

EXHIBIT A

Sec 23.32 - Sales Tax

Sec. 23.32.010. Purpose.

The purpose of this Article is to impose a tax on:

- (1) The sale of tangible personal property at retail in the City; and
- (2) The furnishing of services in the City.

Sec. 23.32.020. Definitions.

All terms used in Chapter 23 shall have the same meaning as provided for in Section 39-26-102, C.R.S.

Sec. 23.32.030. Marketplace sales.

Application of State Sales Tax. Unless otherwise provided in this sales tax code, any amendments thereto, or in Article 2, Title 29, C.R.S., the provisions of Article 26, Title 39, C.R.S., shall govern the collection, administration, and enforcement of this sales tax.

Sec. 23.32.040. Rate; imposition and collection; distribution.

(a) *Imposition of Sales Tax.* Sales tax shall continue to be imposed and collected on all sales of tangible personal property and services described in Section 23.32.040(b) and occurring within the City of Aspen. The tax is imposed as provided for in Section 29-2-105(1)(d), C.R.S. The sales tax is set at a rate of two and four tenths of a percent (2.4%) of the amount of each sale. The taxable amount of a sale shall not include the amount of any sales or use tax imposed by Article 26, Title 39, C.R.S. All revenue derived through the general sales tax shall continue to be distributed in accordance with the following:

- (1) Sales tax receipts derived on or after July 1, 1990, from the one percent (1.0%) tax levied pursuant to Ordinance No. 16, Series of 1970, shall be set aside in a separate fund entitled "Parks and Open Space Fund," and expended by the City Council solely for the acquisition of parks, trails and open space real property, for the construction of improvements on any real property, owned or purchased by the City for parks, trails and open space purposes, for maintenance of real property owned by the City and used for parks, trails and open space and for

EXHIBIT A

payment of indebtedness incurred for acquisition or improvement of parks, trails and open space real property, food tax refunds payable by the City and for such expenditures as may be necessary to protect real property or the improvements thereon owned by the City for parks, trails and open space purposes, and for the payment of sales tax revenue bonds issued by the City; and

- (2) Sales tax receipts derived from the fifteen-one hundredths of one percent (0.15%) additional sales tax levied pursuant to the ballot question approved by City Council in Ordinance 55, Series 2007, shall be set aside in a separate fund designated as the "City Transportation Fund," and shall be expended by the City Council solely for the payment of services, facilities and programs with regard to the City transportation system.
- (3) Sales tax receipts derived from the forty-five one hundredths of one percent (0.45%) additional sales tax levied pursuant to Ordinance No. 81, Series of 1989, shall be set aside in a separate fund designated as the "Affordable Housing Fund and the Day Care Fund". The City Council will allocate the forty-five one hundredths of one percent (0.45%) sales tax between the funds as it shall from time to time designate. The sales tax from the forty-five one hundredths of one percent (0.45%) sales tax shall be expended by the City Council for the purpose of creating public or private affordable housing and day care opportunities within the city and county, including but not by way of limitation, capital improvements and capital expenditures therefor, land acquisition, payment of indebtedness incurred in connection with any affordable housing or day care expenditures, reserves and for expenditures necessary to protect any such property acquired or capital improvements constructed or purchased from any and all threatened or actual damages, loss, destruction or impairment from any such cause or occurrences.
- (4) All sales taxes collected by and paid by the County to the City in accordance with Ordinance No. 25, Series of 1985, shall be spent solely for those purposes set forth at Section 1 of said Ordinance.
- (5) Sales tax receipts derived from the one-half percent (0.5%) sales tax levied pursuant to Ordinance No. 7, Series of 2001, shall be set aside in the separate

EXHIBIT A

fund referenced in Paragraph 23.32.040(a)(1) and expended by the City Council solely for the purpose of buying, improving and maintaining trail, recreation and open space properties and ancillary facilities.

- (6) Sales tax receipts derived from the thirty hundredths of one percent (0.30%) additional sales tax levied pursuant to the ballot question approved by City Council in Resolution 84, Series 2012 and approved by the City of Aspen qualified electors on November 6th , 2012, shall be set aside in a separate fund designated and the "Education Fund" and shall be expended by the City Council solely for educational purposes providing support to the Aspen School District No. 1 (RE).
- (7) The taxes imposed in this Title shall be in addition to all other taxes imposed by law.

(b) *Property and Services Taxed.* The sales of tangible personal property and services taxable under this sales tax shall be the same as the sales of tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., subject to the exemptions set forth below in Section 23.32.050 of this Code.

(c) *Place of Sale.* For the purpose of this sales tax, all retail sales are sourced as specified in Section 39-26-104(3), C.R.S.

(d) *Mobile Telecommunications Services.* Without limiting the broad application of Section 23.32.040(b) and recognizing that mobile telecommunications services are subject to particular legal requirements, this sales tax shall apply to mobile telecommunications services to the greatest extent permitted under Section 29-2-105(1.5), C.R.S.

Sec. 23.32.050. Exemptions from sales tax.

- (a) *General Sales Tax Exemptions.* Except as otherwise provided herein or in Section 29-2-105(1)(d), C.R.S., the sales of tangible personal property and services taxable under this ordinance shall be subject to the same exemptions as those specified in Part 7, Article 26, Title 39, C.R.S.
- (b) *Specific Exemptions Required by Section 29-2-105(1)(d), C.R.S.* Pursuant to Section 29-2-105(1)(d)(I)(A)-(R), C.R.S., which requires the City of Aspen to expressly exempt

EXHIBIT A

certain sales from the City's sales tax, the City of Aspen does not currently elect to adopt any additional exemptions.

- (c) Food. Notwithstanding any other provision of this sales tax regarding the taxation of food, this sales tax shall not apply to the following:
 - (1) Sales of food purchased with food stamps. For the purposes of this subsection (a), "food" has the same meaning as provided in 7 U.S.C. § 2012, as currently in effect and subsequently amended; and
 - (2) Sales of food purchased with funds provided by the special supplemental food program for women, infants, and children, 42 U.S.C. § 1786. For the purposes of this subsection (b), "food" has the same meaning as provided in 42 U.S.C. § 1786, as currently in effect and subsequently amended.
- (d) Certain Construction and Building Materials. This sales tax shall not apply to the sale of "construction and building materials," as the term is used in Section 29-2-109, C.R.S., if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the City of Aspen evidencing that a local use tax has been paid or is required to be paid on the materials.
- (e) Cigarettes. This sales tax shall not apply to sales of cigarettes.
- (f) Sales Subject to Prior Ownership Tax. Sales of personal property on which a specific ownership tax has been paid or is payable are exempt from this sales tax when the sale meets both of the following conditions: (i) the purchaser is a nonresident of the City of Aspen or has his principal place of business outside the City of Aspen and (ii) the personal property sold is registered or required to be registered outside the City of Aspen's limits under the law of the State of Colorado.
- (g) Sales Subject to Prior Payment of Sales or Use Tax. This sales tax shall not apply to the sale of tangible personal property or services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule city and county, city, or City equal to or in excess of that sought to be imposed by this sales tax. A credit shall be granted against this sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule city and county, city, or City. The amount of the credit shall not exceed the sales tax imposed herein.

EXHIBIT A

Sec. 23.32.060. Collection, Administration, and Enforcement.

Colorado Department of Revenue to Enforce. The collection, administration, and enforcement of this sales tax shall be performed by the executive director of the Colorado Department of Revenue in the same manner as the collection, administration, and enforcement of the Colorado state sales tax, as supplemented by Article 2, Title 29, C.R.S.