

SALES TAX POLICIES

Denver (SCFD)

32-13-107. Sales and use tax imposed - collection - administration of tax - use.

Statute text

(1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), upon the approval of the registered electors pursuant to the provisions of section 32-13-105, the board shall have the power to levy such uniform sales and use taxes throughout the **district** created in section 32-13-104 upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales and use tax shall be levied on:

(I) Purchases of machinery or machine tools that are otherwise exempt pursuant to section 39-26-709 (1), C.R.S., to the extent such sales and purchases are subject to a sales and use tax levied by the regional transportation **district** pursuant to section 29-2-105 (1) (d), C.R.S., on and after the January 1 following the election in which such sales and use taxes were approved;

(II) Sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-719 (1), C.R.S.; and

(III) Vending machine sales of food that are otherwise exempt pursuant to section 39-26-714 (2), C.R.S.

(b) (I) Notwithstanding any law to the contrary, the authority of the **district** to levy and collect the sales and use taxes approved by the registered electors pursuant to the provisions of section 32-13-105 shall expire July 1, 1996, unless the **district** is authorized to continue to levy and collect the sales and use taxes by the registered electors pursuant to the provisions of said section.

(II) Notwithstanding any law to the contrary, the authority of the **district** to continue to levy and collect the sales and use taxes approved by the registered electors pursuant to the provisions of section 32-13-105 shall expire on the date specified in the question submitted to the registered electors unless the **district** is subsequently authorized to continue to levy and collect the sales and use taxes by the registered electors pursuant to the provisions of said section.

(2) The collection, administration, and enforcement of said sales and use tax shall be performed by the executive director of the department of revenue in the same manner as that for the collection, administration, and enforcement of the state sales and use tax imposed under article 26 of title 39, C.R.S., including, without limitation, the retention by a vendor of the percentage of the amount remitted to cover the vendor's expense in the collection and

remittance of said tax as provided in section 39-26-105, C.R.S. The executive director shall make monthly distributions of such sales and use tax collections to the **district**. The **district** shall pay the net incremental cost incurred by the department of revenue in the administration and collection of such sales and use taxes; except that in no event shall the **district** pay in any given fiscal year commencing on or after July 1, 1994, more than an amount equal to the amount paid by the **district** in the 1993-94 fiscal year, as adjusted in accordance with changes in the consumer price index for the Denver-Boulder consolidated metropolitan statistical area. The department may make expenditures for such costs subject to annual appropriation by the general assembly.

(3) The proceeds of such sales and use tax collections shall be used by the board to assist scientific and **cultural facilities** within the **district**. After deducting costs, not exceeding three-fourths of one percent of the sales and use tax revenues annually collected, which are incurred by the **district** for the administration of such moneys, distributions by the board to scientific and **cultural facilities** shall be made as follows:

(a) Upon voter approval of the levy and collection of the sales and use tax specified in section 32-13-105 (1) (a) or 32-13-105 (4) (a) (I), as applicable, the sales and use tax revenues levied and collected by the **district** shall be distributed annually by the board as follows:

(I) Except as otherwise provided in subparagraph (II) of this paragraph (a), ninety percent of said sales and use tax revenues shall be distributed as follows:

(A) Thirty-three percent shall be distributed to the Denver museum of natural history;

(B) Twenty-six percent shall be distributed to the Denver art museum;

(C) Twenty-six percent shall be distributed to the Denver zoological gardens;

(D) Fifteen percent shall be distributed to the Denver botanical gardens.

(II) After the first five years said sales and use tax is levied and collected, up to ten percent of said sales and use tax revenues specified in subparagraph (I) of this paragraph (a) may be distributed by the board to the Denver museum of natural history, the Denver art museum, the Denver zoological gardens, and the Denver botanical gardens pursuant to a formula adopted by the board. Such formula shall be binding on the board and may only be modified every five years thereafter.

(III) (A) Up to five percent of said sales and use tax revenues may be distributed by the board to the Denver museum of natural history, the Denver art museum, the Denver zoological gardens, and the Denver botanical gardens in such amounts as the board may determine appropriate based upon one or more of the following factors: Regional impact, accessibility,

quality, need, and collaboration with the Denver museum of natural history, the Denver art museum, the Denver zoological gardens, or the Denver botanical gardens or with scientific and **cultural facilities** which qualify to receive moneys pursuant to subparagraph (I) of paragraph (b) or subparagraph (I) of paragraph (c) of this subsection (3).

(B) Up to five percent of said sales and use tax revenues may be distributed by the board to the Denver museum of natural history, the Denver art museum, the Denver zoological gardens, and the Denver botanical gardens for enhanced or innovative programs, and any distribution made pursuant to this sub-subparagraph (B) shall be based upon the formula set forth in subparagraph (I) of this paragraph (a).

(IV) (Deleted by amendment, L. 94, p. 481, § 2, effective January 1, 1996.)

(V) Any moneys not distributed pursuant to the provisions of subparagraph (III) of this paragraph (a) shall be placed by the board in an interest-bearing account with a federally insured bank or savings and loan association located in the state of Colorado. Such moneys shall remain in such account until the board, in its discretion, determines to distribute such moneys at the same time and in the same manner as other moneys are annually distributed pursuant to the provisions of subparagraph (III) of this paragraph (a).

Annotations

Editor's note: This version of subsection (3)(a) is effective until July 1, 2006.
Statute text

(a) Upon voter approval of the levy and collection of the sales and use tax specified in section 32-13-105 (1) (a), (4) (a) (I), or (5) (a) (I), as applicable, the sales and use tax revenues levied and collected by the **district** shall be distributed annually by the board as follows:

(I) Except as otherwise provided in subparagraph (II) of this paragraph (a), ninety-five percent of said sales and use tax revenues shall be distributed for annual operating expenses as follows:

(A) Twenty-five percent shall be distributed to the Denver museum of nature and science;

(B) Twenty and eighty-three one hundredths percent shall be distributed to the Denver art museum;

(C) Twenty-four and twenty-four one hundredths percent shall be distributed to the Denver zoological gardens;

(D) Eleven and seventy-five one hundredths percent shall be distributed to the Denver botanical gardens;

(E) Eighteen and eighteen one hundredths percent shall be distributed to the Denver center for the performing arts.

(II) After the first five years said sales and use tax is levied and collected, up to five percent of said sales and use tax revenues specified in subparagraph (I) of this paragraph (a) may be distributed by the board to the Denver museum of nature and science, the Denver art museum, the Denver zoological gardens, the Denver botanical gardens, and the Denver center for the performing arts pursuant to a formula adopted by the board. Such formula shall be binding on the board and may only be modified every five years thereafter.

(III) Up to five percent of said sales and use tax revenues may be distributed by the board to the Denver museum of nature and science, the Denver art museum, the Denver zoological gardens, the Denver botanical gardens, and the Denver center for the performing arts in such amounts as the board may determine appropriate based upon one or more of the following factors: Regional impact, accessibility, quality, need, enhanced or innovative programs, and collaboration with the Denver museum of nature and science, the Denver art museum, the Denver zoological gardens, the Denver botanical gardens, or the Denver center for the performing arts or with scientific and **cultural facilities** that qualify to receive moneys pursuant to subparagraph (I) of paragraph (b) or subparagraph (I) of paragraph (c) of this subsection (3).

(IV) (Deleted by amendment, L. 94, p. 481, 2, effective January 1, 1996.)

(V) Any moneys not distributed pursuant to the provisions of subparagraph (III) of this paragraph (a) shall be distributed at the same time and in the same manner as other moneys are annually distributed pursuant to the provisions of subparagraph (I) of this paragraph (a).

Annotations

Editor's note: This version of subsection (3)(a) is effective July 1, 2006.

Statute text

(b) Upon voter approval of the levy and collection of the sales and use tax specified in section 32-13-105 (1) (b) or 32-13-105 (4) (a) (II), as applicable, the sales and use tax revenues levied and collected by the **district** shall be distributed annually by the board as follows:

Annotations

Editor's note: This version of the introductory portion to paragraph (b) is effective until July 1, 2006.

Statute text

(b) Upon voter approval of the levy and collection of the sales and use tax specified in section 32-13-105 (1) (b), (4) (a) (II), or (5) (a) (II), as applicable, the sales and use tax revenues levied and collected by the **district** shall be distributed annually by the board for annual operating expenses as follows:

Annotations

Editor's note: This version of the introductory portion to paragraph (b) is effective July 1, 2006.

Statute text

(I) Ninety percent of said sales and use tax revenues shall be distributed to scientific and **cultural facilities** within the **district** which are not receiving moneys pursuant to paragraph (a) of this subsection (3) and which meet the following criteria:

(A) Any such facility shall be a nonprofit organization which meets the requirements of section 501 (c) of the federal "Internal Revenue Code of 1986", as amended, whose primary purpose is to provide for the enlightenment and entertainment of the public through the production, presentation, exhibition, advancement, or preservation of art, music, theater, dance, zoology, botany, or natural history or shall be an agency of local government which has such primary purpose;

(B) Any such facility shall have its principal office within the **district**, shall conduct the majority of its activities within the state of Colorado, and shall principally benefit the residents of the **district**;

(C) Any such facility shall have had an annual operating income of more than seven hundred thousand dollars for the previous year. For distributions made pursuant to this paragraph (b) in 1996 and in each year thereafter, the board shall annually adjust the amount specified in this sub-subparagraph (C) in accordance with the annual percentage change in the consumer price index for the previous year for the Denver-Boulder consolidated metropolitan statistical area for all urban consumers, all goods, as published by the United States department of labor, bureau of labor statistics;

(D) Any such facility shall have been in existence and operating for at least two years prior to such distribution. For purposes of this sub-subparagraph (D), "operating" means engaged in some form of activity which is in furtherance of the advancement and preservation of art, music, theater, dance, zoology, botany, or natural history, including but not limited to activities relating to production, exhibition, and presentation.

Annotations

Editor's note: This version of subparagraph (I) is effective until July 1, 2006.

Statute text

(I) Ninety-five percent of said sales and use tax revenues shall be distributed to scientific and **cultural facilities** within the **district** that are not receiving moneys pursuant to paragraph (a) of this subsection (3) and that meet the following criteria:

(A) Any such facility shall be a nonprofit organization that has a determination letter in effect from the internal revenue service confirming that the organization meets the requirements of section 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, whose primary purpose is to

provide for the enlightenment and entertainment of the public through the production, presentation, exhibition, advancement, or preservation of art, music, theater, dance, zoology, botany, or natural history or shall be an agency of local government that has such primary purpose;

(B) Any such facility shall have its principal office within the **district**, shall conduct the majority of its activities within the state of Colorado, and shall principally benefit the residents of the **district**;

(C) For any facility that applies to receive **district** moneys prior to July 1, 2006, such facility shall have had an annual operating income of more than seven hundred thousand dollars for the previous year as adjusted for the annual change in the consumer price index as specified in this sub-subparagraph (C). For any facility that applies to receive **district** moneys on or after July 1, 2006, such facility shall have had an annual operating income of more than one million two hundred fifty thousand dollars for the previous year as adjusted for the annual change in the consumer price index as specified in this sub-subparagraph (C); except that any facility that qualified to receive a distribution pursuant to this paragraph (b) on or before June 30, 2006, shall be subject to the one million two hundred fifty thousand dollar threshold as adjusted for the annual change in the consumer price index as specified in this sub-subparagraph (C), as of July 1, 2009. For distributions made pursuant to this paragraph (b) in 1996 and in each year thereafter, the board shall annually adjust the amount specified in this sub-subparagraph (C), as applicable, in accordance with the annual percentage change in the consumer price index for the previous year for the Denver-Boulder-Greeley consolidated metropolitan statistical area for all urban consumers, all goods, as published by the United States department of labor, bureau of labor statistics.

(D) For any facility that applies to receive **district** moneys prior to July 1, 2006, such facility shall have been in existence, operating, and providing service to the public for at least two years prior to such distribution. For any facility that applies to receive **district** moneys for the first time on or after July 1, 2006, such facility shall have been in existence, operating, and providing service to the public for at least five years prior to the distribution. For any facility that applies to receive **district** moneys on or after July 1, 2006, that has had a recommencement after bankruptcy or nonconsensual reorganization, such facility shall have been operating and providing service to the public for at least five years from the original date of recommencement. For purposes of this sub-subparagraph (D), "operating" means engaged in some form of activity that is in furtherance of the advancement and preservation of art, music, theater, dance, zoology, botany, or natural history, including but not limited to activities relating to production, exhibition, and presentation.

Annotations

Editor's note: This version of subparagraph (I) is effective July 1, 2006.
Statute text

(II) (A) Distribution of moneys pursuant to subparagraph (I) of this paragraph (b) shall be based upon a formula to be applied annually which gives equal weight to the annual operating income of such **facilities** and the annual paid attendance at such **facilities**.

(B) After the first five years said sales and use tax is levied and collected, the board may modify, in its discretion, the weight to be given the factors of annual operating income and the annual paid attendance in the formula specified in sub-subparagraph (A) of this subparagraph (II). Such determination by the board of the weight to be given said factors shall be binding on the board and may only be modified every five years thereafter.

(III) (A) Up to five percent of said sales and use tax revenues may be distributed by the board to the scientific and **cultural facilities** which qualify to receive moneys pursuant to the provisions of subparagraph (I) of this paragraph (b) in such amounts as the board determines appropriate based upon one or more of the following factors: Regional impact, accessibility, quality, need, and collaboration with the Denver museum of natural history, the Denver art museum, the Denver zoological gardens, or the Denver botanical gardens or with scientific and **cultural facilities** which qualify to receive moneys pursuant to subparagraph (I) of paragraph (b) or subparagraph (I) of paragraph (c) of this subsection (3).

(B) Up to five percent of said sales and use tax revenues may be distributed by the board to the scientific and **cultural facilities** which qualify to receive moneys pursuant to the provisions of subparagraph (I) of this paragraph (b) for enhanced or innovative programs, and any distribution made pursuant to this sub-subparagraph (B) shall be based upon the formula specified in subparagraph (II) of this paragraph (b).

Annotations

Editor's note: This version of subparagraph (III) is effective until July 1, 2006.
Statute text

(III) Up to five percent of said sales and use tax revenues may be distributed by the board to the scientific and **cultural facilities** that qualify to receive moneys pursuant to the provisions of subparagraph (I) of this paragraph (b) in such amounts as the board determines appropriate based upon one or more of the following factors: Regional impact, accessibility, quality, need, enhanced or innovative programs, and collaboration with the Denver museum of nature and science, the Denver art museum, the Denver zoological gardens, the Denver botanical gardens, or the Denver center for the performing arts or with scientific and **cultural facilities** that qualify to receive moneys pursuant to subparagraph (I) of this paragraph (b) or subparagraph (I) of paragraph (c) of this subsection (3).

Annotations

Editor's note: This version of subparagraph (III) is effective July 1, 2006.
Statute text

(IV) (Deleted by amendment, L. 94, p. 481, § 2, effective January 1, 1996.)

(V) Any moneys not distributed pursuant to the provisions of subparagraph (III) of this paragraph (b) shall be placed by the board in an interest-bearing account with a federally insured bank or savings and loan association located in the state of Colorado. Such moneys shall remain in such account until the board, in its discretion, determines to distribute such moneys at the same time and in the same manner as other moneys are annually distributed pursuant to the provisions of subparagraph (III) of this paragraph (b).

(b.5) Notwithstanding any law to the contrary, no scientific and **cultural** facility which qualifies to receive moneys pursuant to the provisions of subparagraph (I) of paragraph (b) of this subsection (3) shall receive in any given year more than thirty-three percent of the total amount of sales and use tax revenues distributed pursuant to paragraph (b) of this subsection (3) in such year. If the amount of moneys received by any scientific and **cultural** facility in any given year exceeds the allowable amount, the scientific and **cultural** facility shall refund to the **district** the amount of moneys in excess of the allowable amount.

Annotations

Editor's note: This version of paragraph (b.5) is effective until July 1, 2006.

Statute text

(b.5) (I) Prior to July 1, 2006, notwithstanding any other provision, a scientific and **cultural** facility that qualifies to receive moneys pursuant to the provisions of subparagraph (I) of paragraph (b) of this subsection (3) shall not receive in any given year more than thirty-three percent of the total amount of sales and use tax revenues distributed pursuant to paragraph (b) of this subsection (3) in such year. If the amount of moneys received by any scientific and **cultural** facility in any given year exceeds the allowable amount, the scientific and **cultural** facility shall refund to the **district** the amount of moneys in excess of the allowable amount.

(II) On and after July 1, 2006, notwithstanding any other provision, a scientific and **cultural** facility that qualifies to receive moneys pursuant to the provisions of subparagraph (I) of paragraph (b) of this subsection (3) for the first time prior to July 1, 2006, shall not receive in any given year more than twenty-five percent of the total amount of sales and use tax revenues distributed pursuant to paragraph (b) of this subsection (3) in such year. If the amount of moneys received by any scientific and **cultural** facility in any given year exceeds the allowable amount, the scientific and **cultural** facility shall refund to the **district** the amount of moneys in excess of the allowable amount.

(III) On and after July 1, 2006, notwithstanding any other provision, a scientific and **cultural** facility that qualifies to receive moneys pursuant to the provisions of subparagraph (I) of paragraph (b) of this subsection (3) for the first time on or after July 1, 2006, shall not receive more than fifteen percent of the total amount of sales and use tax revenues distributed pursuant to

paragraph (b) of this subsection (3) in the first year of distribution, twenty percent of such total amount in the second year of distribution, and twenty-five percent of such total amount in the third and any subsequent year of distribution. If the amount of moneys received by any scientific and **cultural** facility in any given year exceeds the allowable amount, the scientific and **cultural** facility shall refund to the **district** the amount of moneys in excess of the allowable amount.

Annotations

Editor's note: This version of paragraph (b.5) is effective July 1, 2006.

Statute text

(c) Upon voter approval of the levy and collection of the sales and use tax specified in section 32-13-105 (1) (c) or 32-13-105 (4) (a) (III), as applicable, the sales and use tax revenues levied and collected by the **district** shall be distributed annually by the board as follows:

Annotations

Editor's note: This version of the introductory portion to paragraph (c) is effective until July 1, 2006.

Statute text

(c) Upon voter approval of the levy and collection of the sales and use tax specified in section 32-13-105 (1) (c), (4) (a) (III), or (5) (a) (III), as applicable, the sales and use tax revenues levied and collected by the **district** shall be distributed annually by the board for annual operating expenses as follows:

Annotations

Editor's note: This version of the introductory portion to paragraph (c) is effective July 1, 2006.

Statute text

(I) Ninety percent of said sales and use tax revenues collected in each county comprising the **district**, pursuant to the provisions of section 32-13-105 (1) (c), shall be distributed by the board to scientific and **cultural facilities** within such county pursuant to the provisions of the plan submitted by each county **cultural** council as specified in subparagraph (II) of this paragraph (c). Said moneys shall be distributed to scientific and **cultural facilities** within the **district** which are not receiving moneys pursuant to paragraph (a) of this subsection (3) and which meet the following criteria:

Annotations

Editor's note: This version of the introductory portion to subparagraph (I) is effective until July 1, 2006.

Statute text

(I) Ninety-five percent of said sales and use tax revenues collected in each county comprising the **district** shall be distributed by the board to scientific and **cultural facilities** within such county pursuant to the provisions of the plan submitted by each county **cultural** council as specified in subparagraph

(II) of this paragraph (c). Said moneys shall be distributed to scientific and **cultural facilities** within the **district** which are not receiving moneys pursuant to paragraph (a) of this subsection (3) and which meet the following criteria:
Annotations

Editor's note: This version of the introductory portion to subparagraph (I) is effective July 1, 2006.
Statute text

(A) Any such facility shall be a nonprofit organization which meets the requirements of section 501 (c) of the federal "Internal Revenue Code of 1986", as amended, whose primary purpose is to provide for the enlightenment and entertainment of the public through the production, presentation, exhibition, advancement, or preservation of art, music, theater, dance, zoology, botany, or natural history or shall be an agency of local government which has such primary purpose;
Annotations

Editor's note: This version of sub-subparagraph (A) is effective until July 1, 2006.
Statute text

(A) Any such facility shall be a nonprofit organization that has a determination letter in effect from the internal revenue service confirming that the organization meets the requirements of section 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, whose primary purpose is to provide for the enlightenment and entertainment of the public through the production, presentation, exhibition, advancement, or preservation of art, music, theater, dance, zoology, botany, or natural history or shall be an agency of local government that has such primary purpose;
Annotations

Editor's note: This version of sub-subparagraph (A) is effective July 1, 2006.
Statute text

(B) Any such facility shall have its principal office within the **district**, shall conduct the majority of its activities within the state of Colorado, and shall principally benefit the residents of the **district**.

(C) Any such facility that applies to receive **district** moneys for the first time on or after July 1, 2006, shall have been in existence, operating, and providing service to the public for at least three years prior to such distribution. For any facility that applies to receive **district** moneys on or after July 1, 2006, that has had a recommencement after bankruptcy or nonconsensual reorganization, such facility shall be operating and providing service to the public for at least three years from the original date of recommencement. For purposes of this sub-subparagraph (C), "operating" means engaged in some form of activity that is in furtherance of the advancement and preservation of art, music, theater, dance, zoology, botany, or natural history, including but not limited to activities relating to production, exhibition, and presentation.

Annotations

Editor's note: This sub-subparagraph (C) is effective July 1, 2006.

Statute text

(II) The county **cultural** council of each county comprising the **district** shall submit to the board an annual plan specifying the distribution of such revenues as provided for in subparagraph (I) of this paragraph (c) to scientific and **cultural facilities** in such county which meet the criteria set forth in subparagraph (I) of this paragraph (c). In creating such plan, a county **cultural** council may give priority to scientific and **cultural facilities** within such county which qualify to receive moneys pursuant to the provisions of subparagraph (I) of paragraph (b) of this subsection (3). Such plans submitted by such county **cultural** councils to the board shall be binding upon the board.

(III) Up to ten percent of said sales and use tax revenues collected in each county comprising the **district** pursuant to the provisions of section 32-13-105 (1) (c) may be distributed by the board to the scientific and **cultural facilities** which qualify to receive moneys pursuant to subparagraph (I) of this paragraph (c) as the board may determine appropriate based upon one or more of the following factors: Accessibility, quality, need, enhanced or innovative programs, and collaboration with the Denver museum of natural history, the Denver art museum, the Denver zoological gardens, or the Denver botanical gardens or with scientific and **cultural facilities** which qualify to receive moneys pursuant to subparagraph (I) of paragraph (b) or subparagraph (I) of paragraph (c) of this subsection (3). Any distribution made pursuant to this subparagraph (III) shall be based upon the provisions of the plan submitted by each county **cultural** council as required by subparagraph (II) of this paragraph (c).

Annotations

Editor's note: This version of subparagraph (III) is effective until July 1, 2006.

Statute text

(III) Up to five percent of said sales and use tax revenues collected in each county comprising the **district** may be distributed by the board to the scientific and **cultural facilities** that qualify to receive moneys pursuant to subparagraph (I) of this paragraph (c) as the board may determine appropriate based upon one or more of the following factors: Accessibility, quality, need, enhanced or innovative programs, and collaboration with the Denver museum of nature and science, the Denver art museum, the Denver zoological gardens, the Denver botanical gardens, or the Denver center for the performing arts or with scientific and **cultural facilities** that qualify to receive moneys pursuant to subparagraph (I) of paragraph (b) of this subsection (3) or subparagraph (I) of this paragraph (c). Any distribution made pursuant to this subparagraph (III) shall be based upon the provisions of the plan submitted by each county **cultural** council as required by subparagraph (II) of this paragraph (c).

Annotations

Editor's note: This version of subparagraph (III) is effective July 1, 2006.
Statute text

(IV) (Deleted by amendment, L. 94, p. 481, § 2, effective January 1, 1996.)

(V) Any moneys not distributed pursuant to the provisions of subparagraph (III) of this paragraph (c) shall be placed by the board in an interest-bearing account with a federally insured bank or savings and loan association located in the state of Colorado. Such moneys shall remain in such account until the board, in its discretion, determines to distribute such moneys at the same time and in the same manner as other moneys are annually distributed pursuant to the provisions of subparagraph (III) of this paragraph (c).

(d) No scientific and **cultural** facility which receives moneys pursuant to the provisions of paragraph (c) of this subsection (3) shall use or expend such moneys for the acquisition, physical preservation, or restoration of any historic building, structure, or site.

(4) Upon any extension of the sales and use taxes levied and collected by the **district** in accordance with section 32-13-105, the amount of sales and use tax proceeds expended and distributed by the **district** in any given year shall not exceed the amount specified in the ballot question for the current fiscal year and shall not exceed the amount specified in the ballot question as adjusted for inflation plus annual local growth for each fiscal year after the current fiscal year. For purposes of this subsection (4), "inflation" has the meaning set forth in section 20 of article X of the state constitution and in section 24-77-102 (8), C.R.S., and "local growth" has the meaning set forth in section 20 of said article. Whenever the amount of sales and use tax proceeds collected in any fiscal year pursuant to this article exceeds the permissible amount to be expended and distributed, the provisions of section 20 of said article governing tax refunds shall apply.

History

Source: L. 87: Entire article added, p. 1257, § 1, effective July 1. L. 94: (2) amended, p. 319, § 5, effective March 29; (1), (2), IP(3), IP(3)(a), IP(3)(a)(I), (3)(a)(II), (3)(a)(III), IP(3)(a)(IV), IP(3)(b), IP(3)(b)(I), (3)(b)(II)(B), (3)(b)(III), IP(3)(b)(IV), IP(3)(c), IP(3)(c)(I), (3)(c)(III), and IP(3)(c)(IV) amended and (4) added, p. 472, § 3, effective March 31; (3)(d) added, p. 484, § 3, effective March 31; (3)(a)(III) to (3)(a)(V), (3)(b)(I)(C), (3)(b)(I)(D), (3)(b)(III) to (3)(b)(V), (3)(c)(III) to (3)(c)(V) amended and (3)(b.5) added, p. 481, § 2, effective January 1, 1996. L. 99: (1)(a) amended, p. 982, § 6, effective May 28; (1)(a) amended, p. 1357, § 7, effective January 1, 2000. L. 2004: (1)(a) amended, p. 1041, § 8, effective July 1; (3)(a), IP(3)(b), (3)(b)(I), (3)(b)(III), (3)(b.5), IP(3)(c), IP(3)(c)(I), (3)(c)(I)(A), and (3)(c)(III) amended and (3)(c)(I)(C) added, p. 291, § 8, effective July 1, 2006.

Annotations

Editor's note: (1) Amendments to subsection (2) by House Bill 94-1222 and House Bill 94-1024 were harmonized. Amendments to subsections (3)(a)(III),

(3)(b)(III), and (3)(c)(III) to (3)(c)(V) by House Bill 94-1222 and House Bill 94-1223 were harmonized.

(2) Amendments to subsection (1)(a) by House Bill 99-1015 and House Bill 99-1271 were harmonized.

(3) Subsection (3)(a), the introductory portion to subsection (3)(b), subsections (3)(b)(I), (3)(b)(III), (3)(b.5), the introductory portions to subsections (3)(c) and (3)(c)(I), and subsections (3)(c)(I)(A), (3)(c)(I)(C), and (3)(c)(II) were contained in a 2004 act that was passed without a safety clause. The act establishes an effective date of July 1, 2006, for these provisions. For further explanation concerning the effective date, see page vii of this volume.

Annotations

ANNOTATION

Annotations

Law reviews. For article, "Recent Developments in Colorado Sales and Use Taxes", see 18 Colo. Law. 2101 (1989).

St. Paul

Initially authorized Laws 1993, chapter 375, article 9, § 46

Date imposed September 1, 1993

Amount collected in CY 2001 \$13,741,439

Additional legislative action Laws 1997, chapter 231, article 7, § 40
Laws 1998, chapter 389, article 8, §§ 30, 31, 32, 36, and 37

Tax authorized A sales tax of up to one-half of 1 percent. No complementary use tax was authorized.

Required city action to impose the tax The city needed to pass a resolution before July 1, 1993, stating its intent to exercise its authority to impose a sales tax.

Allowed uses of the tax proceeds The tax allowed the city to fund or issue bonds to fund expansion and remodeling costs for the St. Paul Civic Center, with remaining funds to be spent on capital projects furthering cultural and economic development in St. Paul's downtown and neighborhoods. The 1997 amendment allows the city to spend up to 10 percent of sales tax revenue allocated for cultural and economic development activities on operating expenses of cultural organizations.

The 1998 law changed the distribution of St. Paul sales tax proceeds in a number of ways, including:

- * Adding the demolition and reconstruction of an arena associated with the civic center complex to the authorized uses of the sales tax revenue;
- * Allocating up to 40 percent of the city sales tax revenue to the civic center and associated hockey arena, and at least 60 percent to the cultural and economic development activities, although some short term adjustments can be made in the allocation as needed to meet debt obligations;
- * Requiring revenue distributed to the city's cultural STAR program to be awarded through a grant or loan review process; 80 percent of such revenue must go to nonprofit arts organizations, libraries, or museums in downtown St. Paul, while the remaining 20 percent may be allocated to businesses in the cultural district or to nonprofit organizations in other neighborhoods; and
- * Requiring any expenditure proposals for neighborhood development programs to first be reviewed by a citizen review board of 17 members representing the district councils.

Tax administration The tax is collected by the Commissioner of Revenue with the state sales tax. The tax revenue are returned to the city each month, net the cost to the state of collecting and administering the tax.

Tax expiration The original law required that the tax expire when the revenues raised by the portion of the tax proceeds dedicated to the convention center are sufficient to pay for the authorized bonds of up to \$65 million. The 1998 law changed the expiration date to December 31, 2030.

Miscellaneous On January 15 of odd-numbered years, the city must report to the legislature on the use of sales tax revenue during the preceding two years. A complementary use tax was imposed in St. Paul beginning January 1, 2000, as required under Minnesota Statutes § 297A.99. The 1998 law amended the same portion of the original law as was amended in the

1997 law but did not pick up the 1997 amendment. Although it looks like the two laws do not directly conflict it is not clear how to interpret the laws together.

St. Louis

Chapter 5.72

PARK CAPITAL IMPROVEMENTS FUND APPORTIONMENT

Sections:

5.72.010 General revenue expenditures on parks not to decrease if state sales tax funds become available.

5.72.020 Annual appropriation ordinance.

5.72.030 Apportionment of State funds among historical, cultural, performing or fine arts organizations or institutions.

5.72.040 Apportionment of State funds among parks for capital improvements.

5.72.010 General revenue expenditures on parks not to decrease if state sales tax funds become available.

If any funds are made available by the State of Missouri pursuant to a sales tax for acquisition, development, rehabilitation and/or maintenance of local public parks and public recreation facilities in the City in any fiscal year, the City shall not decrease its general revenue expenditures for such purposes in said fiscal year below the amount expended from such general revenues for the same purposes in the fiscal year in which said sales tax is enacted. (Ord. 61008, § 1, 1988.)

5.72.020 Annual appropriation ordinance.

The Board of Aldermen shall appropriate each year by independent ordinance recommended by the Capital Committee established pursuant to Ordinance 60419, codified in Chapter 5.35, all funds made available by the State pursuant to a sales tax for local parks.

A. Such ordinance shall contain:

1. An appropriation not to exceed the amount permitted by state legislation for grants to and contracts with historical, cultural, performing or fine arts organizations or institutions, as permitted by State law, to be awarded as provided in Section 5.72.030 of this chapter;

2. Line item appropriations for specific projects in City parks in the amounts appropriated as provided in Section 5.72.040 of this chapter.

B. Such ordinance shall not appropriate any funds for additional City parks or expansion of any City parks. Except for funds appropriated pursuant to subsection A1 of this section, funds shall be expended only for capital improvement purposes, and no funds shall be expended for rolling stock, office supplies or master planning. (Ord. 61008 § 2, 1988.)

5.72.030 Apportionment of State funds among historical, cultural, performing or fine arts organizations or institutions.

The Board of Aldermen shall establish each year by ordinance the percentage, if any, of funds made available by the State pursuant to a sales tax for parks which shall be used for grants to or contractual services with historical, cultural, performing or fine arts organizations or institutions, as permitted by State law, to provide services or performances in parks or recreation centers located in the City. Not more than sixty (60) days following the approval of said ordinance by the Mayor or its approval over his veto, the

Director of Parks, Recreation and Forestry shall publicly advertise its "Request for Proposals" from any such interested group, and shall forward to the Board of Aldermen a draft resolution approving any or all eligible organizations responding to said Request; provided, however, that the funding recommended pursuant to such resolution shall not exceed the amount established by ordinance. The Director of Parks, Recreation and Forestry may contract with the St. Louis Regional Cultural and Performing Arts Development Commission for services related to the solicitation and evaluation of proposals required by this section. No funds shall be granted to or contracts executed with any such organization until such resolution, as submitted or as amended, has been approved by the Board of Aldermen. (Ord. 61008 § 3, 1988.)

5.72.040 Apportionment of State funds among parks for capital improvements.

Each year, all funds made available by the State of Missouri pursuant to a sales tax for parks shall be apportioned by ordinance according to the following formula: after deducting an amount, if any, as provided in Section 5.72.030 of this chapter, each City park shall receive the percentage of the remaining funds made available by the State for capital improvements determined by taking the acreage of the park divided by the total acreage of all City parks; provided, however, that the allocation of any park which would receive an allocation of less than ten thousand dollars (\$10,000) in any given fiscal year pursuant to this formula shall be placed in a Small Parks Fund and the Small Parks Fund shall be used to fund improvements in parks whose allocations have been placed in this fund in accordance with priorities recommended by the Capital Committee and approved by the Board of Aldermen of the City in the same ordinance each year. (Ord. 61008 § 4, 1988.)

Salt Lake City

Title 3 Revenue and Finance

Chapter 3.07 LOCAL SALES AND USE TAX TO FUND RECREATIONAL FACILITIES AND BOTANICAL, CULTURAL AND ZOOLOGICAL ORGANIZATIONS

3.07.010 Provisions.

The ordinance codified in this chapter shall be known as the local sales and use tax to fund recreational facilities and botanical, cultural and zoological organizations of the county of Salt Lake. (Ord. 1374 § 2, 1996)

3.07.020 Statutory authority.

The authority for imposing this tax is derived from Title 59, Chapter 12, Section 701 et seq., Utah Code Annotated 1953. (Ord. 1374 § 3, 1996)

3.07.030 Purpose of provisions.

The ordinance codified in this chapter is enacted to provide the county with a source of revenue specifically for the purposes of funding recreational facilities and botanical, cultural, and zoological organizations in Salt Lake County pursuant to state code and policies and procedures enacted by the county to establish, collect and use the taxes provided herein. (Ord. 1374 § 4, 1996)

3.07.040 Definitions.

As used in this chapter:

"Botanical organization" means any private or public non-profit organization or administrative unit thereof having as its primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education.

"Cultural organization" means a nonprofit institutional organization or administrative unit thereof having as its primary purpose the advancement and preservation of natural history, art, music, theater, or dance.

For purposes of Section 3.07.070(A)(1)(d), "cultural organization" also includes a nonprofit institutional organization or administrative unit thereof having as its primary purpose the advancement and preservation of history and a municipal or county cultural council having as its primary purpose the advancement and preservation of history, natural history, art, music, theatre or dance.

"Cultural organization" does not include any agency of the state, any political subdivision of the state, or any educational institution whose annual revenues are directly derived more than fifty percent from state funds, any radio or television broadcasting network or station, cable communications systems, newspaper, or magazine.

"Recreational facility" means any publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, or other facility used for recreational purposes.

"Zoological organization" means a nonprofit organization having as its primary purpose the advancement and exhibition of mammals, birds, reptiles, and

amphibians to an audience of five hundred thousand or more persons annually.

"Zoological organization" does not include any agency of the state, education institution, radio or television broadcasting network or station, cable communications system, newspaper or magazine. (Ord. 1473 (part), 2001: Ord. 1374 § 5, 1996)

3.07.050 Imposition--Amount.

There is levied for collection a local sales and use tax of one-tenth of one percent to fund recreational facilities, and botanical, cultural and zoological organizations in Salt Lake County. (Ord. 1374 § 6, 1996)

3.07.051 Use of revenues.

The revenues received from the local sales and use tax levied pursuant to Section 3.07.050 shall be used solely for the purposes of financing recreational facilities and on-going operating expenses of botanical, cultural, and zoological organizations within Salt Lake County. (Ord. 1374 § 7, 1996)

3.07.060 Collection.

Taxes imposed under this chapter shall be:

A. Levied at the same time and collected in the same manner as provided in Title 59, Chapter 12, Part 2, the Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is not subject to subsection 59-12-205(2); and

B. Levied for a period of ten years and may be reauthorized at the end of the ten-year period in accordance with Section 59-12-701, et seq., Utah Code Annotated.

C. The records of the State Tax Commission, the Commission's performance under the contract, and the records of any taxpayer subject to this tax shall be subject to review and audit as provided in the county's contract with the Commission for the collection and distribution of the local sales and use tax and as provided by law. (Ord. 1473 (part), 2001: Ord. 1374 § 8, 1996)

3.07.070 Distribution of revenues-- Determination of operating expenses.

The distribution of revenues and determination of operating expenses shall be in accordance with the statutory directives and the provisions of this chapter and shall be subject to the policies and procedures adopted by the executive.

A. Except as provided in Section 3.07.080, and subject to the requirements of Section 59-12-704(3), Utah Code Annotated (1996), any revenues collected by Salt Lake County shall be distributed annually by the council to support publicly owned and operated recreational facilities and botanical, cultural, and zoological organizations within Salt Lake County as follows:

1. Thirty percent of the revenue collected by the county under this chapter shall be distributed by the council to support publicly owned and operated recreational facilities located within Salt Lake County.

2. Twelve and one-half percent of the revenue collected by the county under this chapter shall be distributed by the council to support zoological

organizations located within Salt Lake County. The council shall determine how the moneys shall be distributed among such organizations.

3. a. Fifty-two and one-half percent of the revenue collected by the county under this chapter shall be distributed to botanical and cultural organizations with average annual operating expenses of more than two hundred fifty thousand dollars as determined under Section 59-12-704(3), Utah Code Annotated (1996).

b. Subject to Section 59-12-704(1)(c)(iii), Utah Code Annotated (1996), the council shall distribute the moneys among such organizations in proportion to their average annual operating expenses as determined under Section 59-12-704(3), Utah Code Annotated (1996) and subsection F of this section.

c. The amount distributed to any such organization may not exceed thirty-five percent of the organization's budget.

4. Five percent of the revenue collected by the county under this section shall be distributed to botanical and cultural organizations with average annual operating expenses of less than two hundred fifty thousand dollars as determined under Section 59-12-704(3), Utah Code Annotated (1996) and subsection F of this section. The council shall determine how the moneys will be distributed among such organizations.

B. An advisory board consisting of seven appointees of the council, to include two members of the Utah Arts Council, shall be created to advise the council on disbursement of funds to botanical and cultural organizations as provided under Sections 59-12-704(1)(c)(i) and 59-12-704(2), Utah Code Annotated (1997).

1. This advisory board shall be known as the tier I (large organizations) advisory board and shall be appointed by the council in accordance with statutory requirements.

C. 1. Two committees shall be created to provide recommendations on the disbursement of funds under Sections 59-12-704(1)(a) and 59-12-704(1)(d), Utah Code Annotated (1996), to the council. These committees shall be the following:

a. Recreational facilities committee; and

b. The tier II (small) cultural organizations committee.

2. The recreational facilities committee shall consist of the following members:

a. Five representatives from the community at large, at least one community representative shall reside in unincorporated Salt Lake County;

b. Four mayors from municipalities within Salt Lake County;

c. Two representatives from the division of the Salt Lake County parks and recreation advisory board;

d. Additional members may be added at the discretion of the chair as desired.

3. The tier II cultural organizations committee shall be appointed by the council, to include the following:

a. Two mayors from municipalities within Salt Lake County;

b. Two members from the Salt Lake County fine arts advisory board;

c. Three representatives from the community at large.

D. Terms of Board and Committee Members.

1. Except for the terms of office of the members of the first board or committees to be established, the term of office of each member shall be three years and until the appointment and qualification of his successor. The terms of members of the first board and committees established shall be staggered as presently designated.
2. Upon the expiration of a member's term, his/her successor shall be appointed for a full term of three years.
3. The expiration date of the term of office of each board or committee member shall be the first Monday in January in the year in which the person's term expires.
4. The chairman of each board or committee shall be selected by the members and shall serve as chairman for one year.
- E. The members of each board and committee shall be appointed by the council.
- F. To be eligible to receive moneys collected by the county under this part, a botanical, cultural, and zoological organization located within the county, shall, every three years:
 1. Calculate their average annual expenses based upon audited expenses for three preceding fiscal years; and
 2. Submit to the council:
 - a. A verified audit of annual expenses for each of those three preceding fiscal years, and
 - b. The average annual expenses as calculated under Section 59-12-704(3)(a), Utah Code Annotated (1996).
- G. When calculating average annual expenses as described in Section 57-12-704(3), Utah Code Annotated (1996) each botanical, cultural, and zoological organization shall use the same three-year fiscal period as determined by the council.
- H. By July 1st of each year, the council may index the threshold amount in Sections 59-12-704(1)(a), (b), and (d), Utah Code Annotated (1996). Any change shall be rounded off to the nearest one hundred dollars.
- I. The council may retain an amount not to exceed one and one-half percent of the county option funding collected under this chapter for the cost of administering this chapter.
- J. The administration of this chapter shall be further governed by policies and procedures to be established for this purpose by the county. (Ord. 1473 (part), 2001: Ord. 1390 § 2, 1997: Ord. 1374 § 9, 1996)

3.07.080 Free or reduced admission day available to all state residents.

Each botanical, cultural, or zoological organization that receives monies from a tax imposed under this chapter and that periodically offers a waived or discounted admission fee shall make such waived or discounted admission available to all residents of the state. (Ord. 1374 § 10, 1996)

3.07.090 Incorporation of state law.

A. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the County Option for Funding Botanical, Cultural, and Zoological Organizations legislation codified at Utah Code Annotated Sections 59-12-701, et seq., all of the provisions of Part 1, Chapter

12, Title 59, Utah Code Annotated, 1953, as amended, in force and effect on the effective date of the ordinance codified in this chapter, insofar as they relate to the tax imposed by this chapter, excepting Sections 59-12-101 and 59-12-119 thereof, are adopted and made a part of this chapter as though fully set forth herein.

B. Wherever, and to the extent that in Part 1, Chapter 12, Title 59, Utah Code Annotated, 1953, the state of Utah is named or referred to as the taxing agency, the name of this county shall be substituted therefor. Nothing in this subparagraph shall be deemed to require substitution of the name of the county for the word "state" when that word is used as part of the title of the State Tax Commission, or of the Constitution of the state of Utah, nor shall the name of the county be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the county or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this chapter. (Ord. 1374 § 11, 1996)

Pennsylvania

§ 60.16. Local Sales, Use and Hotel Occupancy Tax.

(a) *General provisions.*

(1) *General.* This section is promulgated to administer the provisions of sections 501—509 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (53 P. S. §§ 12720.501—12720.509) and sections 3150-B—3157-B of the Second Class County Code (16 P. S. §§ 6150-B—6157-B).

(2) *Registration.* A person making a sale, rental or lease subject to tax under this section shall apply for a license on a form prescribed by the Department.

(3) *Returns.* The taxes collected under this section shall be reported on a return prescribed by the Department and filed under sections 217—220 of the TRC (72 P. S. §§ 7217—7220) and § 34.3 (relating to tax returns).

(4) *Payment.* Payment shall be made under sections 221—224 of the TRC (72 P. S. §§ 7221—7224).

(5) *Imposition of tax.* Unless otherwise specifically noted, Article II of the TRC (72 P. S. §§ 7201—7281.1) and regulations thereunder apply to the taxes imposed under this section.

(6) *Exemption certificates.* A claim for exemption from taxes imposed under this section shall be supported by a valid Pennsylvania exemption certificate.

(7) *Direct payment permit.* A purchaser may use a direct payment permit issued under § 34.4 (relating to direct payment permit) in conjunction with the sales tax imposed under this section. A purchaser may not use a direct payment permit in connection with the purchase of vehicles, food and beverages or hotel occupancies.

(8) *Local tax.* The term local tax means sales, use or hotel occupancy tax imposed by a county of this Commonwealth or the city of Philadelphia and administered by the Department.

(9) *State tax.* The term State tax means sales, use or hotel occupancy tax imposed by Article II of the TRC.

(10) *Local sales and use tax.* For purposes of this section, the local sales tax is the tax which is collected by the vendor and the local use tax is the tax payable if the vendor is not required or fails to collect the proper amount of local sales tax.

(11) *Point of sale.* Local sales tax is imposed at the point of sale. A sale of property or a service delivered to a location within this Commonwealth is

deemed to occur at the place of business of the retailer. A sale of property or a service delivered by the retailer or its agent to an out-of-State destination is subject to neither the State nor the local tax. The local tax is in addition to the State tax if a sale is deemed to have occurred in a taxable county. There are no transactions which are only subject to the local tax.

(12) *Tax bracket schedule.* The 1% local sales and use tax is computed in accordance with the following bracket schedule:

(i) Purchase price	Tax
50¢ or less	0
51¢ but less than \$1.51	1¢
\$1.51 but less than \$2.51	2¢
\$2.51 but less than \$3.51	3¢
\$3.51 but less than \$4.51	4¢
\$4.51 but less than \$5.51	5¢
\$5.51 but less than \$6.51	6¢
\$6.51 but less than \$7.51	7¢
\$7.51 but less than \$8.51	8¢
\$8.51 but less than \$9.51	9¢
\$9.51 but less than \$10.01	10¢

(ii) The tax on purchases in excess of \$10 is 1% of each \$10 of the purchase price plus the bracket charge on a fractional part of a \$10 increment under subparagraph (i).

(13) *Taxable county.* A county or the city of Philadelphia which has adopted the local tax.

(14) *Nontaxable county.* A county which has not adopted the local tax.

(15) *Effective date of local tax.*

(i) The effective dates of the local tax in counties that have adopted the local tax are as follows:

County
Effective Date

Rate

Allegheny
July 1, 1994
1%

Philadelphia
October 1, 1991
1%

(ii) When a county adopts the local tax or changes the rate of the local tax, the Department will publish a notice in the *Pennsylvania Bulletin* and codify the change in subsection (a)(15)(i).

(b) *Scope.*

(1) The local tax shall be remitted to the Department. If the vendor fails to collect the applicable local sales tax from the purchaser, the purchaser shall pay the local use tax directly to the Department.

(2) Property and services subject to the State tax are subject to the local sales and use tax. If a purchase is exempt from the State sales and use tax, the exemption also applies to the local tax.

(3) If the sale occurred before the effective date of the local tax, the sale is not subject to the local tax. If the sale occurs on or after the effective date of the local tax, the sale is subject to the local tax. The date of sale is the date of an invoice or other similar document. Lease payments due on or after the effective date of the local tax are subject to the local tax.

(4) The following are examples of sales which are subject to the local tax:

(i) Jeff signed a contract for the lease of a television set from an appliance store located in a taxable county prior to the effective date of the local tax. Lease payments are due on a monthly basis. The lease payments due on or after the effective date of the local tax are subject to the local sales tax.

(ii) John orders a television set from an appliance store located in a taxable county. John signs a contract of sale and receives an invoice from the vendor for the total purchase price prior to the effective date of the local tax. The television set is delivered after the effective date of the local tax. The purchase is subject to the local tax because delivery was subsequent to the effective date of the local tax.

(c) *Sales of, and services to, tangible personal property and other taxable services*. The sales of, and services to, tangible personal property and other taxable services subject to the State sales and use tax are also subject to the local tax if the sale originates in a taxable county. Other taxable services include: building maintenance and building cleaning, collections and

adjustment, computer, credit reporting, disinfecting and pest control, employment agency, help supply, lawn care, lobbying, premium cable, secretarial and editing and self-storage.

(1) The following are examples of sales or services subject to the local tax:

(i) Mary Ellen purchases a television set from an appliance store located in a taxable county. Regardless of whether Mary Ellen takes the television set home in her car or the store delivers it to Mary Ellen's Pennsylvania residence, the store shall collect the local tax because the sale occurred in a taxable county.

(ii) Mara, a resident of a taxable county, purchases a television set from an appliance store located in a nontaxable county. Regardless of whether Mara takes the television set home in her car or the store delivers it to Mara's residence, the purchase is subject to the local use tax rather than the local sales tax. Mara shall pay the local use tax directly to the Department. The appliance store in the nontaxable county is not required to collect the local tax.

(iii) ABC, a corporation located in a taxable county, purchases fuel oil from a dealer in New Jersey which delivers the oil to ABC's location. The purchase is subject to the local use tax rather than the local sales tax. ABC shall pay the local use tax directly to the Department. The oil dealer in New Jersey is not required to collect the local tax.

(iv) Bruce, a resident of a nontaxable county, subscribes to premium cable television from a cable company located in a taxable county. The cable company shall collect the local tax because the sale occurred in a taxable county.

(2) The following are examples of sales or services not subject to the local tax:

(i) Tim, a New Jersey resident, purchases a television set from an appliance store located in a taxable county. The store delivers the television set to Tim at his New Jersey home. Because the television is delivered to an out-of-State location, it is not subject to the local tax.

(ii) XYZ, a manufacturing company located in a taxable county, with offices in both the taxable county and a nontaxable county, purchases the services of a keypunch operator from a help supply vendor located in a nontaxable county. Because the keypunch operator reports for work at an office of XYZ located in a nontaxable county, the help supply services are not subject to the local tax.

(d) *Utility services.* The sale or use of utility services subject to the State sales and use tax, including steam, natural and manufactured gas and electricity, is subject to the local tax if the meter which registers the service is located in a taxable county. The sale or use of telephone service subject to

the State sales and use tax is subject to the local tax if the telephone equipment to which the telephone number is assigned is located at an address within a taxable county. The sale or use of a telegraph service subject to the State sales and use tax which originates in a taxable county is subject to the local tax.

(1) The following are examples of sales subject to the local tax:

(i) A business located in a taxable county purchases electricity through a meter at its business location in a taxable county. Because the meter that registers the service is located in a taxable county, the service is subject to the local tax.

(ii) A business headquartered in a nontaxable county purchases natural gas for its location in a taxable county. The gas is metered at the plant located in the taxable county but billed to the business headquarters. Because the meter that registers the service is located in a taxable county, the service is subject to the local tax.

(iii) A salesperson for a business located in a taxable county makes a collect telephone call from Chicago to its service address. Because the service address of the collect call is located in a taxable county, the service is subject to the local tax.

(2) The following are examples of sales not subject to the local tax:

(i) A business headquartered in a taxable county purchases electricity for its location in a nontaxable county. The electricity is metered at the location in the nontaxable county but billed to the business headquarters. Because the meter that registers the service is not located in a taxable county, the service is not subject to the local tax.

(ii) A salesperson for a business located in a nontaxable county makes a cellular telephone call within a taxable county which is billed to the service address of the equipment located in the nontaxable county. Because the service address of the telephone call is located in a nontaxable county, the service is not subject to the local tax.

(e) *Retailer with multiple locations.*

(1) If a retailer has multiple business locations, the sale is deemed to occur at the place of business where the initial order for the property or service is placed, even though the order may be forwarded elsewhere for acceptance, approval of credit, shipment or billing.

(2) The following are examples of sales or services subject to the local tax:

(i) Eileen orders a television set from an appliance store in a taxable county. Regardless of whether the television set is delivered to Eileen from a location in a nontaxable county, or Eileen picks up the set at a location in a

nontaxable county, the store shall collect and remit the local tax since the sale occurred in a taxable county.

(ii) Steve, a resident of a taxable county, orders a television set from an appliance store in a nontaxable county. Regardless of whether Steve picks up the set at a location in a taxable county or the set is delivered from a location in a taxable county, the purchase is subject to the local use tax rather than the local sales tax. Steve shall pay the local use tax directly to the Department.

(iii) Bob, a resident of a taxable county, purchases a professional drum from a music store in New York City. The drum is delivered to Bob from New York City. Bob does not pay the applicable State sales tax or applicable local tax to the seller. Bob is required to remit the State and local use taxes directly to the Department.

(iv) Merrill, who maintains a regular place of business in a taxable county, sells jewelry from a temporary location in a nontaxable county. Because Merrill maintains a place of business in a taxable county, Merrill shall collect the State and local sales taxes.

(f) *Salesperson.*

(1) Sales by salespersons who are employees of a vendor are deemed to occur at the employer's business address from which the salesperson works. Sales by salespersons who are independent contractors who issue their own invoices are deemed to occur at the place of business of the independent contractor. If, however, the independent contractor merely solicits sales on behalf of a vendor, the sale is deemed to occur at the business location of the vendor.

(2) The following are examples of sales or services subject to the local tax:

(i) A salesperson working as an employee from an office in a nontaxable county sells encyclopedias door-to-door in a taxable county. Tim buys the encyclopedias when the salesperson visits Tim's home in a taxable county. The purchase is subject to the local use tax rather than the local sales tax. Therefore, Tim shall pay the local use tax directly to the Department.

(ii) A salesperson working as an employee from an office in a taxable county sells encyclopedias door-to-door in a nontaxable county. Jeff buys the encyclopedias when the salesperson visits Jeff's home in a nontaxable county. The purchase is subject to the local sales tax rather than the local use tax. Therefore, the salesperson shall collect the local sales tax and remit it to the Department.

(iii) Joe, an independent contractor, sells teddy bears by direct mail advertising. Anne purchases a teddy bear through the mail. Anne is billed by Joe on his letterhead indicating an address in a taxable county. The purchase is subject to the local sales tax. If Anne had received an invoice from a manufacturer located outside of this Commonwealth whom Joe represents,

the purchase would not be subject to the local sales tax but would be subject to the local use tax if Anne is a resident of a taxable county. Anne would be required to pay the tax directly to the Department.

(g) *Vehicles, motorboats and aircraft.*

(1) The sale or use of vehicles, boats or aircraft required to be titled or licensed is subject to the local tax if the address of the purchaser is at a location in a taxable county. The local tax on vehicles is payable to the Department of Transportation. The local tax on aircraft is payable to the Department. The local tax on motorboats is payable to either the Department or the Fish and Boat Commission. The location of the seller or the location to which the property is delivered does not affect the taxability of the property. This subsection does not apply to the purchase or use of snowmobiles, ATVs or dirt bikes. Subsection (c) relates to the taxability of snowmobiles, ATVs and dirt bikes. See §§ 31.41—31.50 and 58.8 (relating to vehicles; and commercial airport and aircraft operators) for the general rules regarding the taxability of vehicles or aircraft.

(2) A lease or rental payment, including a down payment, made in connection with the lease or rental of a motor vehicle, trailer, semitrailer, mobile home, motor boat, aircraft or other similar tangible personal property required under Federal or State laws to be registered or licensed, is taxable based upon the location of the lessor or retailer, if the lease or rental agreement was entered into during the period of October 1, 1991, through June 30, 1994. If the lease is resold to another lessor in a taxable county, the new lessor is responsible for collecting the local sales tax on the remaining lease payments. If the lease is resold to a new lessor whose business location is in a nontaxable county, the lessor is not required to collect the local sales tax. If the lessee is a resident of a taxable county, the lessee shall pay the local use tax. On or after July 1, 1994, the lease of property referred to in this paragraph required to be registered or licensed under either Federal or state laws, shall be deemed to have been completed or used at the address of the lessee. The lessee shall pay local tax to the lessor upon the down payment and each lease payment relating to the lease. The lessor shall collect the local tax from the lessee. A rental payment made upon the property referred in this paragraph on or after July 1, 1994, is taxable based upon the location of the retailer. For the purpose of this subsection, a lease means a contract for 30 days or more and rental means a contract for a period of less than 30 days.

(i) The following are examples of sales subject to the local tax:

(A) John, a resident of a taxable county, purchases an automobile from an automobile dealer located in a taxable county. Because the sale occurred in a taxable county, the dealer shall collect and remit the local tax.

(B) A New Jersey resident purchases an automobile in New Jersey and subsequently establishes a residence in a taxable county. If the date of establishing the residence in the taxable county is less than 6 months after the date of purchase of the automobile, the tax is based on the original

purchase price. If the date of establishing the residence is beyond 6 months of the date of purchase, neither state nor local tax is due.

(C) Mary Ellen, a resident of a taxable county, leases an automobile from a lessor located in a nontaxable county on July 15, 1994. The lessor is required to collect the 1% local tax.

(D) Sherry ordered a new automobile prior to the effective date of the local tax in the county in which she resides. The automobile is delivered to Sherry by the dealer after the effective date of the local tax. Sherry is required to pay the 1% local tax at the time she registers the vehicle with the Department of Transportation.

(ii) The following are examples of sales not subject to the local tax:

(A) Steve, a resident of a nontaxable county, purchases a boat from a boat dealer located in a taxable county. Because the address of the purchaser is not in a taxable county, the sale is not subject to the local tax.

(B) An aircraft dealer located in a taxable county sells an aircraft to a resident located in a nontaxable county. Because the address of the purchaser is not in a taxable county, the sale is not subject to the local tax.

(h) *Vending machines.*

(1) An operator of a vending machine located in a taxable county, from which food or beverages, excluding candy, gum and frozen milk-based or frozen water-based products are sold, is required to collect and remit the local tax at the rate of 1% upon the sales of food and beverages. Taxable sales from vending machines located in a nontaxable county are not subject to the local tax. Sales of 50¢ or less are not taxable. On sales in excess of 50¢, the tax shall be computed using the following formula:

(Gross receipts ÷ 1.07) x .01 = local tax due

(Gross receipts ÷ 1.07) x .06 = State tax due

(2) An operator of a vending machine selling taxable property, other than food or beverages, is required to collect and remit the local sales tax upon each individual sale of taxable property in accordance with the local tax bracket system.

(i) *Hotel occupancy tax.*

(1) The occupancy of hotel rooms located in a taxable county is subject to the 6% State hotel occupancy tax and the 1% local hotel occupancy tax. The occupancy of hotel rooms which is exempt from the 6% State hotel occupancy tax is also exempt from the 1% local hotel occupancy tax.

(2) The maximum State and local hotel occupancy tax is 7% plus additional local tax which a taxable county imposes and administers.

(j) *Use tax.*

(1) Persons who purchase taxable property or services which are subject to the local tax and do not pay the applicable local sales tax are required to remit the local tax directly to the Department. The purchaser shall report the tax as use tax on the purchaser's tax return.

(2) The rules for imposing State use tax upon property purchased outside of this Commonwealth or purchased exempt from tax and subsequently put to a taxable use in this Commonwealth apply to local tax. These rules apply to the establishment of a residence in a taxable county, the temporary use of property within a taxable county by a nonresident of a taxable county, the use of property by a tourist or vacationer in a taxable county, or the use of property which was purchased by a resident within 6 months of its first taxable use in a taxable county. See § 31.7 (relating to use tax).

(3) The following are examples of transactions that are subject to local tax:

(i) Anne, a resident of a nontaxable county, purchases a television set without paying local sales tax. Anne immediately takes the set to her business located in a taxable county, where it remains for more than 7 days. Anne's use of the television is subject to the local use tax after 7 days and Anne shall remit the use tax directly to the Department.

(ii) Tim purchases a television set at an appliance store located outside this Commonwealth. The set is delivered to Tim at his residence in a taxable county. Tim is required to pay the applicable State and local use taxes directly to the Department.

(iii) Mike orders an English grammar book from a vendor located in a taxable county. The book is delivered to Mike's residence in a nontaxable county. The vendor did not charge Mike the local tax. Mike is required to remit the local use tax to the Department.

(iv) Gregg, a resident of a nontaxable county, establishes a new residence in a taxable county. Gregg need not pay local use tax on property purchased 6 months or more prior to establishing his residence in the taxable county. However, Gregg shall pay local tax upon the purchase price of property purchased within 6 months of establishing his residence in the taxable county. Gregg is entitled to a credit for local tax paid upon the property at the time of purchase.

(k) *Construction contracts and special resale exemption.*

(1) *Payment of tax.* Persons who perform construction contracts within taxable counties are required to pay local tax upon the purchase of property or services, on or after the effective date of the local tax, which are used or installed under the performance of a construction contract. If the property or service is purchased within a taxable county, the contractor is required to pay the local sales tax. If the property is purchased prior to the effective date of

the local tax, it is not subject to the local tax imposed by the county in which the contract is being performed.

(2) *Special exemption on fixed-price contracts in Allegheny County.* The sale to or use of materials by a contractor is exempt from tax if the materials are incorporated into and made part of real estate under a contract for the construction, reconstruction, remodeling, repairing, maintenance or sale of real estate within Allegheny County on the basis of a fixed-price contract which is not subject to change or modification, or entered into under the obligation of a formal written bid which cannot be altered or withdrawn provided the contract or bid was signed prior to July 1, 1994. This exemption also applies to purchases made by subcontractors who perform contracts pursuant to exempt fixed-price contracts, even though the subcontracts are entered into on or after July 1, 1994. This exemption does not apply to change orders entered into on or after July 1, 1994, relating to the original fixed-price contract which was entered into prior to July 1, 1994.

(3) *Special resale exemption.* A special resale exemption applies to the transfer of ownership of tangible personal property purchased solely for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into tangible personal property within the taxable county and thereafter transported outside the taxable county for use exclusively outside the taxable county.

(4) *Examples.* The following are examples of transactions which are subject to local tax:

(i) ABC Company, a construction contractor, entered into a cost-plus contract on May 1, 1994, for the construction of a building in Allegheny County. ABC purchased all materials in Allegheny County. ABC purchased bricks in January of 1994 and installed the bricks on July 15, 1994. ABC also purchased and installed concrete on July 25, 1994. The bricks purchased in January of 1994 are not subject to the Allegheny County local tax because they were purchased prior to the effective date of the Allegheny County local tax. The concrete purchased and installed on July 25, 1994, is subject to the Allegheny County local tax because the concrete was neither purchased and used prior to the effective date nor purchased and used pursuant to a fixed-price contract within Allegheny County.

(ii) Alex Corporation purchases unassembled bicycles from a nontaxable vendor. The bicycles are delivered to XYZ Corporation in Allegheny County for assembly. After the bicycles are assembled, they are delivered to Alex's plant in a nontaxable county for employee use. Because Alex is entitled to claim the special resale exemption, there is no local tax due on the work performed in Allegheny County by XYZ Corporation.

(iii) The Brendan Company, located in a nontaxable county, entered into a fixed-price contract to purchase and install a concrete block wall for an office building in Philadelphia. The contract was signed and the materials were purchased prior to the effective date of the Philadelphia local tax. The

work was done after the effective date of the Philadelphia local tax. The materials were purchased in a nontaxable county. The materials are subject to the local tax. The Philadelphia local sales tax law does not contain a provision which excludes from the local tax fixed-price contracts entered into prior to the effective date of the Philadelphia local tax.

(iv) Stephanie Company, a contractor, entered into a fixed-price contract in March of 1994 to construct a building in Allegheny County. On July 12, 1994, Stephanie Company signed a change order to the original contract for additional construction at an agreed price. Materials purchased by Stephanie Company which are used to fill the change order are subject to the Allegheny local tax.

(l) *Credits against tax.*

(1) *Interstate credits.* To the extent that State or local tax is due, a credit will be granted for State and local taxes which were legally due and paid to another jurisdiction if the other jurisdiction grants similar credit for State and local taxes paid to the Department. Credit for taxes paid will be applied to the State tax first and the remainder to the local tax.

(i) Kathy, a New Jersey resident, purchased an automobile on February 3, 1992, from a New Jersey dealer and paid the 6% New Jersey sales tax. On April 4, 1992, Kathy established her residence in a taxable county. Because Kathy established her residence in a taxable county less than 6 months after she purchased the automobile, the use of the automobile is subject to the 6% State use tax and the 1% local tax. Since Kathy paid the 6% New Jersey sales tax, Pennsylvania will grant her a credit equal to the 6% New Jersey tax and apply the credit to the State tax. Kathy will be required to pay the 1% local tax.

(ii) If Kathy had been a New York resident and had paid tax at the rate of 7%, Kathy would not owe State or local tax.

(2) *Intrastate credits.* To the extent that the local use tax is due upon the use of property or services in a taxable county, a credit will be granted for local sales or use tax legally due and paid upon the purchase or use of the property or services to another taxable county.

(i) Chris, a resident of a taxable county, purchases a television set in another taxable county. Chris pays the applicable local sales tax at the time of purchase and takes the television set home. Chris is permitted to take a credit for the amount of local sales tax paid at the time of purchase and can apply the credit to the amount of local use tax due in Chris's county of residence.

(ii) Pat, a resident of a taxable county, purchases a computer in a nontaxable county. Pat takes the computer home and pays the applicable local use tax to that county. Three months later, Pat takes the computer to another taxable county to use while attending college for 4 years. Pat is permitted to take a credit for the amount of local use tax paid to Pat's county

of residence and can apply the credit to the amount of local tax due to the county in which the computer is used while attending college.

(3) *Voluntary collection.* A vendor who is not located in a taxable county may voluntarily collect the local tax even though not required to collect the local tax. A vendor who voluntarily collects the local tax is responsible for reporting and remitting the local tax collected.

Source

The provisions of this § 60.16 adopted October 8, 1993, effective October 9, 1993, 23 Pa.B. 4795; amended June 17, 1994, effective June 18, 1994, 24 Pa.B. 3040; amended October 20, 1995, effective October 21, 1995, 25 Pa.B. 4536. Immediately preceding text appears at serial pages (190210) to (190218) and (197837).

Cross References

This section cited in 61 Pa. Code § 60.20 (relating to telecommunications service).

Oklahoma City

ARTICLE II. SALES TAX CODE

§ 52-16. Short title.

This article may be defined and cited as the City Sales Tax Code.

(Code 1970, § 14-1; Code 1980, § 52-16)

§ 52-17. Definitions.

(a) The definitions of words, terms and phrases contained in 68 O.S. § 1352 are hereby adopted by reference and made a part of this article.

(b) The term "tax collector" shall mean the department of the City government or the official agency of the State duly designated by law or contract and authorized by law to administer the collection of the tax levied under this article.

(Code 1970, § 14-2; Code 1980, § 55-17)

Cross references: Definitions and rules of construction generally, § 1-2.

§ 52-18. Subsisting State permits.

All valid and subsisting permits to do business issued by the State Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purposes of this article, hereby ratified, confirmed and adopted in lieu of any requirement for an additional City permit for the same purpose.

(Code 1970, § 14-3; Code 1980, § 52-18)

State law references: Permits to do business, 68 O.S. § 1364.

§ 52-19. Vendor's tax duties.

(a) The tax levied under this article shall be paid by the consumer or user to the vendor. Each and every vendor in this City shall collect from the consumer

or user the full amount of the tax levied, or an amount equal as nearly as possible or practical to the average equivalent thereof.

(b) Vendors shall add said tax or the average equivalent thereto, to the sales price or charge, and, when added, such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

(c) No vendor shall intentionally fail, neglect or refuse to:

(1) collect the full amount of the tax levied;

(2) comply with the provisions of this article.

(d) No vendor shall:

(1) remit or rebate, directly or indirectly, all or any part of said tax to a consumer or user;

(2) advertise, making any statement verbally or otherwise which infers that he is absorbing the tax or paying the tax for the consumer or user.

(Code 1970, § 14-4; Code 1980, § 52-19)

State law references: Vendor's duty to collect tax, 68 O.S. § 1361.

§ 52-20. Gross receipts subject to excise tax.

An excise tax of two percent is hereby levied upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax law of this State, including but not exclusive of the following:

(1) tangible personal property;

(2) natural or artificial gas, electricity, ice, steam, or any other utility or public service, except water;

- (3) transportation for hire of persons by common carriers, including railroads, both steam and electric, motor transportation companies, taxicab companies, Pullman car companies, airlines and all other means of transportation for hire;
- (4) service by telephone and telegraph companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with transmission of any message;
- (5) printing or printed matter of all types, kinds and characters and the service of printing or over-printing;
- (6) service of furnishing rooms by hotels, apartment hotels, public roominghouses and public lodgishouses and tourist camps;
- (7) service of furnishing storage or parking privileges by auto hotels and parking lots;
- (8) foods, confections and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;
- (9) advertising of all kinds, types and character, including any and all devices used for advertising purposes and the servicing of any advertising devices, except as provided in Paragraph (15) of Section 52-24;
- (10) dues or fees to clubs, and the sale of tickets or admission to places of amusement, to athletic, entertainment, recreational events, or dues or fees for the privilege of having access to or the use of amusement, entertainment, athletic or recreational facilities, including free or complimentary passes, tickets, dues or fees which are hereby declared to have a value equivalent to the sale price of regularly priced tickets, passes, admissions, fees or dues of like kind or character;
- (11) Sales of services and tangible personal property made for the purpose of developing real estate, even though such real estate is intended for resale as real property, are hereby declared to be sales to consumers or users. Sales of service and tangible personal property, including materials, supplies and equipment made to contractors who use same in the performance of any contract, are hereby declared to be sales to consumers or users and not sales

for resale. Sales of tangible personal property to persons who are primarily engaged in selling their services shall be deemed sales to consumers or users and, therefore, taxable. Sales of tangible personal property to peddlers, solicitors and other salesmen who do not have established places of business shall be deemed to be sales to consumers or users, and, therefore, taxable.

(Code 1970, § 14-5; Code 1980, § 52-20)

State law references: Authority to levy or impose such a tax, 68 O.S. § 2701.

§ 52-21. Additional excise tax on gross receipts for funding of police, firefighting and fire rescue services, facilities and equipment.

(a) In addition to and cumulative of the excise tax of two percent levied upon gross proceeds or gross receipts derived from all sales taxable under Section 52-20 of the City Sales Tax Code, an excise tax in the additional amount of 3/4 percent is hereby levied upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this State, including but not limited to the specific taxable sales and service transactions enumerated in Paragraphs (1) through (11) of Subsection (a) of Section 52-20.

(b) The additional excise tax levied pursuant to Section 52-21(a) of this article shall be expended only for the following purposes:

(1) One-half of said tax shall be expended only for the purposes of providing police services, facilities or equipment, commencing with:

a. the funding of a minimum additional 200 fully equipped police officers for the Police Department;

b. the funding of purchase, maintenance and operation costs for 192 fully equipped new police cars;

c. the funding of purchase, maintenance and operation costs for 80 additional vehicles to complete implementation of the "Take-Home-Car-Program" for the Oklahoma City uniformed police force;

d. the funding of purchase, maintenance and operation costs to replace the police motorcycle fleet;

e. the funding of purchase, maintenance and operation for a new police mobile command post;

f. the purchase of new equipment for the Oklahoma City Police Department, including but not limited to radios, a report recording system, microfilming equipment, mobile data terminals, a digital mug-shot system, personal computers, a public safety enhancement system, a pneumatic target turning system, a firearms training system, audiovisual equipment, audio recording equipment, a fume hood, a gas chromatograph, and blood analysis testing equipment;

g. the funding of improvements to Oklahoma City Police Department buildings and facilities, including but not limited to redesign of the heating and air conditioning unit in the Oklahoma City Police Department headquarters building, refurbishing the police training center, paving the road leading to the police firearms range, construction of a heliport on the roof of the Oklahoma City police headquarters, and jail building renovation;

h. the funding of other projects which provide police services, facilities or equipment.

(2) One-half of said tax shall be expended only for the purposes of providing firefighting and fire rescue services, facilities or equipment, commencing with:

a. construction and equipping a new fire station in the vicinity of Southwest 15th Street and Mustang Road, Oklahoma City;

b. construction and equipping a new fire station in the vicinity of Northwest 93rd Street and Council Road, Oklahoma City;

c. construction and equipping of a new fire station in the vicinity of Southwest 134th Street and South May, Oklahoma City;

d. construction and equipping of a new fire station in the vicinity of Southeast 104th Street and Peebly Road, Oklahoma City;

e. construction and equipping of a new fire station in the vicinity of Northwest 164th Street and North Pennsylvania Avenue, Oklahoma City;

- f. replacement of vehicles used by the Oklahoma City Fire Department;
- g. purchase of maintenance of firefighting tools and equipment;
- h. the funding of a minimum additional 200 fully equipped firefighters for the Oklahoma City Fire Department; and
- i. the funding of other projects which provide firefighting or fire rescue services, facilities or equipment.

(c) (1) There is hereby established a limited-purpose tax fund to be known as the "police services, facilities or equipment tax fund" into which 1/2 of all revenues collected pursuant to this Section 52-21 shall be deposited.

(2) There is hereby established a limited-purpose tax fund to be known as the "firefighting and fire-rescue services, facilities or equipment tax fund" into which 1/2 of all revenues collected pursuant to this Section 52-21 shall be deposited.

(3) Monies in said limited-purpose tax funds shall be accumulated from year to year and shall be placed in an insured interest-bearing account and the interest which accrues on each such fund shall be retained in the respective fund. Said limited-purpose tax funds shall be non-fiscal and shall not be considered in computing any levy when the City makes its estimate to the Excise Board for needed appropriations. Monies in each limited-purpose tax fund shall be expended only as accumulated and only for the respective limited purposes described in Sections 52-21(b)(1) and 52-21(b)(2) above. Monies in the limited-purpose tax funds may be appropriated for the authorized purposes provided by law.

(Code 1980, § 52-20.1; Ord. No. 19226, § 1, 6-27-89)

§ 52-22. Additional excise on gross receipts for funding of Oklahoma City Zoo.

(a) In addition to, and cumulative of, the excise tax of two percent levied by Section 52-20 upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax law of this State and the excise tax of 3/4 percent levied by Section 52-21 upon the gross proceeds or the gross receipts derived from all sales taxable under the sales tax law of this State, an excise tax in the additional amount of 1/8 percent is hereby levied upon the

gross proceeds or gross receipts derived from all sales taxable under the sales tax law of this State, including but not exclusive of the specific taxable sales and service transactions enumerated in Paragraphs (1) through (11) of Subsection (a) of Section 52-20.

(b) The additional excise tax levied pursuant to this Section 52-22 shall be expended only for funding the Oklahoma City Zoo, including, without limitation, the following:

(1) the funding of the establishment, maintenance, replacement, and expansion of zoological parks and gardens and other collections in connection with the Oklahoma City Zoo.

(2) the funding of the establishment, maintenance, replacement, and expansion of entertainment facilities in connection with the Oklahoma City Zoo.

(3) the funding of the acquisition, maintenance, and replacement of real property, improvements thereto, and buildings thereon in connection with the Oklahoma City Zoo.

(4) the funding of the acquisition, maintenance, and replacement of personal property in connection with the Oklahoma City Zoo, including, without limitation:

a. the acquisition, maintenance and replacement of animals, plants, and other specimens in connection with the Oklahoma City Zoo;

b. the acquisition, maintenance, and replacement of equipment and supplies in connection with the Oklahoma City Zoo.

(5) the funding of the operational expenses of the Oklahoma City Zoo, including, without limitation:

a. promotional expenses in connection with the Oklahoma City Zoo.

b. compensation expenses in connection with the Oklahoma City Zoo.

c. insurance expenses in connection with the Oklahoma City Zoo.

- d. interest expenses in connection with the Oklahoma City Zoo.
 - e. expenses associated with concessions and other entertainment facilities operated in connection with the Oklahoma City Zoo.
 - f. other operating expenses of the Oklahoma City Zoo of a type normally associated with a major metropolitan zoo.
- (6) the funding of educational research and programs in connection with the Oklahoma City Zoo.
- (7) the funding of conservation programs in connection with the Oklahoma City Zoo.
- (8) the funding of all other expenses deemed necessary or advisable by the Oklahoma City Zoological Trust in connection with the operation of the Oklahoma City Zoo.
- (c) (1) There is hereby established a limited-purpose tax fund to be known as the "Oklahoma City Zoo tax fund" into which all revenues collected pursuant to this Section 52-22 shall be deposited.

(2) Monies in such limited-purpose tax fund shall be accumulated from year to year. Such limited-purpose tax fund shall be placed in an insured interest-bearing account and the interest which accrues on such limited-purpose tax fund shall be retained in such limited-purpose tax fund. Such limited-purpose tax fund shall be non-fiscal and shall not be considered in computing any levy when this City makes its estimate to the Excise Board for needed appropriations. Money in such limited-purpose tax fund shall be expended only as accumulated and only for the purpose described in Section 52-22(b).

(Code 1980, § 52-20.2; Ord. No. 19441, § 1, 7-17-90)

§ 52-23. Additional limited-term excise tax on gross receipts for funding of metropolitan projects.

(a) In addition to, and cumulative of, the excise tax of two percent levied by Section 52-20 of this chapter upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this State, the excise

tax of 3/4 percent levied by Section 52-21 of this chapter upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this State, and the excise tax of 1/8 percent levied by Section 52-22 of this chapter upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this State, a limited-term excise tax in the additional amount of one percent is hereby levied upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this State, including but not limited to the specific taxable sales and service transactions enumerated in Paragraphs (1) through (11), inclusive, of Subsection (a) of Section 52-20 of this chapter. The limited term of the additional excise tax levied pursuant to this Subsection 52-23(a) is specified in Subsection 52-23(h) below.

(b) The additional limited-term excise tax levied pursuant to Subsection 52-23(a) above may be expended only for the following limited purposes (the "main projects"):

(1) improvements related to the North Canadian River (which may include without limitation the construction or installation of dams, the construction of a canal, and/or the construction, installation, or provision of public amenities such as landscaping, trails, docks, picnic areas, recreation areas, parking facilities, and/or lighting);

(2) a metropolitan learning center (to include but not be limited to a main library facility);

(3) a baseball park meeting not less than "AAA" professional baseball standards;

(4) the improvement of the Myriad Convention Center and/or related facilities;

(5) the improvement of the civic center music hall and/or related facilities;

(6) the improvement of the Oklahoma City fairgrounds and/or related facilities;

(7) an indoor sports/convention facility meeting not less than National Hockey League (NHL) or National Basketball Association (NBA) standards;

(8) all or part of a transportation system and/or related facilities to provide access between Interstate Highway 40 and Meridian Avenue and downtown Oklahoma City; provided, said system and/or facilities shall be funded only if a Federal grant covering not less than 50 percent of applicable costs is obtained;

(9) site acquisition, site preparation, site improvements, infrastructure, parking facilities, personal property, engineering fees, architectural fees, and/or legal fees related to one or more of the main projects listed above in Subsections 52-23(b)(1) through (b)(8), inclusive;

(10) the payment of principal and interest on and the costs of issuance of notes or other shortterm obligations in support of one or more of the main projects listed above in Subsections 52-23(b)(1) through (b)(9), inclusive, issued by a public trust of which the City is the sole beneficiary; and/or

(11) the payment of senior citizens tax refunds authorized by Subsection 52-23(f) below and administrative costs related thereto.

The main projects listed above in Subsections 52-23(b)(1) through (b)(10), inclusive, may be commenced, continued, completed, and/or concluded, in whole or in part, as and in the order deemed appropriate by Council.

(c) Upon conclusion of the main projects listed above in Subsections 52-23(b)(1) through (b)(10), inclusive, the additional limited-term excise tax levied pursuant to Subsection 52-23(a) above may be expended for the following supplemental limited purposes (the "supplemental projects"):

(1) additional improvements to the Oklahoma City fairgrounds and/or related facilities not funded under the main project listed above in Subsection 52-23(b)(6);

(2) all or part of a transportation system and/or related facilities to provide access between downtown Oklahoma City and the vicinity of Remington Park; provided, said system and/or facilities shall be funded only if a Federal grant covering not less than 50 percent of applicable costs is obtained;

(3) art, natural history, history, cultural, or educational museums and/or facilities;

(4) site acquisition, site preparation, site improvements, infrastructure, parking facilities, personal property, engineering fees, architectural fees, and/or legal fees related to one or more of the supplemental projects listed above in Subsections 52-23(c)(1) through (c)(3), inclusive;

(5) the payment of operating costs, maintenance costs, and/or capital replacement costs related to one or more of the main or supplemental projects listed above in Subsections 52-23(b)(1) through (b)(9), inclusive, or Subsections 52-23(c)(1) through (c)(4), inclusive, as applicable; and/or

(6) the payment of principal and interest on and the costs of issuance of notes or other shortterm obligations in support of one or more of the supplemental projects listed above in Subsections 52-23(c)(1) through (c)(5), inclusive, issued by a public trust of which the City is the sole beneficiary.

The supplemental projects listed above in Subsections 52-23(c)(1) through (c)(6), inclusive, may be commenced, continued, completed, and/or concluded, in whole or in part, as and in the order deemed appropriate by Council.

As used in Subsection 52-23(c), the phrase "conclusion of the main projects" shall mean the final funding of the main projects in the amount(s) determined by Council.

(d) There is hereby established a limited-purpose tax fund to be known as the "Oklahoma City metropolitan projects tax fund" into which all revenues collected pursuant to Subsection 52-23(a) above shall be deposited. Monies in said limited-purpose tax fund shall be accumulated from year to year. Said fund shall be placed in an insured interest-bearing account and the interest which accrues on the fund shall be retained in the fund. Said limited-purpose tax fund shall be non-fiscal and shall not be considered in computing any levy when the City makes its estimate to the Excise Board for needed appropriations. Monies in said limited-purpose tax fund shall be expended only as accumulated and only for the limited purposes ("main projects" or "supplemental projects") described in Subsection 52-23(b) or Subsection 52-23(c), as applicable.

(e) Prior to expenditure of any monies in the Oklahoma City metropolitan projects tax fund, Council shall establish or designate a Citizens Oversight Board to review expenditures of such monies and submit recommendations to Council regarding such expenditures.

(f) Refunds of the additional limited-term excise tax levied under Subsection 52-23(a) above are hereby authorized in accordance with the following provisions:

(1) A person who is a resident of the City, who actually paid the additional limited-term excise tax of one percent levied under Subsection 52-23(a) above, and who was a senior citizen at all times during the calendar year in which the tax was paid, may file a claim with the City for a refund of tax payments made during the applicable calendar year. Only one refund claim shall be filed or allowed per person per calendar year. The amount of any refund allowed hereunder shall not exceed \$32.00 per person per calendar year.

(2) Claims for refunds of taxes paid during a calendar year shall be filed with the Finance Director on claim forms provided by the Director and shall be filed no earlier than January 1 of the succeeding calendar year and no later than March 1 of the succeeding calendar year. Failure to file a claim on or before March 1 of the succeeding calendar year shall constitute a forfeiture of a person's right to receive a refund for taxes paid during the preceding calendar year. Only one claim may be filed per person per calendar year.

(3) No person shall be entitled to a refund based on a claim filed under Subsection 52-23(f)(1) above unless there shall be attached to and made a part of such claim a statement, signed under the penalty of perjury, on a form approved by the Council and provided by the Director, containing appropriate certifications to verify said claim.

(4) a. The Director shall review all claims received by him and shall examine the statements attached thereto as to the claimant's eligibility to receive a refund; and may request such further information and documentation, including without limiting the generality thereof any documents listed below, as needed to verify the claimant's eligibility. Any documents submitted shall be confidential, handled so as to protect the privileged nature of the same, and returned to the claimant after the Director has reviewed the same. The documents referred to above are:

1. acceptable proof of residence, which may include without limitation a driver's license or voter identification card;
2. acceptable proof of age, which may include without limitation a driver's license or Medicare identification card; and/or
3. any other information deemed necessary by the Director.

b. If a person shall otherwise be eligible for a refund under other provisions hereof, the Director may recommend payment of the claim if he is satisfied that the claimant has not wilfully made any false statement in the claim for the purpose of obtaining a refund and if the claimant cooperated with the Director's request for information and documentation under Subsection 52-23(f)(4)a above.

c. The Director shall submit each claim to the Council together with his recommendation for approval or disapproval of same. If the Director's recommendation shall be that a claim be disapproved, the Director shall accompany his recommendation to the Council with a concise statement of reasons for such recommendation.

(5) If the Council shall determine, in its discretion, that the claimant is eligible for a refund of taxes paid under the provisions of this Subsection 52-23(f), it shall approve the claim for refund, but without interest, subject to the limitations as to amount contained in Subsection 52-23(f)(1) above.

(6) A person who shall wilfully make a false statement in any claim for a refund or who signs a false or fraudulent claim for the purpose of defrauding the City shall be guilty of an offense against the City and may be declared to be ineligible to receive refunds of taxes levied under Subsection 52-23(a) above for such period of time as the Council, in its discretion, may deem appropriate.

(7) The following words, terms, and phrases when used in this Subsection 52-23(f) shall have the meanings ascribed to them below:

a. *Calendar year* means the 12-month period commencing on January 1 of any year and ending on December 31 of the same year.

b. *Director* means the Director of Finance of the City; and

c. *Senior citizen* means a person 65 years of age or older.

(8) In addition to all other powers granted to the Director under this chapter, he is hereby authorized and empowered:

- a. to make, adopt and amend rules and regulations appropriate to carrying out this Subsection 52-23(f);
 - b. to delegate his functions under this Subsection 52-23(f) to an assistant or other employee or employees of the City; and
 - c. to prescribe methods for determining the eligibility for a refund under this Subsection 52-23(f).
- (g) Except as specifically defined in this article, the words and terms used in this Section 52-23 shall have and be given their plain, ordinary, and customary meaning.
- (h) The additional excise tax levied pursuant to Subsection 52-23(a) above shall be for a limited term of five and one-half years beginning at 12:00 a.m. on January 1, 1994, and ending at 12:00 a.m. on July 1, 1999.

(Ord. No. 20045, § 1(52-20.3), 10-19-93, eff. 12-14-93; Ord. No. 21132, § 1, 10-6-98)

§ 52-23.1. Additional excise tax on gross receipts for funding City capital improvements.

- (a) In addition to and cumulative of the excise tax of two percent levied by Section 52-20 of this chapter upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this state, the excise tax of three-fourths percent levied by Section 52-21 of this chapter upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this state, and the excise tax of one-eighth percent levied by Section 52-22 of this chapter upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this state, a limited-term excise tax in the additional amount of one-half percent is hereby levied upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this state, including but not limited to the specific taxable sales and service transactions enumerated in Paragraphs (1) through (11), inclusive, of Subsection (a) of Section 52-20 of this chapter.
- (b) The additional limited-term excise tax levied pursuant to Subsection 52-23.1(a) above may be expended only for the limited purpose of providing City capital improvements, including without limitation the following City capital improvements:

- (1) Oklahoma City Fire Department vehicles;
- (2) Oklahoma City Police Department vehicles;
- (3) Oklahoma City Fire Department information systems;
- (4) Oklahoma City Police Department information systems;
- (5) Oklahoma City Fire Department mobile data systems;
- (6) Oklahoma City Police Department mobile data systems;
- (7) Oklahoma City Police Department helicopters;
- (8) A City radio communications system;
- (9) City public safety computer-aided dispatch systems;
- (10) A City communications network to support City mobile data systems, including without limitation Oklahoma City Fire Department mobile data systems, Oklahoma City Police Department mobile data systems, and general City mobile data systems;
- (11) A City public emergency warning system; and
- (12) If deemed necessary or appropriate by Council for cash-flow purposes, the payment of principal and interest on and the costs of issuance of notes or other short-term obligations not exceeding a term of five years, issued by a City public trust for the purpose of providing one or more City capital improvements.

Provided, the City capital improvements listed above in Subsections 52-23.1(b)(1) through 52-23.1(b)(12), inclusive, may be commenced, continued, completed, and/or concluded, in whole or in part, as and in the order deemed appropriate by Council.

(c) Pursuant to authority of 11 O.S. § 17-109, and 68 2701(B), there is hereby created a limited-purpose fund to be known as the "Oklahoma City Capital Improvement Fund" (hereinafter the "Fund") into which all revenues collected pursuant to Subsection 52-23.1(a) above shall be deposited. Money in the Fund shall be accumulated from year-to-year. The Fund shall be placed in an insured interest-bearing account and the interest which accumulates on the Fund shall be retained in the Fund. The Fund shall be non-fiscal and shall not be considered in computing any levy when the City makes its estimate to the Excise Board for needed appropriations. Money in the Fund shall be expended only as accumulated and only for the limited-purpose specified in Subsection 52-23.1(b) above.

(d) The additional excise tax levied pursuant to Subsection 52-23.1(a) above shall be for a limited term of 32 months, beginning at 12:00 a.m. on July 1, 2000, and ending at 12:00 a.m. on March 1, 2003.

(e) For purposes of this section, the term capital improvement shall have and be given the same meaning as set forth in 11 O.S. § 17-110.

(Ord. No. 21385, § 1, 12-21-99)

§ 52-23.2. Additional excise tax on gross receipts for providing or improving certain public schools or public school facilities and/or for demolishing certain abandoned public schools or public school facilities.

(a) In addition to and cumulative of the excise tax of two percent levied by Section 52-20 of this chapter upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this state, the excise tax of three-fourths percent levied by Section 52-21 of this chapter upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this state, the excise tax of one-eighth percent levied by Section 52-22 of this chapter upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this state, and the limited-term excise tax of one-half percent levied by Section 52-23.1 of this chapter upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this state, an additional limited-term excise tax at the rates specified in Subsection (b) of this section is hereby levied upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this state, including but not limited to the specific taxable sales and service transactions enumerated in Paragraphs (1) through (11), inclusive, of Section 52-20 of this chapter.

(b) The rates for the additional excise tax levied by Subsection (a) of this section shall be as follows:

(1) From 12:00 a.m. on January 1, 2002, until 12:00 a.m. on April 1, 2003, the rate of said excise tax shall be one-half percent; and

(2) From 12:00 a.m. on April 1, 2003, until the expiration of said excise tax at 12:00 a.m. on January 1, 2009, the rate of said excise tax shall be one percent.

(c) The additional excise tax levied pursuant to Subsection 52-23.2(a) above may be expended for providing or improving public schools or public school facilities attended by City-resident students by any one or more of the following expenditures:

(1) funding the purchase of a public school site or sites attended (or to be attended) by City-resident students;

(2) funding the erection or purchase and complete or partial furnishing and equipping of a public school building or buildings attended (or to be attended) by City-resident students;

(3) funding repairs to an existing public school building or buildings attended by City-resident students;

(4) funding the purchase of public school furniture or fixtures for a public school site or sites or a public school building or buildings attended by City-resident students;

(5) funding improvements to a public school site or sites attended by City-resident students;

(6) funding transportation equipment to convey pupils to and from a public school or schools attended by City-resident students;

(7) funding the purchase of equipment for a public school or schools attended by City-resident students;

(8) funding any project or projects undertaken by a school district to provide or improve public schools or public school facilities that are or will be attended by City-resident students; provided, expenditures for any such project or

projects shall be limited to the expenditures listed in Subsections (c)(1) through (c)(7), inclusive, or (c)(10), of this section;

(9) funding any City public trust that has as one of its purposes the provision or improvement of public schools or public school facilities; provided, revenues expended by the City to fund a City public trust pursuant to this Subsection (c)(9) may be expended by the public trust for the purpose of providing or improving public schools or public school facilities that are or will be attended by City-resident students by any one or more of the expenditures listed in Subsections (c)(1) through (c)(8), inclusive, or (c)(10), of this section; and/or

(10) funding any or all item(s), article(s), cost(s) or expense(s) incidental or related in any way to the aforesaid purpose or to any of the funding items listed above in Subsections (c)(1) through (c)(9) of this section, inclusive, including without limitation the funding of incidental or related administrative costs of:

- a. A public school or its school district;
- b. The City; and/or
- c. Any City public trust that has as one of its purposes the provision and/or improvement of public schools or public school facilities;

said incidental or related item(s), article(s), cost(s) and/or expenses(s) may include, without limitation, any or all incidental or related administrative costs, architectural costs, engineering costs, consulting costs, demolition costs, legal costs, costs of tort claims, judgments, and/or principal and interest on bonds, notes or other obligations issued by a City public trust for the purpose of providing or improving public schools or public school facilities attended (or to be attended) by City-resident students.

Provided, notwithstanding the above-stated purpose and expenditures, the additional excise tax levied pursuant to Subsection 52-23.2(a) above may also be expended for demolition of public school buildings or public school facilities located within the corporate limits of the City that have been abandoned for public school use by a school district.

(d) Pursuant to authority of 68 O.S. § 2701(B), there is hereby created a limited-purpose fund to be known as the "Oklahoma City Metropolitan Area Public Schools Sales Tax Fund" (hereinafter the "fund") into which all

revenues collected pursuant to this section shall be deposited. Money in the fund shall be accumulated from year-to-year. The fund shall be invested as provided by law, and any earnings on such investments shall be retained in the fund. The fund shall be non-fiscal and shall not be considered in computing any levy when the City makes its estimate to the Excise Board for needed appropriations. Money in the Fund shall be expended only as accumulated and only for the limited-purpose or expenditures specified in Subsection 52-23.2(c) above.

(e) The additional excise tax levied pursuant to Subsection 52-23.2(a) above (with rates as set by Subsection (b) of this section) shall be for a limited term of seven (7) years, beginning at 12:00 a.m. on January 1, 2002, and ending at 12:00 a.m. on January 1, 2009.

(f) For the purposes of this section, the following terms shall have the meanings indicated:

(1) City-resident student shall mean a student who meets the criteria set forth in both (1)a. and (1)b. below, to wit:

a. The student is officially enrolled at a public school of a school district located in whole or in part within the corporate limits of the City and his or her official address of enrollment is an address located within the legal boundaries of the City; and

b. The student also meets any one of the following:

1. His or her official address of enrollment is an address located within the legal boundaries of the school district that operates the public school or public school facilities that the student attends (viz., the student is a resident of the school district); or

2. He or she transferred into the school district that operates the public school or public school facilities that the student attends pursuant to 70 O.S. 1991, § 8-101 (or any similar successor statutory provision) (viz., the student transferred because he or she is in a grade that was not offered in the school district of residence); or

3. He or she transferred into the school district that operates the public school or public school facilities that the student attends pursuant to 70 O.S. § 8-104 (or any similar successor statutory provision) (viz., the student was an emergency transfer); or

4. He or she transferred into the school district that operates the public school or public school facilities that the student attends pursuant to 70 O.S. § 8-106 (or any similar successor statutory provision) (viz., the student transferred because school was dispensed with in the school district of residence); or

5. He or she transferred into the school district that operates the public school or public school facilities that the student attends pursuant to 70 O.S. Art. XIII (70 O.S. § 13-10) et seq. (or any similar successor statutory provision) (viz., the student transferred because the school district of residence did not offer required special education services).

Whenever used in this section in its plural form (City-resident students), the term shall be deemed to include both the singular and the plural forms of that term.

(2) Public school shall have the meaning set forth in the Oklahoma School Code, codified as 70 O.S. § 1-101, et seq., and specifically as such term is defined by 70 O.S. §§ 1-106 and 3-132(B), or by any successor statutory provisions defining the term public school; provided, such term shall be limited to schools situated within school districts located in whole or in part within the corporate limits of the City; provided further, such term is not intended and shall never be construed to include junior colleges, area vocational-technical school districts, community colleges, or universities.

(3) School district shall have the meaning set forth in the Oklahoma School Code, codified as 70 O.S. § 1-101, et seq., and specifically as such term is defined by 70 O.S. § 1-108, or by any successor statutory provisions defining the term school district; provided, such term shall be limited to school districts located in whole or in part within the corporate limits of the City; provided further, such term is not intended and shall never be construed to include junior colleges, area vocational-technical school districts, community colleges or universities.

(Ord. No. 21805, § 1, 9-11-01)

§ 52-24. Exemptions generally.

The gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code (68 O.S. § 1350 et seq.) are hereby exempted from the tax levied under this article. Such receipts or proceeds shall include those derived from:

- (1) sales of nonintoxicating beverages taxed as provided by State law;
- (2) sales of cigarettes and tobacco products as are taxed by State law;
- (3) sales of raw products from farm orchards or gardens, if such sale is made by the producer of such raw products directly to the consumer or user; gross receipts or gross proceeds derived from the sale of livestock, poultry, poultry products, and dairy products by the producers; exemptions granted by this subdivision shall not apply when such articles are sold, even though by the producer thereof, at or from an "established business place" not on a farm; neither shall this exemption apply unless said articles are produced or grown within the state. The provisions of this Subsection are intended to exempt the sale by livestock producers of livestock sold at special livestock sales. The provisions of this Subsection are intended to exempt the sale of dairy products when sold by a dairyman or farmer who owns all of the cows from which the dairy products he sells are produced. The provisions of this Subsection shall not be construed to exempt sales of dairy products by any other business. The provisions of this Subsection shall not be construed to exempt sales by florists, nurserymen and chicken hatcheries;
- (4) dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof provided such societies or organizations operate under what is commonly termed the lodge plan or system, and, provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member thereof to the exclusion of other members;
- (5) sales of tangible personal property or services to or by churches, except when such organizations may be engaged in business for profit or savings, competing with other persons engaged in the same or similar business;
- (6) vehicle transportation of schoolchildren to and from grade schools and high schools;
- (7) transportation of persons if the fare of each person does not exceed \$0.15, or local transportation of persons within the corporate limits of cities and towns except by taxicabs;
- (8) sales of food in public, common, high school or college cafeterias and lunchrooms operated primarily for teachers and pupils, and not operated primarily for the public or for profit;

(9) carrier sales made directly to consumers or users of newspapers or any other periodicals if any individual transaction does not exceed \$0.20;

(10) sales to the United States government, the State or any of its political subdivisions;

(11) the sale of gasoline or motor fuel on which the motor fuel tax, gasoline excise tax or special fuels tax has been paid to the state;

(12) sales of crude petroleum or natural or casing-head gas and other products subject to gross production tax under the provisions of the laws of this state. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas;

(13) sales of motor vehicles, attached optional equipment and accessories on which sale the State motor vehicle excise tax has been paid;

(14) sales by county, district and State fairs;

(15) the sale of advertising space in newspapers, periodicals and billboard advertising service, and sales of advertising time for radio and television broadcasts;

(16) sales for resale to persons regularly engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this State are made to persons to whom sales tax permits have been issued by the State Tax Commission as provided by law. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their personal use and when they are not regularly engaged in the business of reselling such article; and this exemption shall not apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have sales tax permits or established places of business;

(17) Goods, wares, merchandise, and property sold for use in manufacturing, compounding, processing, assembling or preparing for sale shall be classified as having been sold for the purpose of resale or the subject matter of resale if:

a. Such goods, wares, merchandise, or property are purchased for the purpose of being manufactured into a finished article and if it becomes a recognizable, integral part of the manufactured, compounded, processed, assembled or prepared products; or

b. It is consumed in the process of manufacturing, compounding, processing, assembling or preparing products for resale;

(18) sales of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the state, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already established in the state, provided, this exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation hereunder. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

(19) sales of tangible personal property manufactured in this State when sold by the manufacturer to a person who transports it to another state for immediate and exclusive use in some other state;

(20) sales of an interest in tangible personal property to a partner or other person who after such sale owns a joint interest in such tangible personal property, if the State sales or use tax has previously been paid on such tangible personal property;

(21) sales of containers sold to a person regularly engaged in the business of reselling empty or filled containers, or if said person purchases such containers for the purpose of packaging raw products of farm, garden or orchard, for resale to the consumer or processor. This exemption shall not apply to:

a. the sale of containers used more than once and which are ordinarily known as returnable containers unless a tax under this article is collected and paid to the tax collector by such person with respect to each and every transfer of title or possession of such returnable container if made to any consumer or user within this state;

b. the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;

(22) sales of poultry and livestock feed, and farm machinery as prescribed by the State Sales Tax Code (68 O.S. § 1350 et seq.);

(23) sales of farm machinery to be used directly on a farm or ranch in the production, cultivation, planting, sowing, harvesting, processing, spraying, preservation, or irrigation of any livestock, poultry, agricultural, or dairy products produced from such lands. Each purchaser of farm machinery must state in writing on the copy of the invoice or sales ticket to be retained by the seller that he is engaged in farming or ranching and that the farm machinery will be used only in farming or ranching;

(24) sales of agricultural fertilizer to persons regularly engaged for profit in the business of farming and/or ranching which are exempt from State sales taxes under provisions of 68 O.S. § 1358.

(Code 1970, § 14-6; Code 1980, § 52-21)

State law references: Exemptions generally, 68 O.S. §§ 1355--1360.

§ 52-25. Classification of taxpayers.

For the purpose of this article the classification of taxpayers shall be as prescribed by State law for purposes of the Oklahoma Sales Tax Code (68 O.S. § 1350 et seq.).

(Code 1970, § 14-7; Code 1980, § 52-22)

State law references: Classification of taxpayers, 68 O.S. § 1363.

§ 52-26. Tax constitutes debt.

Taxes, penalty and interest due under this article shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors.

(Code 1970, § 14-8; Code 1980, § 52-23)

State law references: Priority of lien for municipal taxes, 68 O.S. § 2704.

§ 52-27. Payment.

The tax levied under this article shall be due and payable at the time and in the manner and form prescribed under State law for payment of the State sales tax. Said tax prescribed shall be paid to the tax collector at the time and in the form and manner for payment of State sales tax under State law.

(Code 1970, § 14-9; Code 1980, § 52-24)

State law references: Payment of tax, 68 O.S. § 1362.

§ 52-28. Exempt business transfers.

The transfer of tangible personal property exempted from the Oklahoma Sales Tax Code (68 O.S. § 1350 et seq.) shall be exempted from the tax levied in this article. Such transfers include, but are not limited to, the following transfers:

- (1) from one corporation to another corporation pursuant to a reorganization. As used in this Subsection the term "reorganization" means:
 - a. a statutory merger or consolidation;
 - b. the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation;
- (2) in connection with the winding up, dissolution or liquidation of a corporation if there is a distribution in kind to the shareholders of the property of such corporation;
- (3) to a corporation for the purpose of organization of such corporation if the former owners of the property transferred are in control of the corporation immediately after the transfer and the stock of securities received by each is substantially in proportion to this interest in the property prior to the transfer;
- (4) to a partnership in the organization of such partnership if immediately after the transfer the former owners of the property transferred are members

of such partnerships and the interest in the partnership, received by each, is substantially in proportion to his interest in the property prior to the transfer;

(5) from a partnership to the members thereof if made in kind in the dissolution of such partnership.

(Code 1970, § 14-10; Code 1980, § 52-25)

State law references: Exempt business transfers, 68 O.S. § 1360.

§ 52-29. Returns and remittances; discounts.

Returns and remittances of the tax herein levied and collected shall be made to the tax collector at the time, and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Sales Tax Code (68 O.S. § 1350 et seq.); remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said code for collection of State sales taxes.

(Code 1970, § 14-11; Code 1980, § 52-26)

State law references: Returns and remittances, 68 O.S. §§ 1362, 1365; discount, 68 O.S. § 1367.

§ 52-30. Interest and penalties; delinquency.

(a) The provisions of 68 O.S. § 217 are hereby adopted and made a part of this Code. Interest and penalties at the rates and in amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Code.

(b) The failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this Code shall cause such tax to be delinquent. If such delinquency continues for a period of five days the taxpayer shall forfeit his claim to any discount allowed under this article.

(Code 1970, § 14-14; Code 1980, § 52-27)

§ 52-31. Erroneous tax payments; claim to refund.

(a) Refund of erroneous payment of the tax levied by the provisions of this article may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State sales tax as set forth in 68 O.S. § 227.

(b) To accomplish the purposes of this section, the applicable provisions of 68 O.S. § 227 are hereby adopted by reference and made a part of this article.

(Code 1970, § 14-15; Code 1980, § 52-28)

§ 52-32. Waiver of interest and penalties.

(a) The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the City tax levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the State sales tax provided in 68 O.S. § 220.

(b) In order to accomplish the purposes of this section the applicable provisions of 68 O.S. § 220 are hereby adopted by reference and made a part of this article.

(Code 1970, § 14-16; Code 1980, § 52-29)

§ 52-33. Failure to file; fraudulent return--Prohibited.

No taxpayer shall:

(1) fail to make tax reports and remittances as required under this article.

(2) make false and fraudulent tax reports for the purpose of avoiding or escaping payment of any tax or portion thereof due under this article.

(Code 1970, § 14-17; Code 1980, § 52-30; Ord. No. 18473, § 1, 5-27-86)

§ 52-34. Same--Penalty.

The failure or refusal of any taxpayer to make reports and remittances herein required, or making of any false and fraudulent report for the purpose of

avoiding or escaping payment of any tax or portion thereof rightfully due under this article, shall be a Class "b" offense and, upon conviction thereof, the offending taxpayer shall be subject to costs and to a fine of not more than \$750.00, excluding costs or imprisonment for not more than six months in the City Jail or both such fine and imprisonment. Each day a violation exists shall constitute a separate violation and is subject to all penalties herein.

(Code 1980, § 52-30.1; Ord. No. 18473, § 2, 5-27-86; Ord. No. 20469, § 1, 10-24-95)

State law references: Penalty for ordinance violations, 11 O.S. § 14-111.

§ 52-35. Records confidential.

The confidential and privileged nature of the records and files concerning the administration of the tax levied in this article is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. § 205 and each Subsection thereof are hereby adopted by reference and made fully effective and applicable to administration of the tax levied in this article.

(Code 1970, § 14-18; Code 1980, § 52-31)

§ 52-36. Amendments.

The people of this City hereby authorize the City Council to make such administrative and technical changes or additions in the method and/or manner of administration and enforcing of this article as may be necessary or proper for efficiency and fairness except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the City as provided by law.

(Code 1970, § 14-12; Code 1980, § 52-32)

State law references: Approval of tax ordinance by voters, 68 O.S. § 2705.

§ 52-37. Provisions cumulative.

The provisions hereof shall be cumulative, and in addition to any and all other ordinances.

(Code 1970, § 14-13; Code 1980, § 52-33)

§§ 52-38--52-60. Reserved.

Miami

ARTICLE XV. DISCRETIONARY SALES SURTAX AUTHORIZED BY SECTION 212.055(1), FLORIDA STATUTES (1999).

Sec. 29.115. Sales surtax levied.

There is hereby levied and imposed a one (1) percent discretionary sales surtax authorized by Section 212.055(1), Florida Statutes (1999) on all transactions occurring in Miami-Dade County which transactions are subject to the state tax imposed on sales, use, rentals, admissions and other transactions by Chapter 212, Florida Statutes (1999)

(Ord. No. 99-68, § 1, 6-22-99)

Sec. 29.116. Surtax rate, limitations.

The surtax rate shall be one (1) percent on the amount of taxable sales and taxable purchases representing such transactions. The limitations, conditions and provisions contained in Section 212.054, Florida Statutes (1999) as the same may be amended and supplemented from time to time are hereby incorporated herein.

(Ord. No. 99-68, § 1, 6-22-99)

Sec. 29-117. Exemption from Sales Surtax.

All exemptions applicable to the discretionary sales surtax contained in Chapter 212, Florida Statutes are hereby incorporated herein as the same may be amended and supplemented from time to time including, but not limited to, the following:

1. The tax on any sales amount above five thousand dollars (\$5,000.00) on any item of tangible personal property and on long-distance telephone service shall not be subject to the sales surtax. For purposes of administering the five thousand dollar (\$5,000.00) limitation of an item of tangible personal property, if two (2) or more taxable items of tangible personal property are sold to the same purchaser at the same time and, under generally accepted business practice or industry standards or usage, are normally sold in bulk or are items that, when assembled, comprise a working unit or part of a working unit, such items must be considered a single item for purposes of the five thousand dollar (\$5,000.00) limitation when supported by a charge ticket, sale slip, invoice, or other tangible evidence of a single sale or rental. The limitation provided in this subsection does not apply to the sale of any other service.

2. The sale at retail, the rental, the use, the consumption; the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the sales surtax imposed by this article.

(1) Exemptions; General groceries.

(a) There are exempt from the sales surtax imposed by this article food and drinks for human consumption except candy. Unless the exemption provided by Chapter 212, Florida Statutes, for school lunches, for meals to certain patients or inmates, for meals provided by certain nonprofit organizations, or for food or drinks sold through vending machines pertains, none of such items of food or drinks means:

1. Food or drinks services, prepared, or sold in or by restaurants; drugstores; lunch counters; cafeterias; hotels; amusement parks; racetracks; taverns; concession stands at arenas, auditoriums, carnivals, fairs, stadiums, theaters, or other like places of business; or by any business or place required by law to be licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, except bakery products sold in or by pastry shops, doughnut shops, or like establishments for consumption off the premises;

2. Foods and drinks sold ready for immediate consumption from vending machines, pushcarts, motor vehicles, or any other form of vehicle;

3. Soft drinks, which include, but are not limited to, any nonalcoholic beverage, any preparation or beverage commonly referred to as a "soft drink," or any noncarbonated drink made from milk derivatives or tea, when sold in cans or similar containers. The term "soft drink" does not include: natural fruit or vegetable juices or their concentrates or reconstituted natural concentrated fruit or vegetable juices, whether frozen or unfrozen, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned with salt or spice, or unseasoned; coffee or coffee substitutes; tea except when sold in containers as provided herein; cocoa; products intended to be mixed with milk; or natural fluid milk;

4. Foods or drinks cooked or prepared on the seller's premises and sold ready for immediate consumption either on or off the premises, excluding bakery products for off-premises consumption unless such foods are taxed under Subsection 1 or Subsection 2; or

5. Sandwiches sold ready for immediate consumption.

For the purposes of this section, "Seller's premises" shall be construed broadly, and means, but is not limited to, the lobby, aisle, or auditorium of a theater, the seating, aisle, or parking area of an arena, rink, or stadium; or the parking area of a drive-in or outdoor theater. The premises of a caterer with respect to catered meals or beverages shall be the place where such meals or beverages are served.

(b) 1. Food or drinks not exempt under Section (a) shall be exempt, notwithstanding that Section, when purchased with food coupons or Special Supplemental Food Program for Women, Infants, and Children vouchers issued under authority of federal law.

2. This section is effective only while federal law prohibits a state's participation in the federal food coupon program of Special Supplemental Food Program for Women, Infants, and Children if there is an official determination that state or local sales taxes are collected within that state on purchases of food or drinks with such coupons.

3. This section shall not apply to any food or drinks on which federal law shall permit sales taxes without penalty, such as termination of the state's participation.

4. Notwithstanding any other provision of law, the Department of Revenue shall make refunds or allow credits to a distributor equal to the fee imposed and paid under Section 403.7197 on containers purchased by consumers with food coupons or Special Supplemental Food Program for Women, Infants, and Children vouchers issued under authority of federal law.

(2) Exemptions; Medical.

(a) There shall be exempt from the sales surtax imposed by this article any product, supply, or medicine dispensed in a retail establishment by a pharmacist licensed by the state, according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal and external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health and

Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the sales surtax imposed by this article artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; and funerals. In addition, any items intended for one-time use which transfer essential optical characteristics to contact lenses shall be exempt from the sales surtax imposed by this article, however, this exemption shall apply only after one hundred thousand dollars (\$100,000) of the sales surtax imposed by this article on such items has been paid in any calendar year by a taxpayer who claims the exemption in such year. Funeral directors shall pay tax on all tangible personal property used by them in their business.

(b) For the purposes of this subsection:

1. *Prosthetic and orthopedic appliances* means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, to alleviate the malfunction of any part of the body, or to assist any disabled person in leading a normal life by facilitating such person's mobility. Such apparatus, instrument, device, or equipment shall be exempted according to an individual prescription or prescriptions written by a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466, Florida Statutes, or according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue.

2. *Cosmetics* means articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleaning, beautifying, promoting attractiveness, or altering the appearance and also means articles intended for use as a compound of any such articles, including, but not limited to, cold creams, suntan lotions, makeup, and body lotions.

3. *Toilet articles* means any article advertised or held out for sale for grooming purposes and those articles that are customarily used for grooming purposes, regardless of the name by which they may be known, including, but not limited to, soap, toothpaste, hair spray, shaving products, colognes, perfumes, shampoo, deodorant, and mouthwash.

(c) Chlorine shall not be exempt from the tax imposed by this article when used for the treatment of water in swimming pools.

(d) This subsection shall be strictly construed and enforced.

(Ord. No. 99-68, § 1, 6-22-99)

Sec. 29-118. Trust fund created; uses of surtax proceeds and other moneys.

Miami-Dade County shall be the depository of the surtax proceeds collected by the State and distributed to Miami-Dade County hereunder. The Board of County Commissioners shall deposit the proceeds from the surtax, the proceeds from MDTA revenues and the proceeds from the three (3) cents capital improvements local option gas tax dedicated to transit purposes in a special trust fund ("Fund A") set aside from other County funds in the custody of the Finance Director of the County. The Board of County Commissioners shall deposit the proceeds from the annual budgeted amount from the general fund for MDTA referred to in Section 5 of the ordinance from which this section derives in a special trust fund ("Fund B") set aside from other County funds in the custody of the Finance Director. Interest earnings on the investment of the moneys on deposit in Fund A and Fund B shall be credited thereto as the Finance Director shall deem appropriate. Exhibit 1 attached to the ordinance from which this section derives sets forth the Revenues consisting of Sales Tax, General Fund Subsidy/LOGT and MDTA Revenues and a component of Interest attributable to the investment of such Revenues and forecasts the breakdown of the sources of revenues which make up Revenues. Moneys in Fund A shall be expended solely for transportation purposes as provided in Subsections (a), (c) and (d) of this Section 29-118. Moneys in Fund B shall be expended solely for the purposes set forth in Subsections (b), (c) and (e) of this Section 29-118; provided, however, that if at any time during a fiscal year the Board of County Commissioners determines that the moneys on deposit in Fund A is not or will not be sufficient to meet the expenditure requirements of Fund A for such fiscal year, the Board may direct the Finance Director to transfer all or any portion of the moneys on deposit in Fund B to the credit of Fund A to make up such insufficiency. At the end of each County fiscal year commencing with the fiscal year ending September 30, 2000 all or any portion of the unencumbered balance in Fund B remaining after meeting the expenditure requirements for such fiscal year on account of Subsections (b), (c) and (e) of this Section 29-118 either shall remain in Fund B or shall be transferred by the Finance Director to the credit of Fund A or to the credit of the general fund at the direction of the Board of County Commissioners. The Finance Director for the purposes of this article shall establish five special accounts designated, respectively, the "MDX Account," the "Stakeholders Account," the "Municipalities Account," the "County Transportation Account," and the "County "Non-Transportation Account."

(a) The Finance Director shall transfer from Fund A to the MDX Account moneys on deposit in Fund A at such times and in such amounts as shall be

established by a cooperation agreement for transportation (the "Agreement") to be entered into between Miami-Dade County and the Miami-Dade County Expressway Authority ("MDX"). For the purpose of enabling the Finance Director to quantify the amounts to be deposited to the MDX Account the County and MDX shall furnish to the Finance Director on or before January 1 in the fiscal year ending September 30, 2000 and on or before October 1 in each fiscal year thereafter a written schedule of required deposits applicable to such year and the times when amounts on deposit in the MDX Account shall be transferred to or upon the direction of MDX and shall furnish written amendments during the course of any year as required.

(b) The Finance Director shall transfer from Fund B to the Stakeholders Account from moneys on deposit in Fund B in each year the respective amounts for the respective purposes set forth in Exhibit 2 to the ordinance from which this section derives under the headings "County-Wide Cultural Improvements" to the account of the Miami-Dade Department of Cultural Affairs or its successor and "A More Competitive Tourism Message" to the account of the Greater Miami Convention and Visitors Bureau or its successor and under the subheading "Scholarships to Local Colleges/Universities" under the heading "Champion Our Children Fund" to the account or accounts of the respective entities which will confer such scholarships and under the subheading "Arts in Education" under the heading "Champion Our Children Fund" to the account of the Miami-Dade Department of Cultural Affairs or its successor.

(c) The Finance Director shall transfer from Fund B to the Municipalities Account the aggregate of the sums listed in the column entitled "3-YR SUM" in Exhibit 2 attached to the ordinance from which this section derives under the heading "Municipal Revenue Enhancements" which sums will be disbursed as soon as practicable to the municipalities listed in such heading. The municipalities may use the 3-YR SUM for any municipal purpose. The Finance Director further shall transfer from Fund A to the Municipalities Account annually the aggregate of the sums listed in the column entitled "YEARLY" in Exhibit 2 attached to the ordinance from which this section derives which sums will be disbursed at such times as the Finance Director shall determine. The aggregate of the YEARLY sums shall be adjusted annually by the percentage change in collection of the County local option fuel tax imposed pursuant to Section 336.025, Florida Statutes (1997) for the most recent 12-month period ending September 30. The municipalities shall use such YEARLY moneys only for transportation expenditures needed to meet the requirements of the capital improvement element of an adopted comprehensive plan as provided in Section 336.025(1)(b)3, Florida Statutes (1997).

(d) The Finance Director shall transfer from Fund A to the County Transportation Account in each year the respective annual amounts (where noted) for the respective purposes set forth in the annual MDTA budget for

maintenance and operation and in Exhibit 2 to the ordinance from which this section derives under the headings "Transit Fare Reductions," "Bus Service," "Rail Transit Expansion," "2020 Transportation Plan Restoration," "Transit System Improvements" and "County Roadway, Traffic and Pedestrian Mobility Enhancements," except the purposes listed therein under the subheading "Community Enhancements" shall be funded from moneys in the County Non-Transportation Account. The Finance Director shall disburse the amounts on deposit in the County Transportation Account at such times as the Finance Director shall determine or as required to meet acquisition, construction or payment schedules or as required to meet funding requirements established in documents securing indebtedness payable in whole or in part from moneys in Fund A. The moneys in the County Transportation Account shall be used for the purposes described under the foregoing headings subject to any amendments made in accordance with the MPO process.

(e) The Finance Director shall transfer from Fund B to the County Non-Transportation Account in each year the respective annual amounts (where noted) for the respective purposes set forth in Exhibit 2 to the ordinance from which this section derives under the headings "Champion Our Children Trust Fund," (excluding the subheadings "Scholarships to Local Colleges/Universities" and "**Arts** in Education" which are provided for under Subsection (b) of this Section 29-118) "Economic Development and Job Creation," "Major Capital Infrastructure Improvements," "Property Tax and Budget Relief" and "Beach Renourishment and Maintenance" and under the subheading "Community Enhancements" under the heading "County Roadway, Traffic and Pedestrian Mobility Enhancements." The Finance Director shall disburse the amounts on deposit in the County Non-Transportation Account at such times as the Finance Director shall determine or as required to meet acquisition, construction or payment schedules or as required to meet funding requirements established in documents securing indebtedness payable in whole or in part from moneys in Fund B. In determining the annual amounts payable under the heading "Property Tax and Budget Relief" pursuant to the Save Our Seniors Program, the Finance Director may rely on a schedule prepared annually by the County Tax Collector of the rebates owed to the respective local governments and to the County for lost revenues resulting from the Save Our Seniors Program.

(f) In the event that moneys in Fund B are pledged to secure indebtedness incurred by the County to finance capital improvements contemplated by Subsection (e) of this Section 29-118 the documents authorizing and securing such indebtedness shall limit the pledge of moneys in Fund B to those portions of such moneys derived from non ad valorem tax revenues.

(g) In the event that moneys on deposit in Fund A are insufficient in any year to meet the deposit requirements of the MDX Account or the YEARLY component of the Municipalities Account, the Finance Director is hereby authorized and directed to transfer available and unencumbered moneys on

deposit in the County Transportation Account, as required to make up such deficiency.

(h) In the event that the Finance Director shall receive an opinion of the County Attorney that all or any part of the proceeds from the annual MDTA general fund subsidy or the proceeds from MDTA revenues are legally dedicated solely to transit system purposes, the Finance Director shall restrict said subsidy and revenues to transit system purposes to the extent required by such opinion of the County Attorney.

(i) Exhibit 3 attached to the ordinance from which this section derives is included to indicate the capital improvements and the service, economic, cultural and revenue enhancements described in Exhibit 2 thereto which will benefit the respective Commission Districts and Municipalities.

(Ord. No. 99-68, § 1, 6-22-99)

Sec. 29-119. Abolition of tolls on existing County expressway system.

As authorized by Section 348.0004, Florida Statutes (1999) the existing tolls and currently approved increases to such existing tolls on the existing County expressway system transferred to the Miami-Dade County Expressway Authority by the State of Florida in 1996 are hereby abolished and a portion of the surtax proceeds shall be the local source of funding to the County expressway system to replace toll revenues necessary to meet bond obligations of the Miami-Dade County Expressway Authority secured by such tolls and increases, all pursuant to Section 348.0004, Florida Statutes (1999) and as provided in the Agreement to be entered into as aforesaid.

(Ord. No. 99-68, § 1, 6-22-99)

Sec. 29-120. Value analysis.

Value analysis, as provided in items (a) through (g) of Subsection (11) of Section 2-10.4 of the Code, shall be incorporated into the establishment of proposed transit routes, their feasibility, and all capital improvements made pursuant to this article.

(Ord. No. 99-68, § 1, 6-22-99)