

ORDINANCE NO. 2011-03-23-01

AN ORDINANCE OF THE TOWN OF TUSAYAN, ARIZONA, REMOVING LOCAL OPTION LL, THE TAX ON JET FUEL PROVIDED IN THE TOWN TAX CODE; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; PROVIDING FOR SEVERABILITY; AND DESIGNATING AN EFFECTIVE DATE.

WHEREAS the Town of Tusayan shortly after its incorporation adopted a local option under the Model City Sales Tax Code to tax jet fuel sales at the rate of \$0.05 per gallon effective July 1, 2010; and

WHEREAS the Arizona Department of Transportation (ADOT) owns and operates the Grand Canyon Airport and is required to comply with federal regulations regarding operation and taxation of the airport; and

WHEREAS, in meetings with ADOT officials and teleconferences with Federal Aviation Administration (FAA) officials it was confirmed that the Airport and Airway Safety and Capacity Expansion Act of 1987 includes a prohibition of local taxes on aviation fuels being used outside of the airport property; and

WHEREAS, it has been determined that ADOT may not have the legal authority to contractually develop an Agreement to apply the tax collected by Tusayan back to the airport; and

WHEREAS, the Tusayan Council recognizes the economic benefit to the community of a healthy and financially secure airport operation for employment and tourism activities generated by the airport.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF TUSAYAN, ARIZONA:

Section 1. Sec. 8A-400 of the Town tax code is amended to read:

Sec. 8A-400. Imposition of Privilege Taxes; presumption.

(a) There are hereby levied and imposed, subject to all other provisions of this Chapter, the following Privilege Taxes for the purpose of raising revenue to be used in defraying the necessary expenses of the Town, such taxes to be collected by the Tax Collector:

(1) a Privilege Tax upon persons on account of their business activities, to the extent provided elsewhere in this Article, to be measured by the gross income of persons, whether derived from residents of the Town or not, or whether derived from within the Town or from without.

(2) (Reserved)

(3) ~~A privilege tax upon persons for the privilege of selling jet fuel, whether derived from residents of the Town or not, or whether derived from within the Town~~

or from without, in accordance with the provisions of Section 8A-422.
(RESERVED)

- (b) Taxes imposed by this Chapter are in addition to others. Except as specifically designated elsewhere in this Chapter, each of the taxes imposed by this Chapter shall be in addition to all other licenses, fees, and taxes levied by law, including other taxes imposed by this Chapter.
- (c) Presumption. For the purpose of proper administration of this Chapter and to prevent evasion of the taxes imposed by this Chapter, it shall be presumed that all gross income, ~~or gallons sold~~, is subject to the tax until the contrary is established by the taxpayer.
- (d) Limitation of exemptions, deductions, and credits allowed against the measure of taxes imposed by this Chapter. All exemptions, deductions, and credits set forth in this Chapter shall be limited to the specific activity or transaction described and not extended to include any other activity or transaction subject to the tax.

Section 2. Section 8A-422 of the Town tax code is amended to read:

Sec. 8A-422. Jet fuel sales. (RESERVED)

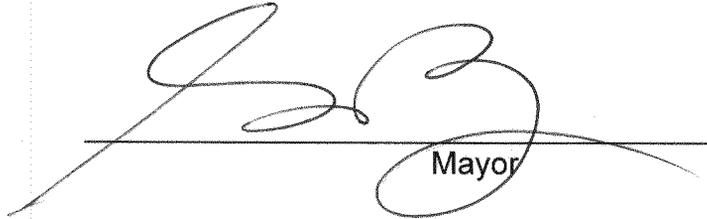
- ~~(a) The tax rate shall be at an amount of five cents per gallon sold from the business activity upon every person engaging or continuing in the business of selling jet fuel.~~
 - ~~(1) Gallons sold includes all gallons sold, bartered, exchanged, included as part or whole of a trade out, or similar transactions regardless of the type or form of payment.~~
 - ~~(2) For purposes of this section the following terms are substitutable in Articles III and V of this chapter, and corresponding regulations:~~
 - ~~(A) "gallons" for "gross income"~~
 - ~~(B) "gallon(s)" for "amount(s)".~~
 - ~~(b) The burden of proving that a sale of jet fuel is not a taxable sale shall be upon the person who made the sale.~~
 - ~~(c) Except as provided in Section 8A-567, when this town and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a jet fuel sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence, and for the purposes of this chapter such city or town has sole and exclusive right to such tax.~~
 - ~~(d) The appropriate tax liability for any jet fuel sale where the order is received at a permanent business location of the seller located in this town or in an Arizona city or town that levies an equivalent excise tax shall be at the rate of the city or town of such seller's location.~~
 - ~~(e) Exemptions. Notwithstanding Section 8A-400(d), the exemptions in Section 8A-465(a),~~
 - ~~(b) and (d) through (z) will apply to sales of jet fuel taxed under this~~
- Section.

Section 3. Any person found guilty of violating any provision of this ordinance shall be guilty of a class 2 misdemeanor.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 5. The provisions of this ordinance shall become effective on May 1, 2011.

PASSED AND ADOPTED by the Mayor and Council of the Town of Tusayan, Arizona, this 23rd day of March, 2011.



Mayor

ATTEST:



Town Clerk

APPROVED AS TO FORM:

Town Attorney