(14) for installed solar energy devices, extending the deadline from January 1, 2011 to 2017. The three affected sections of the MCTC have the same language and these changes merely align the sunset date in the MCTC with the State statute. A technical correction adding reference to the Arizona Revised Statutes is also being added to the exemption for development fees in each section. Effective dates for these changes match the legislature's 2010 Regular Session general effective date of July 29, 2010.

This sample is from Section 415, but the same changes will also be included in the appropriate places for Sections 416 and 417.

415 (b) (10) (C) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to [A.R.S.](#) Section 9-463.05, [A.R.S.](#) Section 11-1102 or [A.R.S.](#) Title 48 regardless of the jurisdiction to which the fees are paid.

(11) For taxable periods beginning from and after July 1, 2008 and ending before January 1, ~~2011~~2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

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### Real Property Rentals Between Affiliated Corporations

**Section 445: New preemption in A.R.S. 42-6004(A)(11) exempting leases between affiliated corporations, including reciprocal insurers.** – New subsection 445(s) is added to incorporate HB2510, which prohibited cities and towns from taxing commercial rentals between two corporations when either the landlord or lessor corporation owns at least 80% of the voting stock of the other corporation. Also allows exemption if a third corporation owns 80% of both the landlord and the lessor corporations, and treats a “reciprocal insurer” as if it were a “corporation” for purposes of the exemption. The effective date of this change matches the legislature’s 2010 Regular Session general effective date of July 29, 2010.

445 (S) THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A COMMERCIAL LEASE IN WHICH A RECIPROCAL INSURER OR A CORPORATION LEASES REAL PROPERTY TO AN AFFILIATED CORPORATION. FOR THE PURPOSES OF THIS PARAGRAPH:

(1) “AFFILIATED CORPORATION” MEANS A CORPORATION THAT MEETS ONE OF THE FOLLOWING CONDITIONS:

(A) THE CORPORATION OWNS OR CONTROLS AT LEAST EIGHTY PER CENT OF THE LESSOR.

(B) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY THE LESSOR.

(C) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A CORPORATION THAT ALSO OWNS OR CONTROLS AT LEAST EIGHTY PER CENT OF THE LESSOR.

(D) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A CORPORATION THAT IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A RECIPROCAL INSURER.

(2) FOR THE PURPOSES OF SUBSECTION (1), OWNERSHIP AND CONTROL ARE DETERMINED BY REFERENCE TO THE VOTING SHARES OF A CORPORATION.

(3) “RECIPROCAL INSURER” HAS THE SAME MEANING AS PRESCRIBED IN A.R.S. SECTION 20-762.

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### Use Tax Exemption for School Districts and Charter Schools

**Section 660: New preemption in A.R.S. 42-6004(F) exempts the storage, use, or consumption of tangible personal property by a school district or charter school.** – During the 2009 Regular legislative session, SB1196 created this new preemption, which was not previously incorporated into the MCTC. The effective date of this change matches the legislature's 2009 Regular Session general effective date of September 30, 2009.

660 (LL) THE STORAGE, USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY IN THE CITY OR TOWN BY A SCHOOL DISTRICT OR CHARTER SCHOOL.