

REFERENCE TITLE: TPT; contractors; reform

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2734

Introduced by
Representative Cobb

AN ACT

AMENDING SECTIONS 41-1516, 41-1532, 42-1103, 42-5001 AND 42-5006, ARIZONA REVISED STATUTES; REPEALING SECTIONS 42-5007 AND 42-5008.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5009, 42-5010, 42-5029, 42-5029.02, 42-5032.01, 42-5032.02 AND 42-5040, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 104, SECTION 15 AND CHAPTER 249, SECTION 1; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 104, SECTION 15, CHAPTER 249, SECTION 1 AND SECTION 263, SECTION 1; REPEALING SECTION 42-5075, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 42-5075 AND SECTION 42-5077; AMENDING SECTIONS 42-5151, 42-5155, 42-5159 AND 42-5160, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6001.01; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 17, SECTION 1, CHAPTER 249, SECTION 6 AND CHAPTER 341, SECTION 2; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 17, SECTION 1, CHAPTER 249, SECTION 6, CHAPTER 263, SECTION 3 AND CHAPTER 341, SECTION 2; AMENDING SECTIONS 42-6102, 43-1072.01, 43-1072.02, 44-1263 AND 49-290, ARIZONA REVISED STATUTES; RELATING TO STATE AND MUNICIPAL TRANSACTION PRIVILEGE AND USE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1516, Arizona Revised Statutes, is amended to
3 read:

4 41-1516. Healthy forest enterprise incentives; definitions

5 A. The Arizona commerce authority shall:

6 1. Implement a program to encourage counties, cities and towns to
7 provide local incentives to economic enterprises that promote forest
8 health in this state.

9 2. Identify and certify to the department of revenue the names of
10 and relevant information relating to qualified businesses for the purposes
11 of available state tax incentives for economic enterprises that promote
12 forest health in this state.

13 B. To qualify for state tax incentives pursuant to this section, a
14 business:

15 1. Must be primarily engaged in a qualifying project. The business
16 shall submit to the authority evidence that it is engaged in a qualifying
17 project as follows:

18 (a) The business operation must enhance or sustain forest health,
19 sustain or recover watershed or improve public safety.

20 (b) If the qualifying forest product is on federal land, the
21 business shall submit a letter from the federal agency administering the
22 land, or official records or documents produced in connection with the
23 project, stating that the business is primarily engaged in the business of
24 harvesting or processing qualifying forest products for commercial use as
25 follows:

26 (i) At least seventy ~~per cent~~ PERCENT of the harvested or processed
27 products, measured by weight, must be qualifying forest products.

28 (ii) At least seventy-five ~~per cent~~ PERCENT of the qualifying
29 forest products, measured by weight, must be harvested from sources in
30 this state.

31 (c) If the qualifying forest product is not on federal land, the
32 business shall submit a letter from the state forester stating that the
33 business is primarily engaged in the business of harvesting or processing
34 qualifying forest products for commercial use as follows:

35 (i) At least seventy ~~per cent~~ PERCENT of the harvested or processed
36 products must be qualifying forest products.

37 (ii) At least seventy-five ~~per cent~~ PERCENT of the harvested or
38 processed products must be from areas in this state.

39 (d) If the business is engaged in transporting qualifying forest
40 products, it must submit a letter from the state forester or United States
41 forest service, or official records or documents produced in connection
42 with the project, stating that all of the qualifying forest products it
43 transports are harvested from areas in this state. In addition, the
44 business must submit evidence to the authority that at least seventy-five
45 ~~per cent~~ PERCENT of the mileage traveled by its units each year are for

1 transporting qualifying forest products from or to qualifying projects
2 described in subdivision (b) or (c) of this paragraph, unless a lower
3 mileage is due to forest closures or weather conditions that are beyond
4 the control of the business.

5 2. Must employ at least one permanent full-time employee.

6 3. Must agree to furnish to the authority information relating to
7 the amount of state tax benefits that the business receives each year.

8 4. Must enter into a memorandum of understanding with the authority
9 containing:

10 (a) Employment goals. Each year the business must report in
11 writing to the authority its performance in achieving the goals.

12 (b) A commitment to continue in business and use the qualifying
13 equipment primarily on qualifying projects in this state as described in
14 paragraph 1 of this subsection, other than for reasons beyond the control
15 of the business. The authority shall consult with the department of
16 revenue in designing the memorandum of understanding to incorporate the
17 legal qualifications for the available tax incentives and shall include
18 the requirement that any qualifying equipment that is purchased or leased
19 free of transaction privilege or use tax must continue to be used in this
20 state for the term of the memorandum of understanding or the duration of
21 its operational life, whichever is shorter.

22 (c) Provisions considered necessary by the authority to ensure the
23 competency and responsibility of businesses that qualify under this
24 section, including registration or other accreditation with trade and
25 professional organizations and compliance with best management and
26 operational practices used by governmental agencies in awarding forestry
27 contracts.

28 (d) The authorization for the authority to terminate, adjust or
29 recapture all or part of the tax benefits provided to the business on
30 noncompliance with the law, noncompliance with the terms of the memorandum
31 or violation of the terms of any contracts with the federal or state
32 government relating to the qualifying project. The authority shall notify
33 the department of revenue of the conditions of noncompliance. The
34 department of revenue may also terminate the certification if it obtains
35 information indicating a failure to qualify and comply. The department of
36 revenue may require the business to file appropriate amended tax returns
37 or to file appropriate use tax returns reflecting the recapture of the
38 direct or indirect tax benefits.

39 5. Must submit a copy of the certification to the department of
40 revenue for approval before using the certification for purposes of any
41 tax incentive. The department of revenue shall review and approve the
42 certification in a timely manner if the business is in good standing with
43 the department and is not delinquent in the payment of any tax collected
44 by the department. A failure to approve or deny the certification within

1 sixty days after the date the business submits it to the department
2 constitutes approval of the certification.

3 ~~C. For the purposes of section 42-5075, subsection B, paragraph 18,~~
4 ~~the authority shall certify prime contractors that contract for the~~
5 ~~construction of any building, or other structure, project, development or~~
6 ~~improvement owned by a qualified business for purposes of a qualifying~~
7 ~~project described in subsection B, paragraph 1 of this section.~~

8 ~~D.~~ C. To obtain and maintain certification under this section, a
9 business must:

10 1. Apply to the authority.

11 2. Submit and retain copies of all required information, including
12 information relating to the actual or projected number of employees in
13 this state.

14 3. Allow inspections and audits to verify the qualification and
15 accuracy of information submitted to the authority.

16 ~~E.~~ D. Certification under this section is valid for sixty calendar
17 months from the date of issuance. A business must apply for
18 recertification at least thirty days before the current certification
19 expires. The application for recertification shall be in a form
20 prescribed by the authority and shall confirm that the business is
21 continuing in a qualifying project and is in compliance with all
22 requirements prescribed for certification.

23 ~~F.~~ E. Within sixty days after receiving a complete and correct
24 application and all required information as prescribed by this section,
25 the authority shall grant or deny certification and give written notice by
26 certified mail to the applicant. The applicant is certified as a
27 qualified business on the date the notice of certification is delivered to
28 the applicant. A failure to respond within sixty days after receiving a
29 complete and correct application constitutes approval of the application.

30 ~~G.~~ F. The certification shall state an effective date with respect
31 to each authorized tax incentive, which, in each case, must be at the
32 start of a taxable year or taxable period.

33 ~~H.~~ G. On or before March 1 of each year, each qualifying business
34 shall make a report to the authority on all business activity in the
35 preceding calendar year. Business information contained in the reports is
36 confidential and shall not be disclosed to the public except as provided
37 by this section and except that a copy of the report shall be transmitted
38 to the department of revenue. The report shall be in a form prescribed by
39 the authority and include:

40 1. Information prescribed by the authority with respect to both
41 qualifying projects and other projects and business activity that do not
42 qualify for purposes of this section.

43 2. Employment information necessary to confirm eligibility for
44 income tax credits as prescribed by sections 43-1076 and 43-1162.

1 3. The quantity, measured by weight, of qualifying forest products
2 harvested, transported or processed.

3 ~~H.~~ H. On or before May 1 of each year, the authority shall report
4 to the joint legislative budget committee:

5 1. The quantity, measured by weight, of qualifying forest products
6 reported by harvesters, by transporters and by processors in the preceding
7 calendar year.

8 2. The number of new full-time employees hired in qualified
9 employment positions in this state in the preceding calendar year and
10 reported for tax credit purposes.

11 3. The total number of all full-time employees employed in
12 qualified employment positions in this state in the preceding calendar
13 year and reported for tax credit purposes.

14 ~~I.~~ I. For purposes of administering and ensuring compliance with
15 this section, agents of the authority may enter, and a qualified business
16 shall allow access to, a qualifying project site at reasonable times and
17 on reasonable notice to:

18 1. Inspect the facilities at the site.

19 2. Obtain factual data and records pertinent to and required by law
20 to be kept for purposes of tax incentives.

21 3. Otherwise ascertain compliance with law and the terms of the
22 memorandum of understanding.

23 ~~J.~~ J. The authority shall revoke the business' certification and
24 notify the department of revenue and county assessor if either:

25 1. Within thirty days after a formal request from the authority or
26 the department of revenue the business fails or refuses to provide the
27 information or access for inspections required by this section.

28 2. The business no longer meets the terms and conditions required
29 for qualification for the applicable tax incentives.

30 ~~K.~~ K. For the purposes of this section:

31 1. "Forest health" means the degree to which the integrity of the
32 forest is sustained, including reducing the risk of catastrophic wildfire
33 and destructive insect infestation, benefiting wildland habitats,
34 watersheds and communities.

35 2. "Harvesting" means all operations relating to felling or
36 otherwise removing trees and other forest plant growth and preparing them
37 for transport for subsequent processing.

38 3. "Processing" means:

39 (a) Any change in the physical structure of qualifying forest
40 products removed from a qualifying project into a marketable commercial
41 product or component of a product that has commercial value to a consumer
42 or purchaser and that is ready to be used with or without further altering
43 its form.

44 (b) Burning qualifying forest products in the process of commercial
45 electrical generation or commercial thermal energy production for heating

1 or cooling, regardless of the physical structure of the forest product
2 before burning.

3 4. "Qualifying equipment" means equipment used directly in
4 harvesting or processing qualifying forest products removed from a
5 qualifying project. Qualifying equipment does not include self-propelled
6 vehicles required to be licensed by this state, but may include other
7 licensed vehicles as provided by this paragraph. Qualifying equipment
8 includes:

9 (a) Forest thinning and residue removal equipment, including
10 mulching and masticating equipment, feller-bunchers, skidders, log
11 loaders, portable chippers and grinders, slash bundlers, delimiters, log
12 trailers, chip trailers and other trailers that are uniquely designed for
13 handling forest products and that are licensed for operation on public
14 highways.

15 (b) Forest residue receiving and handling equipment, including
16 truck dumpers, log unloaders, scales, log decking facilities and equipment
17 and chip pile facilities.

18 (c) Sorting and processing equipment, including portable and
19 stationary log loaders, ~~front end~~ FRONT-END loaders, ~~fork lifts~~ FORKLIFTS
20 and cranes, chippers and grinders, screens, decks and debarkers, saws and
21 sawmill equipment, firewood processing, wood residue baling and bagging
22 equipment, kilns, planing and molding equipment and laminating and joining
23 equipment.

24 (d) Forest waste and residue disposal and processing equipment,
25 including:

26 (i) Processing and sizing equipment, hogs, chippers, screens,
27 pelletizers and wood splitters.

28 (ii) Transporting and handling equipment, including loaders,
29 conveyors, blowers, receiving hoppers, truck dumpers and dozers.

30 (iii) Waste use equipment, including fuel feed, storage bins,
31 boilers and combustors.

32 (iv) Waste project use equipment, including generators, switchgear
33 and substations and on-site distribution systems.

34 (v) Generated waste disposal equipment, including ash silos and
35 wastewater treatment and disposal equipment.

36 (vi) Shop and maintenance equipment and major spares having a value
37 of more than ~~five thousand dollars~~ \$5,000 each.

38 5. "Qualifying forest products" means dead standing and fallen
39 timber, and forest thinnings associated with the harvest of small diameter
40 timber, slash, wood chips, peelings, brush and other woody vegetation,
41 removed from federal, state and other public forest land and from private
42 forest land.

43 6. "Qualifying project" means harvesting, transporting or
44 processing qualifying forest products as required for certification
45 pursuant to this section.

1 Sec. 2. Section 41-1532, Arizona Revised Statutes, is amended to
2 read:

3 41-1532. Tax incentives; conditions

4 A. A ~~prime~~ contractor **CONSTRUCTING A HIGHWAY, STREET OR BRIDGE IN A**
5 **MILITARY REUSE ZONE** may qualify for an exemption from transaction
6 privilege tax ~~with respect to activities in a military reuse zone~~ as
7 provided, and subject to the terms and conditions prescribed, by section
8 42-5075, subsection B, paragraph ~~4~~ 1.

9 B. Taxable property in a military reuse zone that is devoted to
10 providing aviation or aerospace services or to manufacturing, assembling
11 or fabricating aviation or aerospace products qualifies for assessment as
12 class six property as provided, and subject to the terms and conditions
13 prescribed, by sections 42-12006 and 42-15006.

14 C. To qualify for a tax incentive described in subsection A or B of
15 this section, the taxpayer shall provide to the authority information
16 relating to the amount of tax benefits the taxpayer receives each year for
17 each year in which the taxpayer claims the incentives on forms prescribed
18 by the authority. If the taxpayer fails to provide the required
19 information, the authority shall immediately revoke the taxpayer's
20 certification of eligibility and notify the department of revenue.

21 D. Taxpayers who qualify for tax incentives under subsection B of
22 this section shall be certified by the authority as eligible for a
23 five-year period, subject to termination in the event of changed
24 circumstances rendering the taxpayer no longer eligible.

25 Sec. 3. Section 42-1103, Arizona Revised Statutes, is amended to
26 read:

27 42-1103. Enjoining delinquent taxpayer from engaging or
28 continuing in business

29 A. In order to ensure or to compel payment of taxes and to aid in
30 enforcing this article, the director may apply to the tax court to enjoin
31 any delinquent taxpayer or person who may be or may become liable for
32 payment of any tax from engaging or continuing in business until the
33 person ceases to be a delinquent taxpayer or complies with other
34 requirements ~~which~~ **THAT** are reasonably necessary to protect the revenues
35 of this state and ~~which~~ **THAT** are prescribed by the director.

36 B. On application for an injunction against a delinquent taxpayer,
37 the court may forthwith issue an order temporarily restraining the
38 taxpayer from doing business. The court shall hear the matter within
39 three days and, on a showing by a preponderance of evidence that the
40 taxpayer is delinquent and has been given notice of the hearing as
41 required by law, the court may enjoin the taxpayer from engaging or
42 continuing in business in this state until the taxpayer ceases to be
43 delinquent. On issuing an injunction, the court may also order the
44 sheriff to seal the taxpayer's business premises and may allow the
45 taxpayer access to the premises only on the approval of the court.

1 C. On application for an injunction against a person other than a
2 delinquent taxpayer, the court may issue an order temporarily restraining
3 the person from engaging or continuing in business. The court shall hear
4 the matter within three days and, on a showing that the person has been
5 given notice of the hearing as required by law, that demand has been made
6 on the taxpayer to furnish security, that the taxpayer has not furnished
7 security and that the director considers the collection from the primarily
8 responsible person of the total amount of tax due or reasonably expected
9 to become due to be in jeopardy, the court may forthwith enjoin the person
10 from engaging or continuing in business until the person complies in full
11 with the demand of the director for furnishing security.

12 D. The court shall not issue a temporary restraining order or
13 injunction under this section against any person who has furnished
14 security pursuant to section 42-1102, ~~OR~~ 42-5006 ~~or~~ 42-5007. On a
15 showing to the court by any person against whom a temporary restraining
16 order or injunction has issued under this section that the person has
17 furnished such security, the court shall dissolve or set aside the
18 temporary restraining order or injunction.

19 Sec. 4. Section 42-5001, Arizona Revised Statutes, is amended to
20 read:

21 ~~42-5001.~~ Definitions

22 In this article and article 2 of this chapter, unless the context
23 otherwise requires:

24 1. "Business" includes all activities or acts, personal or
25 corporate, **THAT ARE** engaged in or caused to be engaged in with the object
26 of gain, benefit or advantage, either directly or indirectly, but does not
27 include either:

28 (a) Casual activities or sales.

29 (b) The transfer of electricity from a solar photovoltaic
30 generation system to an electric utility distribution system.

31 2. **"CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.**

32 3. **"CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY
33 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR
34 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR
35 DOES PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY,
36 ROAD, RAILROAD, EXCAVATION OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR
37 IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING THE ERECTION
38 OF SCAFFOLDING OR ANOTHER STRUCTURE OR WORKS IN CONNECTION WITH SUCH A
39 PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR ALL
40 PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION GOVERNS WITHOUT REGARD
41 TO WHETHER THE CONTRACTOR IS ACTING IN FULFILLMENT OF A CONTRACT.**

42 ~~2.~~ 4. "Distribution base" means the portion of the revenues
43 derived from the tax levied by this article and articles 5 and 8 of this
44 chapter designated for distribution to counties, municipalities and other
45 purposes according to section 42-5029, subsection D.

1 ~~3.~~ 5. "Engaging", when used with reference to engaging or
2 continuing in business, includes the exercise of corporate or franchise
3 powers.

4 ~~4.~~ 6. "Gross income" means the gross receipts of a taxpayer
5 derived from trade, business, commerce or sales and the value proceeding
6 or accruing from the sale of tangible personal property or service, or
7 both, and without any deduction on account of losses.

8 ~~5.~~ 7. "Gross proceeds of sales" means the value proceeding or
9 accruing from the sale of tangible personal property without any deduction
10 on account of the cost of property sold, expense of any kind or losses,
11 but cash discounts allowed and taken on sales are not included as gross
12 income.

13 ~~6.~~ 8. ~~"Gross income"~~ and ~~"gross proceeds of sales"~~ do not
14 include goods, wares or merchandise, or THE value thereof, returned by
15 customers if the sale price is refunded either in cash or by credit, ~~not~~
16 OR the value of merchandise traded in on the purchase of new merchandise
17 when the trade-in allowance is deducted from the sales price of the new
18 merchandise before completion of the sale.

19 ~~7.~~ 9. "Gross receipts" means the total amount of the sale, lease
20 or rental price, as the case may be, of the retail sales of retailers,
21 including any services that are a part of the sales, valued in money,
22 whether received in money or otherwise, including all receipts, cash,
23 credits and property of every kind or nature, and any amount for which
24 credit is allowed by the seller to the purchaser without any deduction
25 from the amount on account of the cost of the property sold, materials
26 used, labor or service performed, interest paid, losses or any other
27 expense. Gross receipts do not include cash discounts allowed and taken
28 ~~not~~ OR the sale price of property returned by customers if the full sale
29 price is refunded either in cash or by credit.

30 ~~8.~~ 10. "Person" or "company" includes an individual, firm,
31 partnership, joint venture, association, corporation, estate or trust,
32 this state, any county, city, town, district, other than a school
33 district, or other political subdivision and any other group or
34 combination acting as a unit, and the plural as well as the singular
35 number.

36 ~~9.~~ 11. "Qualifying community health center":
37 (a) Means an entity that is recognized as nonprofit under section
38 501(c)(3) of the United States internal revenue code, that is a
39 community-based, primary care clinic that has a community-based board of
40 directors and that is either:

41 (i) The sole provider of primary care in the community.
42 (ii) A nonhospital affiliated clinic that is located in a federally
43 designated medically underserved area in this state.

44 (b) Includes clinics that are being constructed as qualifying
45 community health centers.

1 ~~10.~~ 12. "Qualifying health care organization" means an entity that
2 is recognized as nonprofit under section 501(c) of the United States
3 internal revenue code and that uses, saves or invests at least eighty ~~per~~
4 ~~cent~~ PERCENT of all monies that it receives from all sources each year
5 only for health and medical related educational and charitable services,
6 as documented by annual financial audits prepared by an independent
7 certified public accountant, performed according to generally accepted
8 auditing standards and filed annually with the department. Monies that
9 are used, saved or invested to lease, purchase or construct a facility for
10 health and medical related education and charitable services are included
11 in the eighty ~~per cent~~ PERCENT requirement.

12 ~~11.~~ 13. "Qualifying health sciences educational institution" means
13 an entity that is recognized as nonprofit under section 501(c) of the
14 United States internal revenue code and that solely provides graduate and
15 postgraduate education in the health sciences. For the purposes of this
16 paragraph, "health sciences" includes medicine, nursing, physician's
17 assistant studies, pharmacy, physical therapy, occupational therapy,
18 biomedical sciences, podiatry, clinical psychology, cardiovascular
19 science, nurse anesthesia, dentistry, optometry and veterinary medicine.

20 ~~12.~~ 14. "Qualifying hospital" means any of the following:

21 (a) A licensed hospital ~~which~~ THAT is organized and operated
22 exclusively for charitable purposes, no part of the net earnings of which
23 inures to the benefit of any private shareholder or individual.

24 (b) A licensed nursing care institution or a licensed residential
25 care institution or a residential care facility THAT IS operated in
26 conjunction with a licensed nursing care institution or a licensed kidney
27 dialysis center, which provides medical services, nursing services or
28 health related services and is not used or held for profit.

29 (c) A hospital, nursing care institution or residential care
30 institution ~~which~~ THAT is operated by the federal government, this state
31 or a political subdivision of this state.

32 (d) A facility that is under construction and that on completion
33 will be a facility under subdivision (a), (b) or (c) of this paragraph.

34 ~~13.~~ 15. "Retailer" includes every person engaged in the business
35 classified under the retail classification pursuant to section 42-5061
36 and, when in the opinion of the department it is necessary for the
37 efficient administration of this article, includes dealers, distributors,
38 supervisors, employers and salesmen, representatives, peddlers or
39 canvassers as the agents of the dealers, distributors, supervisors or
40 employers under whom they operate or from whom they obtain the tangible
41 personal property sold by them, whether in making sales on their own
42 behalf or on behalf of the dealers, distributors, supervisors or
43 employers.

44 ~~14.~~ 16. "Sale" means any transfer of title or possession, or both,
45 exchange, barter, lease or rental, conditional or otherwise, in any manner

1 or by any means whatever, including consignment transactions and auctions,
2 of tangible personal property or other activities taxable under this
3 chapter, for a consideration, and includes:

4 (a) Any transaction by which the possession of property is
5 transferred but the seller retains the title as security for the payment
6 of the price.

7 (b) Fabricating tangible personal property for consumers who
8 furnish either directly or indirectly the materials used in the
9 fabrication work.

10 (c) Furnishing, preparing or serving for a consideration any
11 tangible personal property consumed on the premises of the person
12 furnishing, preparing or serving the tangible personal property.

13 ~~15.~~ 17. "Solar daylighting" means a device that is specifically
14 designed to capture and redirect the visible portion of the solar beam,
15 while controlling the infrared portion, for use in illuminating interior
16 building spaces in lieu of artificial lighting.

17 ~~16.~~ 18. "Solar energy device" means a system or series of
18 mechanisms ~~THAT ARE~~ designed primarily to provide heating, to provide
19 cooling, to produce electrical power, to produce mechanical power, to
20 provide solar daylighting or to provide any combination of the foregoing
21 by means of collecting and transferring solar generated energy into such
22 uses either by active or passive means, including wind generator systems
23 that produce electricity. Solar energy systems may also have the
24 capability of storing solar energy for future use. Passive systems shall
25 clearly be designed as a solar energy device, such as a trombe wall, and
26 not merely as a part of a normal structure, such as a window.

27 ~~17.~~ 19. "Tangible personal property" means personal property which
28 may be seen, weighed, measured, felt or touched or ~~THAT~~ is in any other
29 manner perceptible to the senses.

30 ~~19.~~ 20. "Taxpayer" means any person who is liable for any tax ~~which~~
31 ~~is~~ imposed by this article.

32 ~~18.~~ 21. "Tax year" or "taxable year" means either the calendar year
33 or the taxpayer's fiscal year, if permission is obtained from the
34 department to use a fiscal year as the tax period instead of the calendar
35 year.

36 ~~20.~~ 22. "Wholesaler" or "jobber" means any person who sells
37 tangible personal property for resale and not for consumption by the
38 purchaser.

39 Sec. 5. Section 42-5006, Arizona Revised Statutes, is amended to
40 read:

41 42-5006. Taxpayer bonds; out-of-state manufactured building
42 dealers

43 A. Notwithstanding section 42-1102, the department shall require a
44 surety bond for each taxpayer ~~who is required to be licensed under title~~
45 ~~32, chapter 10 or~~ who is regulated under title 41, chapter 37, article 3,

1 if the taxpayer's principal place of business is outside this state or if
2 the taxpayer has conducted business in this state for less than one
3 year. The department shall prescribe the form of the bond. The bond shall
4 be maintained for a period of at least two years.

5 B. The bond, duly executed by the applicant as principal and with a
6 corporation duly authorized to execute and write bonds in this state as
7 surety, shall be payable to this state and conditioned on the payment of
8 all transaction privilege taxes incurred and imposed on the taxpayer by
9 this state and its political subdivisions. The bond shall be in such AN
10 amount, but not less than ~~two thousand dollars, as will assure~~ \$2,000, TO
11 ENSURE the payment of the transaction privilege taxes ~~which~~ THAT may
12 reasonably be expected to be incurred by the licensed establishment for a
13 period of one hundred fifty days.

14 C. The director, by rule, may establish classes of expected tax
15 liability in ~~five thousand dollar~~ \$5,000 increments, beginning with the
16 minimum bond amount prescribed in subsection B of this section. The bond
17 shall provide that after notice and a hearing the director may order
18 forfeited to this state and any affected political subdivision part or all
19 of the bond for nonpayment of taxes, interest and penalties.

20 D. A licensee on application for a new license covered by
21 subsection A of this section, renewal of a license covered by subsection A
22 of this section or transfer of a license covered by subsection A of this
23 section is exempt from posting a bond if the licensee has for at least two
24 years immediately preceding the application made timely payment of all
25 transaction privilege taxes incurred.

26 E. If a licensee is not exempt from this section, the director may
27 exempt the licensee if the director finds that the surety bond is not
28 necessary to ~~insure~~ ENSURE payment of such taxes to the state and any
29 affected political subdivision or the licensee had good cause for the late
30 or insufficient payment of the transaction privilege tax and affiliated
31 excise taxes incurred.

32 Sec. 6. Repeal

33 Sections ~~42-5007 and 42-5008.01~~, Arizona Revised Statutes, are
34 repealed.

35 Sec. 7. Section 42-5009, Arizona Revised Statutes, is amended to
36 read:

37 ~~42-5009. Certificates establishing deductions; liability for~~
38 ~~making false certificate~~

39 A. A person who conducts any business classified under article 2 of
40 this chapter may establish entitlement to the allowable deductions from
41 the tax base of that business by both:

42 1. Marking the invoice for the transaction to indicate that the
43 gross proceeds of sales or gross income derived from the transaction was
44 deducted from the tax base.

1 2. Obtaining a certificate executed by the purchaser indicating the
 2 name and address of the purchaser, the precise nature of the business of
 3 the purchaser, the purpose for which the purchase was made, the necessary
 4 facts to establish the appropriate deduction and the tax license number of
 5 the purchaser to the extent the deduction depends on the purchaser
 6 conducting business classified under article 2 of this chapter and a
 7 certification that the person executing the certificate is authorized to
 8 do so on behalf of the purchaser. The certificate may be disregarded if
 9 the seller has reason to believe that the information contained in the
 10 certificate is not accurate or complete.

11 B. A person who does not comply with subsection A of this section
 12 may establish entitlement to the deduction by presenting facts necessary
 13 to support the entitlement, but the burden of proof is on that person.

14 C. The department may prescribe a form for the certificate
 15 described in subsection A of this section. Under such rules as it may
 16 prescribe, the department may also describe transactions with respect to
 17 which a person is not entitled to rely solely on the information contained
 18 in the certificate provided for in subsection A of this section but must
 19 instead obtain such additional information as required by the rules in
 20 order to be entitled to the deduction.

21 D. If a seller is entitled to a deduction by complying with
 22 subsection A of this section, the department may require the purchaser
 23 that caused the execution of the certificate to establish the accuracy and
 24 completeness of the information required to be contained in the
 25 certificate that would entitle the seller to the deduction. If the
 26 purchaser cannot establish the accuracy and completeness of the
 27 information, the purchaser is liable in an amount equal to any tax,
 28 penalty and interest that the seller would have been required to pay under
 29 this article if the seller had not complied with subsection A of this
 30 section. Payment of the amount under this subsection exempts the
 31 purchaser from liability for any tax imposed under article 4 of this
 32 chapter. The amount shall be treated as tax revenues collected from the
 33 seller in order to designate the distribution base for purposes of section
 34 42-5029.

35 E. If a seller is entitled to a deduction by complying with
 36 subsection B of this section, the department may require the purchaser to
 37 establish the accuracy and completeness of the information provided to the
 38 seller that entitled the seller to the deduction. If the purchaser cannot
 39 establish the accuracy and completeness of the information, the purchaser
 40 is liable in an amount equal to any tax, penalty and interest that the
 41 seller would have been required to pay under this article if the seller
 42 had not complied with subsection B of this section. Payment of the amount
 43 under this subsection exempts the purchaser from liability for any tax
 44 imposed under article 4 of this chapter. The amount shall be treated as

1 tax revenues collected from the seller in order to designate the
 2 distribution base for purposes of section 42-5029.

3 F. The department may prescribe a form for a certificate used to
 4 establish entitlement to the deductions described in section 42-5061,
 5 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3.
 6 Under rules the department may prescribe, the department may also require
 7 additional information for the seller to be entitled to the deduction. If
 8 a seller is entitled to the deductions described in section 42-5061,
 9 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3,
 10 the department may require the purchaser who executed the certificate to
 11 establish the accuracy and completeness of the information contained in
 12 the certificate that would entitle the seller to the deduction. If the
 13 purchaser cannot establish the accuracy and completeness of the
 14 information, the purchaser is liable in an amount equal to any tax,
 15 penalty and interest that the seller would have been required to pay under
 16 this article. Payment of the amount under this subsection exempts the
 17 purchaser from liability for any tax imposed under article 4 of this
 18 chapter. The amount shall be treated as tax revenues collected from the
 19 seller in order to designate the distribution base for purposes of section
 20 42-5029.

21 G. If a seller claims a deduction under section 42-5061,
 22 subsection A, paragraph 25 and establishes entitlement to the deduction
 23 with an exemption letter that the purchaser received from the department
 24 and the exemption letter was based on a contingent event, the department
 25 may require the purchaser that received the exemption letter to establish
 26 the satisfaction of the contingent event within a reasonable time. If the
 27 purchaser cannot establish the satisfaction of the event, the purchaser is
 28 liable in an amount equal to any tax, penalty and interest that the seller
 29 would have been required to pay under this article if the seller had not
 30 been furnished the exemption letter. Payment of the amount under this
 31 subsection exempts the purchaser from liability for any tax imposed under
 32 article 4 of this chapter. The amount shall be treated as tax revenues
 33 collected from the seller in order to designate the distribution base for
 34 purposes of section 42-5029. For the purposes of this subsection,
 35 "reasonable time" means a time limitation that the department determines
 36 and that does not exceed the time limitations pursuant to section 42-1104.

37 H. The department shall prescribe forms for certificates used to
 38 establish the satisfaction of the criteria necessary to qualify the sale
 39 of a motor vehicle for the deductions described in section 42-5061,
 40 subsection A, paragraph 14, paragraph 28, subdivision (a) and paragraph 44
 41 and subsection U. Except as provided in subsection J of this section, to
 42 establish entitlement to these deductions, a motor vehicle dealer shall
 43 retain:

1 1. A valid certificate as prescribed by this subsection completed
2 by the purchaser and obtained prior to the issuance of the nonresident
3 registration permit authorized by section 28-2154.

4 2. A copy of the nonresident registration permit authorized by
5 section 28-2154.

6 3. A legible copy of a current valid driver license issued to the
7 purchaser by another state or foreign country that indicates an address
8 outside of this state. For the sale of a motor vehicle to a nonresident
9 entity, the entity's representative must have a current valid driver
10 license issued by the same jurisdiction as that in which the entity is
11 located.

12 4. For the purposes of the deduction provided by section 42-5061,
13 subsection A, paragraph 14, a certificate documenting the delivery of the
14 motor vehicle to an out-of-state location.

15 I. Notwithstanding subsection A, paragraph 2 of this section, if a
16 motor vehicle dealer has established entitlement to a deduction by
17 complying with subsection H of this section, the department may require
18 the purchaser who executed the certificate to establish the accuracy and
19 completeness of the information contained in the certificate that entitled
20 the motor vehicle dealer to the deduction. If the purchaser cannot
21 establish the accuracy and completeness of the information, the purchaser
22 is liable in an amount equal to any tax, penalty and interest that the
23 motor vehicle dealer would have been required to pay under this article
24 and under articles IV and V of the model city tax code as defined in
25 section 42-6051. Payment of the amount under this subsection exempts the
26 purchaser from liability for any tax imposed under article 4 of this
27 chapter and any tax imposed under article VI of the model city tax code as
28 defined in section 42-6051. The amount shall be treated as tax revenues
29 collected from the motor vehicle dealer in order to designate the
30 distribution base for purposes of section 42-5029.

31 J. To establish entitlement to the deduction described in section
32 42-5061, subsection A, paragraph 44, a public consignment auction dealer
33 as defined in section 28-4301 shall submit the valid certificate
34 prescribed by subsection H of this section to the department and retain a
35 copy for its records.

36 K. Notwithstanding any other law, compliance with subsection H of
37 this section by a motor vehicle dealer entitles the motor vehicle dealer
38 to the exemption provided in section 42-6004, subsection A, paragraph 4.

39 L. The department shall prescribe a form for a certificate to be
40 used by a person that is not subject to tax under section 42-5075 when the
41 person is engaged by a ~~contractor~~ PERSON that is subject to tax under
42 section 42-5075 for a HIGHWAY, STREET OR BRIDGE CONSTRUCTION project that
43 is taxable under section 42-5075. The certificate ~~permits~~ ~~ALLOWS~~ the
44 person purchasing tangible personal property to be incorporated ~~or~~
45 ~~fabricated~~ by the person into ~~any real property, structure,~~ the HIGHWAY,

1 STREET OR BRIDGE CONSTRUCTION project, ~~development or improvement~~ to
2 provide documentation to a retailer that the sale of tangible personal
3 property qualifies for the deduction under section 42-5061, subsection A,
4 paragraph 27, subdivision (b). ~~A prime contractor~~ THE PERSON CONSTRUCTING
5 THE HIGHWAY, STREET OR BRIDGE shall obtain the certificate from the
6 department and shall provide a copy to any ~~such~~ person working on the
7 project. The ~~prime contractor~~ PERSON CONSTRUCTING THE HIGHWAY, STREET OR
8 BRIDGE shall obtain a new certificate for each project to which this
9 subsection applies. For the purposes of this subsection, the following
10 apply:

11 1. The person that is not subject to tax under section 42-5075 may
12 use the certificate issued pursuant to this subsection only with respect
13 to tangible personal property that will be incorporated into a project for
14 which the gross receipts are subject to tax under section 42-5075.

15 2. The department shall issue the certificate to the ~~prime~~
16 ~~contractor~~ PERSON CONSTRUCTING THE HIGHWAY, STREET OR BRIDGE on receiving
17 sufficient documentation to establish that the ~~prime contractor~~ PERSON
18 meets the requirements of this subsection.

19 3. If any person uses the certificate provided under this
20 subsection to purchase tangible personal property to be used in a project
21 that is not subject to tax under section 42-5075, the person is liable in
22 an amount equal to any tax, penalty and interest that the seller would
23 have been required to pay under this article if the seller had not
24 complied with subsection A of this section. Payment of the amount under
25 this ~~section~~ SUBSECTION exempts the person from liability for any tax
26 imposed under article 4 of this chapter. The amount shall be sourced
27 under section 42-5040, subsection A, paragraph 2.

28 M. Notwithstanding any other law, compliance with subsection L of
29 this section by a person that is not subject to tax under section 42-5075
30 entitles the person to the exemption allowed by section 465,
31 subsection (k) of the model city tax code when purchasing tangible
32 personal property to be incorporated ~~or fabricated~~ by the person into any
33 ~~real property, structure, project, development or improvement~~ HIGHWAY,
34 STREET OR BRIDGE CONSTRUCTION PROJECT.

35 N. The requirements of subsections A and B of this section do not
36 apply to owners, proprietors or tenants of agricultural lands or farms who
37 sell livestock or poultry feed that is grown or raised on their lands to
38 any of the following:

39 1. Persons who feed their own livestock or poultry.

40 2. Persons who are engaged in the business of producing livestock
41 or poultry commercially.

42 3. Persons who are engaged in the business of feeding livestock or
43 poultry commercially or who board livestock noncommercially.

44 0. A vendor who has reason to believe that a certificate prescribed
45 by this section is not accurate or complete will not be relieved of the

1 burden of proving entitlement to the exemption. A vendor that accepts a
2 certificate in good faith will be relieved of the burden of proof and the
3 purchaser may be required to establish the accuracy of the claimed
4 exemption. If the purchaser cannot establish the accuracy and
5 completeness of the information provided in the certificate, the purchaser
6 is liable for an amount equal to the transaction privilege tax, penalty
7 and interest that the vendor would have been required to pay if the vendor
8 had not accepted the certificate.

9 P. Notwithstanding any other law, an online lodging operator, as
10 defined in section 42-5076, shall be entitled to an exclusion from any
11 applicable taxes for any online lodging transaction, as defined in section
12 42-5076, facilitated by an online lodging marketplace, as defined in
13 section 42-5076, for which the online lodging operator has obtained from
14 the online lodging marketplace written notice that the online lodging
15 marketplace is registered with the department to collect applicable taxes
16 for all online lodging transactions facilitated by the online lodging
17 marketplace, and transaction history documenting tax collected by the
18 online lodging marketplace, pursuant to section 42-5005, subsection L.

19 Q. The department shall prescribe the form of a certificate to be
20 used by a person purchasing an aircraft to document eligibility for a
21 deduction pursuant to section 42-5061, subsection B, paragraph 7,
22 subdivision (a), item (v) or an exemption pursuant to section 42-5159,
23 subsection B, paragraph 7, subdivision (a), item (v), relating to
24 aircraft. The person must provide this certificate and documentation
25 confirming that the operational control of the aircraft has been
26 transferred or will be transferred immediately after the purchase to one
27 or more persons described in section 42-5061, subsection B, paragraph 7,
28 subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159,
29 subsection B, paragraph 7, subdivision (a), item (i), (ii), (iii) or (iv).
30 Operational control of the aircraft must be transferred for at least fifty
31 percent of the aircraft's flight hours. If such operational control is
32 not transferred for at least fifty percent of the aircraft's flight hours
33 during the recapture period, the owner of the aircraft is liable for an
34 amount equal to any tax that the seller or purchaser would have been
35 required to pay under this chapter at the time of the sale, plus penalty
36 and interest. The recapture period begins on the date that operational
37 control of the aircraft is first transferred and ends on the later of the
38 date the aircraft is fully depreciated for federal income tax purposes or
39 five years after operational control was first transferred. For the
40 purposes of this subsection, operational control of the aircraft must be
41 within the meaning of federal aviation administration operations
42 specification A008, or its successor, except that:

43 1. If it is determined that operational control has been
44 transferred for less than fifty percent but more than forty percent of the
45 aircraft's flight hours, the owner of the aircraft is liable for an amount

1 equal to any tax that the seller or purchaser would have been required to
2 pay under this chapter at the time of the sale, plus interest.

3 2. If the aircraft is sold during the recapture period, the seller
4 is not liable for the amount determined pursuant to this subsection unless
5 the operational control of the aircraft had not been transferred for at
6 least fifty percent of the aircraft's flight hours at the time of the
7 sale.

8 Sec. 8. Section 42-5010, Arizona Revised Statutes, is amended to
9 read:

10 42-5010. Rates: distribution base

11 A. The tax imposed by this article is levied and shall be collected
12 at the following rates:

13 1. Five percent of the tax base as computed for the business of
14 every person engaging or continuing in this state in the following
15 business classifications described in article 2 of this chapter:

16 (a) Transporting classification.

17 (b) Utilities classification.

18 (c) Telecommunications classification.

19 (d) Pipeline classification.

20 (e) Private car line classification.

21 (f) Publication classification.

22 (g) Job printing classification.

23 ~~(h) Prime contracting classification.~~

24 (h) HIGHWAY, STREET OR BRIDGE CONSTRUCTION CLASSIFICATION.

25 (i) MANUFACTURED BUILDING DEALER CLASSIFICATION.

26 ~~(j)~~ (j) Amusement classification.

27 ~~(j)~~ (k) Restaurant classification.

28 ~~(k)~~ (l) Personal property rental classification.

29 ~~(j)~~ (m) Retail classification ~~and amounts equal to retail~~
30 ~~transaction privilege tax due pursuant to section 42-5008.01.~~

31 2. Five and one-half percent of the tax base as computed for the
32 business of every person engaging or continuing in this state in:

33 (a) The transient lodging classification described in section
34 42-5070.

35 (b) The online lodging marketplace classification described in
36 section 42-5076 who has entered into an agreement with the department to
37 register for, or has otherwise obtained from the department, a license to
38 collect tax pursuant to section 42-5005, subsection L.

39 3. Three and one-eighth percent of the tax base as computed for the
40 business of every person engaging or continuing in this state in the
41 mining classification described in section 42-5072.

42 4. Zero percent of the tax base as computed for the business of
43 every person engaging or continuing in this state in the commercial lease
44 classification described in section 42-5069.

1 B. Except as provided by subsection J of this section, twenty
 2 percent of the tax revenues collected at the rate prescribed by subsection
 3 A, paragraph 1 of this section from persons on account of engaging in
 4 business under the business classifications listed in subsection A,
 5 paragraph 1, subdivisions (a) through ~~(h)~~ (i) of this section is
 6 designated as distribution base for purposes of section 42-5029.

7 C. Forty percent of the tax revenues collected at the rate
 8 prescribed by subsection A, paragraph 1 of this section from persons on
 9 account of engaging in business under the business classifications listed
 10 in subsection A, paragraph 1, subdivisions ~~(h)~~ (j) through ~~(i)~~ (m) of this
 11 section is designated as distribution base for purposes of section
 12 42-5029.

13 D. Thirty-two percent of the tax revenues collected from persons on
 14 account of engaging in business under the business classification listed
 15 in subsection A, paragraph 3 of this section is designated as distribution
 16 base for purposes of section 42-5029.

17 E. Fifty-three and one-third percent of the tax revenues collected
 18 from persons on account of engaging in business under the business
 19 classification listed in subsection A, paragraph 4 of this section is
 20 designated as distribution base for purposes of section 42-5029.

21 F. Fifty percent of the tax revenues collected from persons on
 22 account of engaging in business under the business classification listed
 23 in subsection A, paragraph 2 of this section is designated as distribution
 24 base for purposes of section 42-5029.

25 G. In addition to the rates prescribed by subsection A of this
 26 section, if approved by the qualified electors voting at a statewide
 27 general election, an additional rate increment is imposed and shall be
 28 collected through June 30, 2021. The taxpayer shall pay taxes pursuant to
 29 this subsection at the same time and in the same manner as under
 30 subsection A of this section. The department shall separately account for
 31 the revenues collected with respect to the rates imposed pursuant to this
 32 subsection and the state treasurer shall distribute all of those revenues
 33 in the manner prescribed by section 42-5029, subsection E. The rates
 34 imposed pursuant to this subsection shall not be considered local revenues
 35 for purposes of article IX, section 21, Constitution of Arizona. The
 36 additional tax rate increment is levied at the rate of six-tenths of one
 37 per cent of the tax base of every person engaging or continuing in this
 38 state in a business classification listed in subsection A, paragraph 1 of
 39 this section.

40 H. Any increase in the rate of tax that is imposed by this chapter
 41 and that is enacted by the legislature or by a vote of the people does not
 42 apply with respect to GROSS INCOME DERIVED FROM contracts entered into ~~by~~
 43 ~~prime contractors~~ or pursuant to written bids ~~made by prime contractors~~
 44 SUBMITTED on or before the effective date of the legislation or the date
 45 of the election enacting the increase. To qualify for the exemption under

1 this subsection, the ~~prime contractor~~ TAXPAYER must maintain sufficient
2 documentation, in a manner and form prescribed by the department, to
3 verify the date of the contract or written bid.

4 I. For taxpayers taxable under this chapter other than ~~prime~~
5 ~~contractors taxable~~ pursuant to section 42-5075:

6 1. Any increase in the rate of tax that is levied by this article
7 or article 2 of this chapter enacted by the legislature or by a vote of
8 the people does not apply for a period of one hundred twenty days ~~from~~
9 AFTER the date of the tax rate increase to the gross proceeds of sales or
10 gross income from the business of the taxpayer with respect to written
11 contracts entered into before the effective date of the tax rate increase
12 unless the taxpayer has entered into a contract that contains a provision
13 that entitles the taxpayer to recover from the purchaser the amount of the
14 additional tax levied.

15 2. The provisions of this subsection apply without regard to the
16 accounting method used by the taxpayer to report the taxes imposed under
17 article 2 of this chapter.

18 3. The provisions of this subsection shall not be considered in
19 determining the rate of tax imposed under chapter 6, article 3 of this
20 title.

21 J. Zero percent of the tax revenues that are collected at the rate
22 prescribed by subsection A, paragraph 1 of this section from persons on
23 account of engaging in business under the business classification listed
24 in subsection A, paragraph 1, ~~subdivision~~ SUBDIVISIONS (h) AND (i) of this
25 section, and that are subject to any distribution required by section
26 42-5032.02, is designated as distribution base for the purposes of section
27 42-5029 until the total amount subject to distribution pursuant to section
28 42-5032.02 has reached the maximum amount prescribed by section
29 42-5032.02, subsection C. Thereafter, twenty percent of the remaining tax
30 revenues is designated as distribution base for the purposes of section
31 42-5029 as provided by subsection B of this section.

32 Sec. 9. Subject to the requirements of article IV, part 1, section
33 1, Constitution of Arizona, section 42-5029, Arizona Revised Statutes, is
34 amended to read:

35 42-5029. Remission and distribution of monies; withholding;
36 definition

37 A. The department shall deposit, pursuant to sections 35-146 and
38 35-147, all revenues collected under this article and articles 4, 5 and 8
39 of this chapter pursuant to section 42-1116, separately accounting for:

40 1. Payments of estimated tax under section 42-5014, subsection D.

41 2. Revenues collected pursuant to section 42-5070.

42 3. Revenues collected under this article and article 5 of this
43 chapter from and after June 30, 2000 from sources located on Indian
44 reservations in this state.

1 4. Revenues collected pursuant to section 42-5010, subsection G and
2 section 42-5155, subsection ~~D~~ E.

3 5. Revenues collected pursuant to section 42-5010.01 and section
4 42-5155, subsection ~~E~~ F.

5 B. The department shall credit payments of estimated tax to an
6 estimated tax clearing account and each month shall transfer all monies in
7 the estimated tax clearing account to a fund designated as the transaction
8 privilege and severance tax clearing account. The department shall credit
9 all other payments to the transaction privilege and severance tax clearing
10 account, separately accounting for the monies designated as distribution
11 base under sections 42-5010, 42-5164 and 42-5205. Each month the
12 department shall report to the state treasurer the amount of monies
13 collected pursuant to this article and articles 4, 5 and 8 of this
14 chapter.

15 C. On notification by the department, the state treasurer shall
16 distribute the monies deposited in the transaction privilege and severance
17 tax clearing account in the manner prescribed by this section and by
18 sections 42-5164 and 42-5205, after deducting warrants drawn against the
19 account pursuant to sections 42-1118 and 42-1254.

20 D. Of the monies designated as distribution base, and subject to
21 the requirements of section 42-5041, the department shall:

22 1. Pay twenty-five percent to the various incorporated
23 municipalities in this state in proportion to their population to be used
24 by the municipalities for any municipal purpose.

25 2. Pay 38.08 percent to the counties in this state by averaging the
26 following proportions:

27 (a) The proportion that the population of each county bears to the
28 total state population.

29 (b) The proportion that the distribution base monies collected
30 during the calendar month in each county under this article, section
31 42-5164, subsection B and section 42-5205, subsection B bear to the total
32 distribution base monies collected under this article, section 42-5164,
33 subsection B and section 42-5205, subsection B throughout the state for
34 the calendar month.

35 3. Pay an additional 2.43 percent to the counties in this state as
36 follows:

37 (a) Average the following proportions:

38 (i) The proportion that the assessed valuation used to determine
39 secondary property taxes of each county, after deducting that part of the
40 assessed valuation that is exempt from taxation at the beginning of the
41 month for which the amount is to be paid, bears to the total assessed
42 valuations used to determine secondary property taxes of all the counties
43 after deducting that portion of the assessed valuations that is exempt
44 from taxation at the beginning of the month for which the amount is to be
45 paid. Property of a city or town that is not within or contiguous to the

1 municipal corporate boundaries and from which water is or may be withdrawn
2 or diverted and transported for use on other property is considered to be
3 taxable property in the county for purposes of determining assessed
4 valuation in the county under this item.

5 (ii) The proportion that the distribution base monies collected
6 during the calendar month in each county under this article, section
7 42-5164, subsection B and section 42-5205, subsection B bear to the total
8 distribution base monies collected under this article, section 42-5164,
9 subsection B and section 42-5205, subsection B throughout ~~the~~ THIS state
10 for the calendar month.

11 (b) If the proportion computed under subdivision (a) of this
12 paragraph for any county is greater than the proportion computed under
13 paragraph 2 of this subsection, the department shall compute the
14 difference between the amount distributed to that county under paragraph 2
15 of this subsection and the amount that would have been distributed under
16 paragraph 2 of this subsection using the proportion computed under
17 subdivision (a) of this paragraph and shall pay that difference to the
18 county from the amount available for distribution under this paragraph.
19 Any monies remaining after all payments under this subdivision shall be
20 distributed among the counties according to the proportions computed under
21 paragraph 2 of this subsection.

22 4. After any distributions required by sections 42-5030,
23 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making
24 any transfer to the water quality assurance revolving fund as required by
25 section 49-282, subsection B, credit the remainder of the monies
26 designated as distribution base to the state general fund. From this
27 amount the legislature shall annually appropriate to:

28 (a) The department of revenue sufficient monies to administer and
29 enforce this article and articles 5 and 8 of this chapter.

30 (b) The department of economic security monies to be used for the
31 purposes stated in title 46, chapter 1.

32 (c) The firearms safety and ranges fund established by section
33 17-273, ~~fifty thousand dollars~~ \$50,000 derived from the taxes collected
34 from the retail classification pursuant to section 42-5061 for the current
35 fiscal year.

36 E. If approved by the qualified electors voting at a statewide
37 general election, all monies collected pursuant to section 42-5010,
38 subsection G and section 42-5155, subsection ~~D~~ E shall be distributed
39 each fiscal year pursuant to this subsection. The monies distributed
40 pursuant to this subsection are in addition to any other appropriation,
41 transfer or other allocation of public or private monies from any other
42 source and shall not supplant, replace or cause a reduction in other
43 school district, charter school, university or community college funding
44 sources. The monies shall be distributed as follows:

1 1. If there are outstanding state school facilities revenue bonds
2 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
3 amount that is necessary to pay the fiscal year's debt service on
4 outstanding state school improvement revenue bonds for the current fiscal
5 year shall be transferred each month to the school improvement revenue
6 bond debt service fund established by section 15-2084. The total amount
7 of bonds for which these monies may be allocated for the payment of debt
8 service shall not exceed a principal amount of ~~eight hundred million~~
9 ~~dollars~~ \$800,000,000 exclusive of refunding bonds and other refinancing
10 obligations.

11 2. After any transfer of monies pursuant to paragraph 1 of this
12 subsection, twelve ~~per cent~~ PERCENT of the remaining monies collected
13 during the preceding month shall be transferred to the technology and
14 research initiative fund established by section 15-1648 to be distributed
15 among the universities for the purpose of investment in technology and
16 research-based initiatives.

17 3. After the transfer of monies pursuant to paragraph 1 of this
18 subsection, three ~~per cent~~ PERCENT of the remaining monies collected
19 during the preceding month shall be transferred to the workforce
20 development account established in each community college district
21 pursuant to section 15-1472 for the purpose of investment in workforce
22 development programs.

23 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of
24 this subsection, one-twelfth of the amount a community college that is
25 owned, operated or chartered by a qualifying Indian tribe on its own
26 Indian reservation would receive pursuant to section 15-1472, subsection
27 D, paragraph 2 if it were a community college district shall be
28 distributed each month to the treasurer or other designated depository of
29 a qualifying Indian tribe. Monies distributed pursuant to this paragraph
30 are for the exclusive purpose of providing support to one or more
31 community colleges owned, operated or chartered by a qualifying Indian
32 tribe and shall be used in a manner consistent with section 15-1472,
33 subsection B. For the purposes of this paragraph, "qualifying Indian
34 tribe" has the same meaning as defined in section 42-5031.01,
35 subsection D.

36 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of
37 this subsection, one-twelfth of the following amounts shall be transferred
38 each month to the department of education for the increased cost of basic
39 state aid under section 15-971 due to added school days and associated
40 teacher salary increases enacted in 2000:

- 41 (a) In fiscal year 2001-2002, \$15,305,900.
- 42 (b) In fiscal year 2002-2003, \$31,530,100.
- 43 (c) In fiscal year 2003-2004, \$48,727,700.
- 44 (d) In fiscal year 2004-2005, \$66,957,200.

1 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
2 \$86,280,500.

3 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of
4 this subsection, ~~seven million eight hundred thousand dollars~~ \$7,800,000
5 is appropriated each fiscal year, to be paid in monthly installments, to
6 the department of education to be used for school safety as provided in
7 section 15-154 and ~~two hundred thousand dollars~~ \$200,000 is appropriated
8 each fiscal year, to be paid in monthly installments, to the department of
9 education to be used for the character education matching grant program as
10 provided in section 15-154.01.

11 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of
12 this subsection, ~~no~~ NOT more than ~~seven million dollars~~ \$7,000,000 may be
13 appropriated by the legislature each fiscal year to the department of
14 education to be used for accountability purposes as described in section
15 15-241 and title 15, chapter 9, article 8.

16 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of
17 this subsection, ~~one million five hundred thousand dollars~~ \$1,500,000 is
18 appropriated each fiscal year, to be paid in monthly installments, to the
19 failing schools tutoring fund established by section 15-241.

20 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of
21 this subsection, ~~twenty-five million dollars~~ \$25,000,000 shall be
22 transferred each fiscal year to the state general fund to reimburse the
23 STATE general fund for the cost of the income tax credit allowed by
24 section 43-1072.01.

25 10. After the payment of monies pursuant to paragraphs 1 through 9
26 of this subsection, the remaining monies collected during the preceding
27 month shall be transferred to the classroom site fund established by
28 section 15-977. The monies shall be allocated as follows in the manner
29 prescribed by section 15-977:

30 (a) Forty ~~per cent~~ PERCENT shall be allocated for teacher
31 compensation based on performance.

32 (b) Twenty ~~per cent~~ PERCENT shall be allocated for increases in
33 teacher base compensation and employee related expenses.

34 (c) Forty ~~per cent~~ PERCENT shall be allocated for maintenance and
35 operation purposes.

36 F. The department shall credit the remainder of the monies in the
37 transaction privilege and severance tax clearing account to the state
38 general fund, subject to any distribution required by section 42-5030.01.

39 G. Notwithstanding subsection D of this section, if a court of
40 competent jurisdiction finally determines that tax monies distributed
41 under this section were illegally collected under this article or articles
42 5 and 8 of this chapter and orders the monies to be refunded to the
43 taxpayer, the department shall compute the amount of such monies that was
44 distributed to each city, town and county under this section. Each
45 city's, town's and county's proportionate share of the costs shall be

1 based on the amount of the original tax payment each municipality and
 2 county received. Each month the state treasurer shall reduce the amount
 3 otherwise distributable to the city, town and county under this section by
 4 ~~one thirty-sixth~~ 1/36 of the total amount to be recovered from the city,
 5 town or county until the total amount has been recovered, but the monthly
 6 reduction for any city, town or county shall not exceed ten percent of the
 7 full monthly distribution to that entity. The reduction shall begin for
 8 the first calendar month after the final disposition of the case and shall
 9 continue until the total amount, including interest and costs, has been
 10 recovered.

11 H. On receiving a certificate of default from the greater Arizona
 12 development authority pursuant to section 41-2257 or 41-2258 and to the
 13 extent not otherwise expressly prohibited by law, the state treasurer
 14 shall withhold from the next succeeding distribution of monies pursuant to
 15 this section due to the defaulting political subdivision the amount
 16 specified in the certificate of default and immediately deposit the amount
 17 withheld in the greater Arizona development authority revolving fund. The
 18 state treasurer shall continue to withhold and deposit the monies until
 19 the greater Arizona development authority certifies to the state treasurer
 20 that the default has been cured. In no event may the state treasurer
 21 withhold any amount that the defaulting political subdivision certifies to
 22 the state treasurer and the authority as being necessary to make any
 23 required deposits then due for the payment of principal and interest on
 24 bonds of the political subdivision that were issued before the date of the
 25 loan repayment agreement or bonds and that have been secured by a pledge
 26 of distributions made pursuant to this section.

27 I. Except as provided by sections 42-5033 and 42-5033.01, the
 28 population of a county, city or town as determined by the most recent
 29 United States decennial census plus any revisions to the decennial census
 30 certified by the United States bureau of the census shall be used as the
 31 basis for apportioning monies pursuant to subsection D of this section.

32 J. Except as otherwise provided by this subsection, on notice from
 33 the department of revenue pursuant to section 42-6010, subsection B, the
 34 state treasurer shall withhold from the distribution of monies pursuant to
 35 this section to the affected city or town the amount of the penalty for
 36 business location municipal tax incentives provided by the city or town to
 37 a business entity that locates a retail business facility in the city or
 38 town. The state treasurer shall continue to withhold monies pursuant to
 39 this subsection until the entire amount of the penalty has been withheld.
 40 The state treasurer shall credit any monies withheld pursuant to this
 41 subsection to the state general fund as provided by subsection D,
 42 paragraph 4 of this section. The state treasurer shall not withhold any
 43 amount that the city or town certifies to the department of revenue and
 44 the state treasurer as being necessary to make any required deposits or
 45 payments for debt service on bonds or other long-term obligations of the

1 city or town that were issued or incurred before the location incentives
2 provided by the city or town.

3 K. On notice from the auditor general pursuant to section 9-626,
4 subsection D, the state treasurer shall withhold from the distribution of
5 monies pursuant to this section to the affected city the amount computed
6 pursuant to section 9-626, subsection D. The state treasurer shall
7 continue to withhold monies pursuant to this subsection until the entire
8 amount specified in the notice has been withheld. The state treasurer
9 shall credit any monies withheld pursuant to this subsection to the state
10 general fund as provided by subsection D, paragraph 4 of this section.

11 L. Except as otherwise provided by this subsection, on notice from
12 the attorney general pursuant to section 41-194.01, subsection B,
13 paragraph 1 that an ordinance, regulation, order or other official action
14 adopted or taken by the governing body of a county, city or town violates
15 state law or the Constitution of Arizona, the state treasurer shall
16 withhold the distribution of monies pursuant to this section to the
17 affected county, city or town and shall continue to withhold monies
18 pursuant to this subsection until the attorney general certifies to the
19 state treasurer that the violation has been resolved. The state treasurer
20 shall redistribute the monies withheld pursuant to this subsection among
21 all other counties, cities and towns in proportion to their population as
22 provided by subsection D of this section. The state treasurer shall not
23 withhold any amount that the county, city or town certifies to the
24 attorney general and the state treasurer as being necessary to make any
25 required deposits or payments for debt service on bonds or other long-term
26 obligations of the county, city or town that were issued or incurred
27 before committing the violation.

28 M. For the purposes of this section, "community college district"
29 means a community college district that is established pursuant to
30 sections 15-1402 and 15-1403 and that is a political subdivision of this
31 state and, unless otherwise specified, includes a community college
32 tuition financing district established pursuant to section 15-1409.

33 Sec. 10. Section 42-5029.02, Arizona Revised Statutes, is amended
34 to read:

35 42-5029.02. Distribution of revenues for education:
36 definitions

37 A. All monies collected pursuant to section 42-5010.01 and section
38 42-5155, subsection ~~F~~ F shall be distributed each fiscal year pursuant to
39 this subsection. The monies distributed pursuant to this subsection are
40 in addition to any other appropriation, transfer or other allocation of
41 public or private monies from any other source and may not supplant,
42 replace or cause a reduction in other school district, charter school,
43 university or community college funding sources. The monies shall be
44 distributed as follows:

1 1. \$64,100,000 is appropriated each fiscal year, to be paid in
2 monthly installments, to the classroom site fund established by section
3 15-977.

4 2. After any transfer of monies pursuant to paragraph 1 of this
5 subsection, twelve percent of the remaining monies collected during the
6 preceding month shall be transferred to the technology and research
7 initiative fund established by section 15-1648 to be distributed among the
8 universities under the jurisdiction of the Arizona board of regents for
9 the purpose of investment in technology and research-based initiatives.

10 3. After the transfer of monies pursuant to paragraphs 1 and 2 of
11 this subsection, three percent of the remaining monies collected during
12 the preceding month shall be transferred to the workforce development
13 account established in each community college district pursuant to section
14 15-1472 for the purpose of investment in workforce development programs.

15 4. After the transfer of monies pursuant to paragraphs 1, 2 and 3
16 of this subsection, one-twelfth of the amount a community college that is
17 owned, operated or chartered by a qualifying Indian tribe on its own
18 Indian reservation would receive pursuant to section 15-1472, subsection
19 D, paragraph 2 if it were a community college district shall be
20 distributed each month to the treasurer or other designated depository of
21 the qualifying Indian tribe. Monies distributed pursuant to this
22 paragraph are for the exclusive purpose of providing support to one or
23 more community colleges that are owned, operated or chartered by a
24 qualifying Indian tribe and shall be used in a manner consistent with
25 section 15-1472, subsection B.

26 5. After the transfer of monies pursuant to paragraphs 1, 2 and 3
27 of this subsection, one-twelfth of \$86,280,500 shall be transferred each
28 month to the department of education for the increased cost of basic state
29 aid under section 15-971 due to added school days and associated teacher
30 salary increases that were enacted in 2000.

31 6. After the transfer of monies pursuant to paragraphs 1, 2 and 3
32 of this subsection, \$7,800,000 is appropriated each fiscal year, to be
33 paid in monthly installments, to the department of education to be used
34 for school safety as provided in section 15-154 and \$200,000 is
35 appropriated each fiscal year, to be paid in monthly installments, to the
36 department of education to be used for the character education matching
37 grant program as provided in section 15-154.01.

38 7. After the transfer of monies pursuant to paragraphs 1, 2 and 3
39 of this subsection, the legislature may not appropriate more than
40 \$7,000,000 each fiscal year to the department of education to be used for
41 accountability purposes as described in section 15-241.02 and title 15,
42 chapter 9, article 8.

43 8. After the transfer of monies pursuant to paragraphs 1, 2 and 3
44 of this subsection, \$1,500,000 is appropriated each fiscal year, to be

1 paid in monthly installments, to the failing schools tutoring fund
2 established by section 15-241.

3 9. After the transfer of monies pursuant to paragraphs 1, 2 and 3
4 of this subsection, \$25,000,000 shall be transferred each fiscal year to
5 the state general fund to reimburse the state general fund for the cost of
6 the income tax credit allowed by section 43-1072.02.

7 10. After the transfer of monies pursuant to paragraphs 1 through 9
8 of this subsection, the remaining monies collected during the preceding
9 month shall be transferred to the classroom site fund established by
10 section 15-977. The monies shall be allocated as follows in the manner
11 prescribed by section 15-977:

12 (a) Forty percent shall be allocated for teacher compensation based
13 on performance.

14 (b) Twenty percent shall be allocated for increases in teacher base
15 compensation and employee-related expenses.

16 (c) Forty percent shall be allocated for maintenance and operation
17 purposes.

18 B. For the purposes of this section:

19 1. "Community college district" means a community college district
20 that is established pursuant to sections 15-1402 and 15-1403 and that is a
21 political subdivision of this state and, unless otherwise specified,
22 includes a community college tuition financing district established
23 pursuant to section 15-1409.

24 2. "Qualifying Indian tribe" has the same meaning as defined in
25 section 42-5031.01.

26 Sec. 11. Section 42-5032.01, Arizona Revised Statutes, is amended
27 to read:

28 42-5032.01. Distribution of revenues for tourism and sports
29 authority

30 A. Each month the state treasurer shall pay, from the amount
31 designated as distribution base pursuant to section 42-5029, subsection D,
32 the amount determined under subsection B of this section to the tourism
33 and sports authority for deposit in the authority's facility revenue
34 clearing account established by section 5-834.

35 B. The amount to be paid under subsection A of this section is the
36 total amount of state transaction privilege tax revenues received from
37 persons conducting business under:

38 1. The retail, amusement and restaurant classifications at, or with
39 respect to events held at, a multipurpose facility that is owned or
40 operated by the authority pursuant to title 5, chapter 8.

41 2. The retail, amusement and restaurant classifications at, or with
42 respect to, professional football contests that are held beginning July
43 2001 in a stadium located on the campus of an institution under the
44 jurisdiction of the Arizona board of regents.

1 ~~C. Each month the state treasurer shall pay, from the amount~~
2 ~~designated as distribution base pursuant to section 42-5029, subsection D,~~
3 ~~the total amount of state transaction privilege tax revenues received from~~
4 ~~persons conducting business under the prime contracting classification at~~
5 ~~a multipurpose facility that is owned or operated by the tourism and~~
6 ~~sports authority pursuant to title 5, chapter 8 for deposit in the~~
7 ~~authority's construction account established by section 5-833.~~

8 Sec. 12. Section 42-5032.02, Arizona Revised Statutes, is amended
9 to read:

10 42-5032.02. Distribution of revenues for city, town or county
11 infrastructure improvements related to
12 manufacturing facilities; definitions

13 A. Subject to subsection B of this section, from and after
14 September 30, 2013 through September 30, 2023, each month the state
15 treasurer shall pay a city, town or county the amount determined under
16 subsection C of this section for the purpose of funding up to eighty
17 percent of the cost of public infrastructure improvements for the benefit
18 of a manufacturing facility.

19 B. The state treasurer shall not make any payments under subsection
20 C of this section until both of the following apply:

21 1. Ten percent of the qualifying capital investment that is
22 certified under subsection D of this section and that constitutes
23 ~~construction phase services, as defined in section 42-5075,~~ CONTRACTING
24 ACTIVITY has been made by the manufacturing facility.

25 2. From and after June 30, 2014.

26 C. The amount to be paid to a city, town or county under subsection
27 A of this section is the total amount of state transaction privilege tax
28 revenues collected under section 42-5010, subsection A ~~from persons~~
29 ~~conducting business under section 42-5075 derived from~~ FOR SALES OF
30 MATERIALS USED IN contracts to construct buildings and associated
31 improvements for the benefit of a manufacturing facility. ~~THE AMOUNT TO~~
32 ~~BE DISTRIBUTED EACH MONTH SHALL BE PAID IN EQUAL INSTALLMENTS OVER THE~~
33 ~~LIFE OF THE CONTRACT TO CONSTRUCT BUILDINGS AND ASSOCIATED IMPROVEMENTS~~
34 ~~FOR THE BENEFIT OF THE MANUFACTURING FACILITY.~~ The total amount paid to
35 all cities, towns and counties under this subsection shall not exceed
36 ~~a maximum of fifty million dollars~~ \$50,000,000.

37 D. Within one hundred eighty days after the commencement of the
38 construction of buildings and associated improvements for the benefit of a
39 manufacturing facility that will require a city, town or county to make
40 infrastructure improvements, the manufacturing facility shall file a sworn
41 certification with the Arizona commerce authority and submit a copy of
42 this sworn certification to the applicable city, town or county that the
43 manufacturing facility agrees ~~TO PROVIDE A COPY OF THE CONSTRUCTION~~
44 ~~CONTRACT SHOWING THE COST OF THE MATERIALS TO BE USED IN THE CONSTRUCTION~~

1 OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF THE
2 MANUFACTURING FACILITY AND to either:

3 1. Make at least ~~five hundred million dollars~~ \$500,000,000 in
4 capital investment if the manufacturing facility is located in a county
5 that has a population of eight hundred thousand persons or more.

6 2. Make at least ~~fifty million dollars~~ \$50,000,000 in capital
7 investment if the manufacturing facility is located in a county that has a
8 population of less than eight hundred thousand persons.

9 E. The certification under subsection D of this section shall
10 contain a sworn statement or certification, signed by an officer of the
11 manufacturing facility under penalty of perjury, that the information
12 contained is true and correct according to the best belief and knowledge
13 of the person submitting the information after a reasonable investigation
14 of the facts.

15 F. Before submitting the certification to the Arizona commerce
16 authority, the manufacturing facility and the city, town or county must
17 enter into a written agreement that:

18 1. Identifies and states the cost of the public infrastructure
19 improvements that will be constructed.

20 2. Identifies the sources of monies, including monies received
21 pursuant to this section, that will be used to pay for the public
22 infrastructure improvements.

23 G. On receipt of the sworn certification from a manufacturing
24 facility pursuant to subsection D of this section, the city, town or
25 county shall enter into a written agreement with the department. This
26 agreement and any amendments or changes to the agreement shall:

27 1. State the cost of the public infrastructure improvements and
28 separately identify the particular improvements that will be made,
29 INCLUDING SPECIFICALLY IDENTIFYING THE COST OF MATERIALS USED.

30 2. State that the monies received under this section will be used
31 exclusively to pay for public infrastructure improvements that are
32 necessary to support the activities of the manufacturing facility.

33 3. State that the city, town or county will commit all of its
34 portion of the revenue received pursuant to section 42-5029, subsection D
35 derived from contracts subject to section 42-5075 for the construction of
36 buildings and associated improvements for the benefit of the manufacturing
37 facility for public infrastructure improvements that benefit the
38 manufacturing facility.

39 4. State that the city, town or county will immediately notify the
40 department when monies received under this section exceed eighty percent
41 of the cost of the infrastructure improvements and will return the amount
42 of the excess to the state treasurer for deposit in the state general
43 fund.

44 5. Stipulate the actual amount of the construction funding that
45 will be derived from sources other than the state.

1 ~~6. Identify the persons who will be prime contractors on the~~
2 ~~construction of buildings and associated improvements for the benefit of a~~
3 ~~manufacturing facility and state that each prime contractor has been~~
4 ~~notified as to which portion of the contractor's income shall be~~
5 ~~separately identified to the department pursuant to section 42-5075,~~
6 ~~subsection H.~~

7 ~~7.~~ 6. State that the city, town or county agrees that any amounts
8 paid by the department to ~~a prime contractor as identified under paragraph~~
9 ~~6 of this subsection resulting from an audit adjustment or claim for~~
10 ~~credit or refund of taxes described in subsection C of this section~~ THE
11 CITY, TOWN OR COUNTY THAT EXCEED THE AMOUNT OF THE TRANSACTION PRIVILEGE
12 TAX PAID ON THE SALE OF MATERIALS USED IN THE CONSTRUCTION OF BUILDINGS OR
13 OTHER ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF THE MANUFACTURING
14 FACILITY shall be recovered by the department from the city, town or
15 county by reducing the amount paid to the city, town or county under
16 section 42-5029 from monies designated as distribution base in the month
17 next succeeding the month in which the adjustment or claim is paid.

18 ~~8.~~ 7. State that the city, town or county agrees that the
19 department will use the amounts subject to any distribution required under
20 subsection A of this section in calculating the maximum amount set by
21 subsection C of this section.

22 ~~9. State that the city, town or county agrees that if, on~~
23 ~~notification by the department, the state treasurer ceases payments~~
24 ~~because of the condition described in subsection H of this section, the~~
25 ~~city, town or county has no claim to additional payments if the department~~
26 ~~subsequently pays amounts to a prime contractor identified in an agreement~~
27 ~~with any city, town or county, as described in paragraph 6 of this~~
28 ~~subsection, due to an audit adjustment or claim for credit or refund of~~
29 ~~taxes described in subsection C of this section.~~

30 ~~10.~~ 8. Provide any other information deemed necessary by the
31 department.

32 H. EACH YEAR AND ON COMPLETION OF THE CONTRACT TO CONSTRUCT
33 BUILDINGS AND OTHER ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A
34 MANUFACTURING FACILITY, THE MANUFACTURING FACILITY SHALL PROVIDE A
35 RECONCILIATION OF THE COST OF MATERIALS USED IN THE CONSTRUCTION OF THE
36 BUILDINGS AND OTHER ASSOCIATED IMPROVEMENTS, INCLUDING AMOUNTS
37 REPRESENTING A REIMBURSEMENT OF TRANSACTION PRIVILEGE TAXES PAID BY THE
38 RETAILER.

39 ~~H.~~ I. On notification by the department, the state treasurer shall
40 cease payments under subsection A of this section if either of the
41 following occurs:

42 1. The city, town or county has received monies that meet or exceed
43 eighty percent of the cost of the public infrastructure improvements that
44 are necessary to support the activities related to the manufacturing

1 facility as described in the written agreement pursuant to subsection G of
2 this section.

3 2. The total amount subject to any distribution required under
4 subsection A of this section has met the maximum amount set by subsection
5 C of this section.

6 ~~F.~~ J. For the purposes of this section:

7 1. "Associated improvement" includes any public infrastructure
8 improvement that is made for the benefit of the manufacturing facility
9 outside of the parcel or parcels of real property where the manufacturing
10 facility is located.

11 2. "Capital investment" means an expenditure to acquire, lease or
12 improve property that is used for the benefit of a manufacturing facility,
13 including land, buildings, machinery and fixtures.

14 3. "Manufacturing facility":

15 (a) Means an establishment that is engaged in the mechanical,
16 physical or chemical transformation or fabrication of materials,
17 substances or components into new products in this state, that is
18 classified within sections 31 through 33 inclusive of the 2007 edition of
19 the north American industry classification system as published by the
20 national technical information service of the United States department of
21 commerce and that agrees to either:

22 (i) Make at least ~~five hundred million dollars~~ \$500,000,000 in
23 capital investment if the manufacturing facility is located in a county
24 that has a population of eight hundred thousand persons or more.

25 (ii) Make at least ~~fifty million dollars~~ \$50,000,000 in capital
26 investment if the manufacturing facility is located in a county that has a
27 population of less than eight hundred thousand persons.

28 (b) Does not include mining, milling or smelting mineral ore or
29 generating electricity.

30 4. "Population" means the population determined in the most recent
31 United States decennial census or the most recent special census as
32 provided in section 28-6532.

33 5. "Public infrastructure" means water production, delivery and
34 disposal facilities, wastewater production, delivery and disposal
35 facilities and roads that are necessary to support the activities of the
36 manufacturing facility.

37 Sec. 13. Section 42-5040, Arizona Revised Statutes, is amended to
38 read:

39 42-5040. Sourcing of certain transactions involving tangible
40 personal property; definitions

41 A. Except as provided in section 42-5075, retail sales of tangible
42 personal property shall be sourced as follows:

43 1. To the seller's business location if the seller receives the
44 order at a business location in this state.

1 2. ~~Except as provided in section 42-5008.01,~~ To the purchaser's
2 location in this state if the seller receives the order at a business
3 location outside this state.

4 B. For the purposes of this section, an order is received when all
5 of the information necessary to accept the order has been received by or
6 on behalf of the seller, regardless of where the order is accepted or
7 approved. The place of business or residence of the purchaser does not
8 determine where the order is received.

9 C. The gross receipts from leasing or renting tangible personal
10 property shall be sourced as follows:

11 1. To the lessor's business location if the lessor has a business
12 location in this state.

13 2. To the lessee's address if the lessor does not have a business
14 location in this state. The gross receipts are taxable when the property
15 is shipped, delivered or otherwise brought into this state for use in this
16 state.

17 D. For the purposes of this section:

18 1. "Lessee's address" means the residential address of an
19 individual lessee and the primary business address of any other lessee.

20 2. "Lessor's business location" means the business address that
21 appears on the lessor's transaction privilege tax license.

22 Sec. 14. Section 42-5061, Arizona Revised Statutes, as amended by
23 Laws 2018, chapter 104, section 15 and chapter 249, section 1, is amended
24 to read:

25 42-5061. Retail classification; definitions

26 A. The retail classification is comprised of the business of
27 selling tangible personal property at retail. The tax base for the retail
28 classification is the gross proceeds of sales or gross income derived from
29 the business. The tax imposed on the retail classification does not apply
30 to the gross proceeds of sales or gross income from:

31 1. Professional or personal service occupations or businesses that
32 involve sales or transfers of tangible personal property only as
33 inconsequential elements.

34 2. Services rendered in addition to selling tangible personal
35 property at retail.

36 3. Sales of warranty or service contracts. The storage, use or
37 consumption of tangible personal property provided under the conditions of
38 such contracts is subject to tax under section 42-5156.

39 4. Sales of tangible personal property by any nonprofit
40 organization organized and operated exclusively for charitable purposes
41 and recognized by the United States internal revenue service under section
42 501(c)(3) of the internal revenue code.

43 5. Sales to persons engaged in business classified under the
44 restaurant classification of articles used by human beings for food, drink
45 or condiment, whether simple, mixed or compounded.

- 1 6. Business activity that is properly included in any other
2 business classification that is taxable under this article.
- 3 7. The sale of stocks and bonds.
- 4 8. Drugs and medical oxygen, including delivery hose, mask or tent,
5 regulator and tank, on the prescription of a member of the medical, dental
6 or veterinarian profession who is licensed by law to administer such
7 substances.
- 8 9. Prosthetic appliances as defined in section 23-501 and as
9 prescribed or recommended by a health professional who is licensed
10 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 11 10. Insulin, insulin syringes and glucose test strips.
- 12 11. Prescription eyeglasses or contact lenses.
- 13 12. Hearing aids as defined in section 36-1901.
- 14 13. Durable medical equipment that has a centers for medicare and
15 medicaid services common procedure code, is designated reimbursable by
16 medicare, is prescribed by a person who is licensed under title 32,
17 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
18 primarily and customarily used to serve a medical purpose, is generally
19 not useful to a person in the absence of illness or injury and is
20 appropriate for use in the home.
- 21 14. Sales of motor vehicles to nonresidents of this state for use
22 outside this state if the motor vehicle dealer ships or delivers the motor
23 vehicle to a destination out of this state.
- 24 15. Food, as provided in and subject to the conditions of article 3
25 of this chapter and section 42-5074.
- 26 16. Items purchased with United States department of agriculture
27 coupons issued under the supplemental nutrition assistance program
28 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
29 7 United States Code sections 2011 through 2036b) by the United States
30 department of agriculture food and nutrition service or food instruments
31 issued under section 17 of the child nutrition act (P.L. 95-627; 92
32 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
33 section 1786).
- 34 17. Textbooks by any bookstore that are required by any state
35 university or community college.
- 36 18. Food and drink to a person that is engaged in a business that
37 is classified under the restaurant classification and that provides such
38 food and drink without monetary charge to its employees for their own
39 consumption on the premises during the employees' hours of employment.
- 40 19. Articles of food, drink or condiment and accessory tangible
41 personal property to a school district or charter school if such articles
42 and accessory tangible personal property are to be prepared and served to
43 persons for consumption on the premises of a public school within the
44 district or on the premises of the charter school during school hours.

1 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
2 article 1.

3 21. The sale of cash equivalents and the sale of precious metal
4 bullion and monetized bullion to the ultimate consumer, but the sale of
5 coins or other forms of money for manufacture into jewelry or works of art
6 is subject to the tax and the gross proceeds of sales or gross income
7 derived from the redemption of any cash equivalent by the holder as a
8 means of payment for goods or services that are taxable under this article
9 is subject to the tax. For the purposes of this paragraph:

10 (a) "Cash equivalents" means items or intangibles, whether or not
11 negotiable, that are sold to one or more persons, through which a value
12 denominated in money is purchased in advance and may be redeemed in full
13 or in part for tangible personal property, intangibles or services. Cash
14 equivalents include gift cards, stored value cards, gift certificates,
15 vouchers, traveler's checks, money orders or other instruments, orders or
16 electronic mechanisms, such as an electronic code, personal identification
17 number or digital payment mechanism, or any other prepaid intangible right
18 to acquire tangible personal property, intangibles or services in the
19 future, whether from the seller of the cash equivalent or from another
20 person. Cash equivalents do not include either of the following:

21 (i) Items or intangibles that are sold to one or more persons,
22 through which a value is not denominated in money.

23 (ii) Prepaid calling cards or prepaid authorization numbers for
24 telecommunications services made taxable by subsection P of this section.

25 (b) "Monetized bullion" means coins and other forms of money that
26 are manufactured from gold, silver or other metals and that have been or
27 are used as a medium of exchange in this or another state, the United
28 States or a foreign nation.

29 (c) "Precious metal bullion" means precious metal, including gold,
30 silver, platinum, rhodium and palladium, that has been smelted or refined
31 so that its value depends on its contents and not on its form.

32 22. Motor vehicle fuel and use fuel that are subject to a tax
33 imposed under title 28, chapter 16, article 1, sales of use fuel to a
34 holder of a valid single trip use fuel tax permit issued under section
35 28-5739, sales of aviation fuel that are subject to the tax imposed under
36 section 28-8344 and sales of jet fuel that are subject to the tax imposed
37 under article 8 of this chapter.

38 23. Tangible personal property sold to a person engaged in the
39 business of leasing or renting such property under the personal property
40 rental classification if such property is to be leased or rented by such
41 person.

42 24. Tangible personal property sold in interstate or foreign
43 commerce if prohibited from being so taxed by the constitution of the
44 United States or the constitution of this state.

1 25. Tangible personal property sold to:

2 (a) A qualifying hospital as defined in section 42-5001.

3 (b) A qualifying health care organization as defined in section
4 42-5001 if the tangible personal property is used by the organization
5 solely to provide health and medical related educational and charitable
6 services.

7 (c) A qualifying health care organization as defined in section
8 42-5001 if the organization is dedicated to providing educational,
9 therapeutic, rehabilitative and family medical education training for
10 blind and visually impaired children and children with multiple
11 disabilities from the time of birth to age twenty-one.

12 (d) A qualifying community health center as defined in section
13 42-5001.

14 (e) A nonprofit charitable organization that has qualified under
15 section 501(c)(3) of the internal revenue code and that regularly serves
16 meals to the needy and indigent on a continuing basis at no cost.

17 (f) For taxable periods beginning from and after June 30, 2001, a
18 nonprofit charitable organization that has qualified under section
19 501(c)(3) of the internal revenue code and that provides residential
20 apartment housing for low income persons over sixty-two years of age in a
21 facility that qualifies for a federal housing subsidy, if the tangible
22 personal property is used by the organization solely to provide
23 residential apartment housing for low income persons over sixty-two years
24 of age in a facility that qualifies for a federal housing subsidy.

25 (g) A qualifying health sciences educational institution as defined
26 in section 42-5001.

27 ~~(h) Any person representing or working on behalf of another person
28 described in subdivisions (a) through (g) of this paragraph if the
29 tangible personal property is incorporated or fabricated into a project
30 described in section 42-5075, subsection 0.~~

31 26. Magazines or other periodicals or other publications by this
32 state to encourage tourist travel.

33 27. Tangible personal property sold to:

34 (a) A person that is subject to tax under this article by reason of
35 being engaged in business classified under section 42-5075 OR 42-5077 or
36 to a subcontractor working under the control of a person engaged in
37 business classified under section 42-5075 OR 42-5077, if the property so
38 sold is ~~any of the following:~~ INCORPORATED INTO ANY HIGHWAY, STREET OR
39 BRIDGE CONSTRUCTION PROJECT OR INTO A MANUFACTURED BUILDING.

40 ~~(i) Incorporated or fabricated by the person into any real
41 property, structure, project, development or improvement as part of the
42 business.~~

43 ~~(ii) Incorporated or fabricated by the person into any project
44 described in section 42-5075, subsection 0.~~

1 ~~(iii) Used in environmental response or remediation activities~~
2 ~~under section 42-5075, subsection B, paragraph 6.~~

3 (b) A person that is not subject to tax under section 42-5075 and
4 that has been provided a copy of a certificate under section 42-5009,
5 subsection L, if the property so sold is incorporated ~~or fabricated by the~~
6 ~~person into the real property, structure, project, development or~~
7 ~~improvement~~ INTO A HIGHWAY, STREET OR BRIDGE CONSTRUCTION PROJECT
8 described in the certificate.

9 28. The sale of a motor vehicle to:

10 (a) A nonresident of this state if the purchaser's state of
11 residence does not allow a corresponding use tax exemption to the tax
12 imposed by article 1 of this chapter and if the nonresident has secured a
13 special ninety day nonresident registration permit for the vehicle as
14 prescribed by sections 28-2154 and 28-2154.01.

15 (b) An enrolled member of an Indian tribe who resides on the Indian
16 reservation established for that tribe.

17 29. Tangible personal property purchased in this state by a
18 nonprofit charitable organization that has qualified under section
19 501(c)(3) of the United States internal revenue code and that engages in
20 and uses such property exclusively in programs for persons with mental or
21 physical disabilities if the programs are exclusively for training, job
22 placement, rehabilitation or testing.

23 30. Sales of tangible personal property by a nonprofit organization
24 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
25 501(c)(6) of the internal revenue code if the organization is associated
26 with a major league baseball team or a national touring professional
27 golfing association and no part of the organization's net earnings inures
28 to the benefit of any private shareholder or individual. This paragraph
29 does not apply to an organization that is owned, managed or controlled, in
30 whole or in part, by a major league baseball team, or its owners,
31 officers, employees or agents, or by a major league baseball association
32 or professional golfing association, or its owners, officers, employees or
33 agents, unless the organization conducted or operated exhibition events in
34 this state before January 1, 2018 that were exempt from taxation under
35 section 42-5073.

36 31. Sales of commodities, as defined by title 7 United States Code
37 section 2, that are consigned for resale in a warehouse in this state in
38 or from which the commodity is deliverable on a contract for future
39 delivery subject to the rules of a commodity market regulated by the
40 United States commodity futures trading commission.

41 32. Sales of tangible personal property by a nonprofit organization
42 that is exempt from taxation under section 501(c)(3), 501(c)(4),
43 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
44 organization sponsors or operates a rodeo featuring primarily farm and

1 ranch animals and no part of the organization's net earnings inures to the
2 benefit of any private shareholder or individual.

3 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
4 propagative material to persons who use those items to commercially
5 produce agricultural, horticultural, viticultural or floricultural crops
6 in this state.

7 34. Machinery, equipment, technology or related supplies that are
8 only useful to assist a person with a physical disability as defined in
9 section 46-191 or a person who has a developmental disability as defined
10 in section 36-551 or has a head injury as defined in section 41-3201 to be
11 more independent and functional.

12 35. Sales of natural gas or liquefied petroleum gas used to propel
13 a motor vehicle.

14 36. Paper machine clothing, such as forming fabrics and dryer
15 felts, sold to a paper manufacturer and directly used or consumed in paper
16 manufacturing.

17 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
18 electricity sold to a qualified environmental technology manufacturer,
19 producer or processor as defined in section 41-1514.02 and directly used
20 or consumed in the generation or provision of on-site power or energy
21 solely for environmental technology manufacturing, producing or processing
22 or environmental protection. This paragraph shall apply for twenty full
23 consecutive calendar or fiscal years from the date the first paper
24 manufacturing machine is placed in service. In the case of an
25 environmental technology manufacturer, producer or processor who does not
26 manufacture paper, the time period shall begin with the date the first
27 manufacturing, processing or production equipment is placed in service.

28 38. Sales of liquid, solid or gaseous chemicals used in
29 manufacturing, processing, fabricating, mining, refining, metallurgical
30 operations, research and development and, beginning on January 1, 1999,
31 printing, if using or consuming the chemicals, alone or as part of an
32 integrated system of chemicals, involves direct contact with the materials
33 from which the product is produced for the purpose of causing or
34 permitting a chemical or physical change to occur in the materials as part
35 of the production process. This paragraph does not include chemicals that
36 are used or consumed in activities such as packaging, storage or
37 transportation but does not affect any deduction for such chemicals that
38 is otherwise provided by this section. For the purposes of this
39 paragraph, "printing" means a commercial printing operation and includes
40 job printing, engraving, embossing, copying and bookbinding.

41 39. Through December 31, 1994, personal property liquidation
42 transactions, conducted by a personal property liquidator. From and after
43 December 31, 1994, personal property liquidation transactions shall be
44 taxable under this section provided that nothing in this subsection shall

1 be construed to authorize the taxation of casual activities or
2 transactions under this chapter. For the purposes of this paragraph:

3 (a) "Personal property liquidation transaction" means a sale of
4 personal property made by a personal property liquidator acting solely on
5 behalf of the owner of the personal property sold at the dwelling of the
6 owner or on the death of any owner, on behalf of the surviving spouse, if
7 any, any devisee or heir or the personal representative of the estate of
8 the deceased, if one has been appointed.

9 (b) "Personal property liquidator" means a person who is retained
10 to conduct a sale in a personal property liquidation transaction.

11 40. Sales of food, drink and condiment for consumption within the
12 premises of any prison, jail or other institution under the jurisdiction
13 of the state department of corrections, the department of public safety,
14 the department of juvenile corrections or a county sheriff.

15 41. A motor vehicle and any repair and replacement parts and
16 tangible personal property becoming a part of such motor vehicle sold to a
17 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
18 article 4 and who is engaged in the business of leasing or renting such
19 property.

20 42. Sales of:

21 (a) Livestock and poultry to persons engaging in the businesses of
22 farming, ranching or producing livestock or poultry.

23 (b) Livestock and poultry feed, salts, vitamins and other additives
24 for livestock or poultry consumption that are sold to persons for use or
25 consumption by their own livestock or poultry, for use or consumption in
26 the businesses of farming, ranching and producing or feeding livestock,
27 poultry, or livestock or poultry products or for use or consumption in
28 noncommercial boarding of livestock. For the purposes of this paragraph,
29 "poultry" includes ratites.

30 43. Sales of implants used as growth promotants and injectable
31 medicines, not already exempt under paragraph 8 of this subsection, for
32 livestock or poultry owned by or in possession of persons who are engaged
33 in producing livestock, poultry, or livestock or poultry products or who
34 are engaged in feeding livestock or poultry commercially. For the
35 purposes of this paragraph, "poultry" includes ratites.

36 44. Sales of motor vehicles at auction to nonresidents of this
37 state for use outside this state if the vehicles are shipped or delivered
38 out of this state, regardless of where title to the motor vehicles passes
39 or its free on board point.

40 45. Tangible personal property sold to a person engaged in business
41 and subject to tax under the transient lodging classification if the
42 tangible personal property is a personal hygiene item or articles used by
43 human beings for food, drink or condiment, except alcoholic beverages,
44 that are furnished without additional charge to and intended to be
45 consumed by the transient during the transient's occupancy.

1 46. Sales of alternative fuel, as defined in section 1-215, to a
2 used oil fuel burner who has received a permit to burn used oil or used
3 oil fuel under section 49-426 or 49-480.

4 47. Sales of materials that are purchased by or for publicly funded
5 libraries including school district libraries, charter school libraries,
6 community college libraries, state university libraries or federal, state,
7 county or municipal libraries for use by the public as follows:

8 (a) Printed or photographic materials, beginning August 7, 1985.

9 (b) Electronic or digital media materials, beginning July 17, 1994.

10 48. Tangible personal property sold to a commercial airline and
11 consisting of food, beverages and condiments and accessories used for
12 serving the food and beverages, if those items are to be provided without
13 additional charge to passengers for consumption in flight. For the
14 purposes of this paragraph, "commercial airline" means a person holding a
15 federal certificate of public convenience and necessity or foreign air
16 carrier permit for air transportation to transport persons, property or
17 United States mail in intrastate, interstate or foreign commerce.

18 49. Sales of alternative fuel vehicles if the vehicle was
19 manufactured as a diesel fuel vehicle and converted to operate on
20 alternative fuel and equipment that is installed in a conventional diesel
21 fuel motor vehicle to convert the vehicle to operate on an alternative
22 fuel, as defined in section 1-215.

23 50. Sales of any spirituous, vinous or malt liquor by a person that
24 is licensed in this state as a wholesaler by the department of liquor
25 licenses and control pursuant to title 4, chapter 2, article 1.

26 51. Sales of tangible personal property to be incorporated or
27 installed as part of ~~environmental response or remediation activities~~
28 ~~under section 42-5075, subsection B, paragraph 6~~ SITE PREPARATION,
29 CONSTRUCTING, FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR OTHER
30 TANGIBLE PERSONAL PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT
31 EXEMPT INCORPORATED MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND
32 TANGIBLE PERSONAL PROPERTY INCORPORATED INTO THE PROJECT, TO PERFORM ONE
33 OR MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO A RELEASE OR SUSPECTED
34 RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR CONTAMINANT FROM A FACILITY
35 INTO THE ENVIRONMENT, UNLESS THE RELEASE WAS AUTHORIZED BY A PERMIT ISSUED
36 BY A GOVERNMENTAL AUTHORITY:

37 (a) ACTIONS TO MONITOR, ASSESS AND EVALUATE SUCH A RELEASE OR A
38 SUSPECTED RELEASE.

39 (b) EXCAVATING, REMOVING AND TRANSPORTING CONTAMINATED SOIL AND ITS
40 TREATMENT OR DISPOSAL.

41 (c) TREATING CONTAMINATED SOIL BY VAPOR EXTRACTION, CHEMICAL OR
42 PHYSICAL STABILIZATION, SOIL WASHING OR BIOLOGICAL TREATMENT TO REDUCE THE
43 CONCENTRATION, TOXICITY OR MOBILITY OF A CONTAMINANT.

1 (d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED
2 GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OF A
3 CONTAMINANT.

4 (e) INSTALLING STRUCTURES, SUCH AS CUTOFF WALLS OR CAPS, TO CONTAIN
5 CONTAMINANTS PRESENT IN GROUNDWATER OR SOIL AND PREVENT THEM FROM REACHING
6 A LOCATION WHERE THEY COULD THREATEN HUMAN HEALTH OR WELFARE OR THE
7 ENVIRONMENT.

8 THIS PARAGRAPH DOES NOT INCLUDE ASBESTOS REMOVAL OR CONSTRUCTING OR USING
9 ANCILLARY STRUCTURES SUCH AS MAINTENANCE SHEDS, OFFICES OR STORAGE
10 FACILITIES FOR UNATTACHED EQUIPMENT, POLLUTION CONTROL EQUIPMENT,
11 FACILITIES OR OTHER CONTROL ITEMS REQUIRED OR TO BE USED BY A PERSON TO
12 PREVENT OR CONTROL CONTAMINATION BEFORE IT REACHES THE ENVIRONMENT.

13 52. Sales of tangible personal property by a nonprofit organization
14 that is exempt from taxation under section 501(c)(6) of the internal
15 revenue code if the organization produces, organizes or promotes cultural
16 or civic related festivals or events and no part of the organization's net
17 earnings inures to the benefit of any private shareholder or individual.

18 53. Application services that are designed to assess or test
19 student learning or to promote curriculum design or enhancement purchased
20 by or for any school district, charter school, community college or state
21 university. For the purposes of this paragraph:

22 (a) "Application services" means software applications provided
23 remotely using hypertext transfer protocol or another network protocol.

24 (b) "Curriculum design or enhancement" means planning, implementing
25 or reporting on courses of study, lessons, assignments or other learning
26 activities.

27 54. Sales of motor vehicle fuel and use fuel to a qualified
28 business under section 41-1516 for off-road use in harvesting, processing
29 or transporting qualifying forest products removed from qualifying
30 projects as defined in section 41-1516.

31 55. Sales of repair parts installed in equipment used directly by a
32 qualified business under section 41-1516 in harvesting, processing or
33 transporting qualifying forest products removed from qualifying projects
34 as defined in section 41-1516.

35 56. Sales or other transfers of renewable energy credits or any
36 other unit created to track energy derived from renewable energy
37 resources. For the purposes of this paragraph, "renewable energy credit"
38 means a unit created administratively by the corporation commission or
39 governing body of a public power utility to track kilowatt hours of
40 electricity derived from a renewable energy resource or the kilowatt hour
41 equivalent of conventional energy resources displaced by distributed
42 renewable energy resources.

43 57. Computer data center equipment sold to the owner, operator or
44 qualified colocation tenant of a computer data center that is certified by
45 the Arizona commerce authority under section 41-1519 or an authorized

1 agent of the owner, operator or qualified colocation tenant during the
2 qualification period for use in the qualified computer data center. For
3 the purposes of this paragraph, "computer data center", "computer data
4 center equipment", "qualification period" and "qualified colocation
5 tenant" have the same meanings prescribed in section 41-1519.

6 58. Orthodontic devices dispensed by a dental professional who is
7 licensed under title 32, chapter 11 to a patient as part of the practice
8 of dentistry.

9 ~~59. Sales of tangible personal property incorporated or fabricated
10 into a project described in section 42-5075, subsection 0, that is located
11 within the exterior boundaries of an Indian reservation for which the
12 owner, as defined in section 42-5075, of the project is an Indian tribe or
13 an affiliated Indian. For the purposes of this paragraph:~~

14 ~~(a) "Affiliated Indian" means an individual native American Indian
15 who is duly registered on the tribal rolls of the Indian tribe for whose
16 benefit the Indian reservation was established.~~

17 ~~(b) "Indian reservation" means all lands that are within the limits
18 of areas set aside by the United States for the exclusive use and
19 occupancy of an Indian tribe by treaty, law or executive order and that
20 are recognized as Indian reservations by the United States department of
21 the interior.~~

22 ~~(c) "Indian tribe" means any organized nation, tribe, band or
23 community that is recognized as an Indian tribe by the United States
24 department of the interior and includes any entity formed under the laws
25 of the Indian tribe.~~

26 59. TANGIBLE PERSONAL PROPERTY SOLD TO A QUALIFIED BUSINESS UNDER
27 SECTION 41-1516 IF THE PROPERTY SOLD IS TO BE INCORPORATED OR FABRICATED
28 INTO A BUILDING, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT
29 OWNED BY THE QUALIFIED BUSINESS FOR HARVESTING OR PROCESSING QUALIFYING
30 FOREST PRODUCTS. TO QUALIFY FOR THIS DEDUCTION, THE QUALIFIED BUSINESS
31 MUST PRESENT, AT THE TIME OF PURCHASE, ITS CERTIFICATION APPROVED BY THE
32 DEPARTMENT.

33 60. Sales of works of fine art, as defined in section 44-1771, at
34 an art auction or gallery in this state to nonresidents of this state for
35 use outside this state if the vendor ships or delivers the work of fine
36 art to a destination outside this state.

37 B. In addition to the deductions from the tax base prescribed by
38 subsection A of this section, the gross proceeds of sales or gross income
39 derived from sales of the following categories of tangible personal
40 property shall be deducted from the tax base:

41 1. Machinery, or equipment, used directly in manufacturing,
42 processing, fabricating, job printing, refining or metallurgical
43 operations. The terms "manufacturing", "processing", "fabricating", "job
44 printing", "refining" and "metallurgical" as used in this paragraph refer
45 to and include those operations commonly understood within their ordinary

1 meaning. "Metallurgical operations" includes leaching, milling,
2 precipitating, smelting and refining.

3 2. Mining machinery, or equipment, used directly in the process of
4 extracting ores or minerals from the earth for commercial purposes,
5 including equipment required to prepare the materials for extraction and
6 handling, loading or transporting such extracted material to the surface.
7 "Mining" includes underground, surface and open pit operations for
8 extracting ores and minerals.

9 3. Tangible personal property sold to persons engaged in business
10 classified under the telecommunications classification, ~~including a person~~
11 ~~representing or working on behalf of such a person in a manner described~~
12 ~~in section 42-5075, subsection 0,~~ and consisting of central office
13 switching equipment, switchboards, private branch exchange equipment,
14 microwave radio equipment and carrier equipment including optical fiber,
15 coaxial cable and other transmission media that are components of carrier
16 systems.

17 4. Machinery, equipment or transmission lines used directly in
18 producing or transmitting electrical power, but not including
19 distribution. Transformers and control equipment used at transmission
20 substation sites constitute equipment used in producing or transmitting
21 electrical power.

22 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
23 or to be used as breeding or production stock, including sales of
24 breedings or ownership shares in such animals used for breeding or
25 production.

26 6. Pipes or valves four inches in diameter or larger used to
27 transport oil, natural gas, artificial gas, water or coal slurry,
28 including compressor units, regulators, machinery and equipment, fittings,
29 seals and any other part that is used in operating the pipes or valves.

30 7. Aircraft, navigational and communication instruments and other
31 accessories and related equipment sold to:

32 (a) A person:

33 (i) Holding, or exempted by federal law from obtaining, a federal
34 certificate of public convenience and necessity for use as, in conjunction
35 with or becoming part of an aircraft to be used to transport persons for
36 hire in intrastate, interstate or foreign commerce.

37 (ii) That is certificated or licensed under federal aviation
38 administration regulations (14 Code of Federal Regulations part 121 or
39 135) as a scheduled or unscheduled carrier of persons for hire for use as
40 or in conjunction with or becoming part of an aircraft to be used to
41 transport persons for hire in intrastate, interstate or foreign commerce.

42 (iii) Holding a foreign air carrier permit for air transportation
43 for use as or in conjunction with or becoming a part of aircraft to be
44 used to transport persons, property or United States mail in intrastate,
45 interstate or foreign commerce.

1 (iv) Operating an aircraft to transport persons in any manner for
2 compensation or hire, or for use in a fractional ownership program that
3 meets the requirements of federal aviation administration regulations (14
4 Code of Federal Regulations part 91, subpart K), including as an air
5 carrier, a foreign air carrier or a commercial operator or under a
6 restricted category, within the meaning of 14 Code of Federal Regulations,
7 regardless of whether the operation or aircraft is regulated or certified
8 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
9 of Federal Regulations.

10 (v) That will lease or otherwise transfer operational control,
11 within the meaning of federal aviation administration operations
12 specification A008, or its successor, of the aircraft, instruments or
13 accessories to one or more persons described in item (i), (ii), (iii) or
14 (iv) of this subdivision, subject to section 42-5009, subsection Q.

15 (b) Any foreign government.

16 (c) Persons who are not residents of this state and who will not
17 use such property in this state other than in removing such property from
18 this state. This subdivision also applies to corporations that are not
19 incorporated in this state, regardless of maintaining a place of business
20 in this state, if the principal corporate office is located outside this
21 state and the property will not be used in this state other than in
22 removing the property from this state.

23 8. Machinery, tools, equipment and related supplies used or
24 consumed directly in repairing, remodeling or maintaining aircraft,
25 aircraft engines or aircraft component parts by or on behalf of a
26 certificated or licensed carrier of persons or property.

27 9. Railroad rolling stock, rails, ties and signal control equipment
28 used directly to transport persons or property.

29 10. Machinery or equipment used directly to drill for oil or gas or
30 used directly in the process of extracting oil or gas from the earth for
31 commercial purposes.

32 11. Buses or other urban mass transit vehicles that are used
33 directly to transport persons or property for hire or pursuant to a
34 governmentally adopted and controlled urban mass transportation program
35 and that are sold to bus companies holding a federal certificate of
36 convenience and necessity or operated by any city, town or other
37 governmental entity or by any person contracting with such governmental
38 entity as part of a governmentally adopted and controlled program to
39 provide urban mass transportation.

40 12. Groundwater measuring devices required under section 45-604.

41 13. New machinery and equipment consisting of agricultural
42 aircraft, tractors, tractor-drawn implements, self-powered implements,
43 machinery and equipment necessary for extracting milk, and machinery and
44 equipment necessary for cooling milk and livestock, and drip irrigation
45 lines not already exempt under paragraph 6 of this subsection and that are

1 used for commercial production of agricultural, horticultural,
2 viticultural and floricultural crops and products in this state. For the
3 purposes of this paragraph:

4 (a) "New machinery and equipment" means machinery and equipment
5 that have never been sold at retail except pursuant to leases or rentals
6 that do not total two years or more.

7 (b) "Self-powered implements" includes machinery and equipment that
8 are electric-powered.

9 14. Machinery or equipment used in research and development. For
10 the purposes of this paragraph, "research and development" means basic and
11 applied research in the sciences and engineering, and designing,
12 developing or testing prototypes, processes or new products, including
13 research and development of computer software that is embedded in or an
14 integral part of the prototype or new product or that is required for
15 machinery or equipment otherwise exempt under this section to function
16 effectively. Research and development do not include manufacturing
17 quality control, routine consumer product testing, market research, sales
18 promotion, sales service, research in social sciences or psychology,
19 computer software research that is not included in the definition of
20 research and development, or other nontechnological activities or
21 technical services.

22 15. Tangible personal property that is used by either of the
23 following to receive, store, convert, produce, generate, decode, encode,
24 control or transmit telecommunications information:

25 (a) Any direct broadcast satellite television or data transmission
26 service that operates pursuant to 47 Code of Federal Regulations part 25.

27 (b) Any satellite television or data transmission facility, if both
28 of the following conditions are met:

29 (i) Over two-thirds of the transmissions, measured in megabytes,
30 transmitted by the facility during the test period were transmitted to or
31 on behalf of one or more direct broadcast satellite television or data
32 transmission services that operate pursuant to 47 Code of Federal
33 Regulations part 25.

34 (ii) Over two-thirds of the transmissions, measured in megabytes,
35 transmitted by or on behalf of those direct broadcast television or data
36 transmission services during the test period were transmitted by the
37 facility to or on behalf of those services.

38 For the purposes of subdivision (b) of this paragraph, "test period" means
39 the three hundred sixty-five day period beginning on the later of the date
40 on which the tangible personal property is purchased or the date on which
41 the direct broadcast satellite television or data transmission service
42 first transmits information to its customers.

43 16. Clean rooms that are used for manufacturing, processing,
44 fabrication or research and development, as defined in paragraph 14 of
45 this subsection, of semiconductor products. For the purposes of this

1 paragraph, "clean room" means all property that comprises or creates an
2 environment where humidity, temperature, particulate matter and
3 contamination are precisely controlled within specified parameters,
4 without regard to whether the property is actually contained within that
5 environment or whether any of the property is affixed to or incorporated
6 into real property. Clean room:

7 (a) Includes the integrated systems, fixtures, piping, movable
8 partitions, lighting and all property that is necessary or adapted to
9 reduce contamination or to control airflow, temperature, humidity,
10 chemical purity or other environmental conditions or manufacturing
11 tolerances, as well as the production machinery and equipment operating in
12 conjunction with the clean room environment.

13 (b) Does not include the building or other permanent, nonremovable
14 component of the building that houses the clean room environment.

15 17. Machinery and equipment used directly in the feeding of
16 poultry, the environmental control of housing for poultry, the movement of
17 eggs within a production and packaging facility or the sorting or cooling
18 of eggs. This exemption does not apply to vehicles used for transporting
19 eggs.

20 18. Machinery or equipment, including related structural
21 components, that is employed in connection with manufacturing, processing,
22 fabricating, job printing, refining, mining, natural gas pipelines,
23 metallurgical operations, telecommunications, producing or transmitting
24 electricity or research and development and that is used directly to meet
25 or exceed rules or regulations adopted by the federal energy regulatory
26 commission, the United States environmental protection agency, the United
27 States nuclear regulatory commission, the Arizona department of
28 environmental quality or a political subdivision of this state to prevent,
29 monitor, control or reduce land, water or air pollution.

30 19. Machinery and equipment that are sold to a person engaged in
31 the commercial production of livestock, livestock products or
32 agricultural, horticultural, viticultural or floricultural crops or
33 products in this state, ~~including a person representing or working on~~
34 ~~behalf of such a person in a manner described in section 42-5075,~~
35 ~~subsection 0,~~ if the machinery and equipment are used directly and
36 primarily to prevent, monitor, control or reduce air, water or land
37 pollution.

38 20. Machinery or equipment that enables a television station to
39 originate and broadcast or to receive and broadcast digital television
40 signals and that was purchased to facilitate compliance with the
41 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
42 States Code section 336) and the federal communications commission order
43 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
44 paragraph does not exempt any of the following:

1 (a) Repair or replacement parts purchased for the machinery or
2 equipment described in this paragraph.

3 (b) Machinery or equipment purchased to replace machinery or
4 equipment for which an exemption was previously claimed and taken under
5 this paragraph.

6 (c) Any machinery or equipment purchased after the television
7 station has ceased analog broadcasting, or purchased after November 1,
8 2009, whichever occurs first.

9 21. Qualifying equipment that is purchased from and after June 30,
10 2004 through June 30, 2024 by a qualified business under section 41-1516
11 for harvesting or processing qualifying forest products removed from
12 qualifying projects as defined in section 41-1516. To qualify for this
13 deduction, the qualified business at the time of purchase must present its
14 certification approved by the department.

15 C. The deductions provided by subsection B of this section do not
16 include sales of:

17 1. Expendable materials. For the purposes of this paragraph,
18 expendable materials do not include any of the categories of tangible
19 personal property specified in subsection B of this section regardless of
20 the cost or useful life of that property.

21 2. Janitorial equipment and hand tools.

22 3. Office equipment, furniture and supplies.

23 4. Tangible personal property used in selling or distributing
24 activities, other than the telecommunications transmissions described in
25 subsection B, paragraph 15 of this section.

26 5. Motor vehicles required to be licensed by this state, except
27 buses or other urban mass transit vehicles specifically exempted pursuant
28 to subsection B, paragraph 11 of this section, without regard to the use
29 of such motor vehicles.

30 6. Shops, buildings, docks, depots and all other materials of
31 whatever kind or character not specifically included as exempt.

32 7. Motors and pumps used in drip irrigation systems.

33 8. Machinery and equipment or other tangible personal property used
34 by a contractor in the performance of a contract.

35 D. In addition to the deductions from the tax base prescribed by
36 subsection A of this section, there shall be deducted from the tax base
37 the gross proceeds of sales or gross income derived from sales of
38 machinery, equipment, materials and other tangible personal property used
39 directly and predominantly to construct a qualified environmental
40 technology manufacturing, producing or processing facility as described in
41 section 41-1514.02. This subsection applies for ten full consecutive
42 calendar or fiscal years after the start of initial construction.

43 E. In computing the tax base, gross proceeds of sales or gross
44 income from retail sales of heavy trucks and trailers does not include any

1 amount attributable to federal excise taxes imposed by 26 United States
2 Code section 4051.

3 F. If a person is engaged in an occupation or business to which
4 subsection A of this section applies, the person's books shall be kept so
5 as to show separately the gross proceeds of sales of tangible personal
6 property and the gross income from sales of services, and if not so kept
7 the tax shall be imposed on the total of the person's gross proceeds of
8 sales of tangible personal property and gross income from services.

9 G. If a person is engaged in the business of selling tangible
10 personal property at both wholesale and retail, the tax under this section
11 applies only to the gross proceeds of the sales made other than at
12 wholesale if the person's books are kept so as to show separately the
13 gross proceeds of sales of each class, and if the books are not so kept,
14 the tax under this section applies to the gross proceeds of every sale so
15 made.

16 H. A person who engages in manufacturing, baling, crating, boxing,
17 barreling, canning, bottling, sacking, preserving, processing or otherwise
18 preparing for sale or commercial use any livestock, agricultural or
19 horticultural product or any other product, article, substance or
20 commodity and who sells the product of such business at retail in this
21 state is deemed, as to such sales, to be engaged in business classified
22 under the retail classification. This subsection does not apply to:

23 1. Agricultural producers who are owners, proprietors or tenants of
24 agricultural lands, orchards, farms or gardens where agricultural products
25 are grown, raised or prepared for market and who are marketing their own
26 agricultural products.

27 2. Businesses classified under the:

28 (a) Transporting classification.

29 (b) Utilities classification.

30 (c) Telecommunications classification.

31 (d) Pipeline classification.

32 (e) Private car line classification.

33 (f) Publication classification.

34 (g) Job printing classification.

35 ~~(h) Prime contracting classification.~~

36 (h) HIGHWAY, STREET AND BRIDGE CLASSIFICATION.

37 (i) MANUFACTURED BUILDING DEALER CLASSIFICATION.

38 ~~(j)~~ (j) Restaurant classification.

39 I. The gross proceeds of sales or gross income derived from the
40 following shall be deducted from the tax base for the retail
41 classification:

42 1. Sales made directly to the United States government or its
43 departments or agencies by a manufacturer, modifier, assembler or
44 repairer.

1 2. Sales made directly to a manufacturer, modifier, assembler or
2 repairer if such sales are of any ingredient or component part of products
3 sold directly to the United States government or its departments or
4 agencies by the manufacturer, modifier, assembler or repairer.

5 3. Overhead materials or other tangible personal property that is
6 used in performing a contract between the United States government and a
7 manufacturer, modifier, assembler or repairer, including property used in
8 performing a subcontract with a government contractor who is a
9 manufacturer, modifier, assembler or repairer, to which title passes to
10 the government under the terms of the contract or subcontract.

11 4. Sales of overhead materials or other tangible personal property
12 to a manufacturer, modifier, assembler or repairer if the gross proceeds
13 of sales or gross income derived from the property by the manufacturer,
14 modifier, assembler or repairer will be exempt under paragraph 3 of this
15 subsection.

16 J. There shall be deducted from the tax base fifty percent of the
17 gross proceeds or gross income from any sale of tangible personal property
18 made directly to the United States government or its departments or
19 agencies that is not deducted under subsection I of this section.

20 K. The department shall require every person claiming a deduction
21 provided by subsection I or J of this section to file on forms prescribed
22 by the department at such times as the department directs a sworn
23 statement disclosing the name of the purchaser and the exact amount of
24 sales on which the exclusion or deduction is claimed.

25 L. In computing the tax base, gross proceeds of sales or gross
26 income does not include:

27 1. A manufacturer's cash rebate on the sales price of a motor
28 vehicle if the buyer assigns the buyer's right in the rebate to the
29 retailer.

30 2. The waste tire disposal fee imposed pursuant to section 44-1302.

31 M. There shall be deducted from the tax base the amount received
32 from sales of solar energy devices. The retailer shall register with the
33 department as a solar energy retailer. By registering, the retailer
34 acknowledges that it will make its books and records relating to sales of
35 solar energy devices available to the department for examination.

36 N. In computing the tax base in the case of the sale or transfer of
37 wireless telecommunications equipment as an inducement to a customer to
38 enter into or continue a contract for telecommunications services that are
39 taxable under section 42-5064, gross proceeds of sales or gross income
40 does not include any sales commissions or other compensation received by
41 the retailer as a result of the customer entering into or continuing a
42 contract for the telecommunications services.

43 O. For the purposes of this section, a sale of wireless
44 telecommunications equipment to a person who holds the equipment for sale
45 or transfer to a customer as an inducement to enter into or continue a

1 contract for telecommunications services that are taxable under section
2 42-5064 is considered to be a sale for resale in the regular course of
3 business.

4 P. Retail sales of prepaid calling cards or prepaid authorization
5 numbers for telecommunications services, including sales of
6 reauthorization of a prepaid card or authorization number, are subject to
7 tax under this section.

8 Q. For the purposes of this section, the diversion of gas from a
9 pipeline by a person engaged in the business of:

10 1. Operating a natural or artificial gas pipeline, for the sole
11 purpose of fueling compressor equipment to pressurize the pipeline, is not
12 a sale of the gas to the operator of the pipeline.

13 2. Converting natural gas into liquefied natural gas, for the sole
14 purpose of fueling compressor equipment used in the conversion process, is
15 not a sale of gas to the operator of the compressor equipment.

16 R. For the purposes of this section, the transfer of title or
17 possession of coal from an owner or operator of a power plant to a person
18 in the business of refining coal is not a sale of coal if both of the
19 following apply:

20 1. The transfer of title or possession of the coal is for the
21 purpose of refining the coal.

22 2. The title or possession of the coal is transferred back to the
23 owner or operator of the power plant after completion of the coal refining
24 process. For the purposes of this paragraph, "coal refining process"
25 means the application of a coal additive system that aids in the reduction
26 of power plant emissions during the combustion of coal and the treatment
27 of flue gas.

28 S. If a seller is entitled to a deduction pursuant to subsection B,
29 paragraph 15, subdivision (b) of this section, the department may require
30 the purchaser to establish that the requirements of subsection B,
31 paragraph 15, subdivision (b) of this section have been satisfied. If the
32 purchaser cannot establish that the requirements of subsection B,
33 paragraph 15, subdivision (b) of this section have been satisfied, the
34 purchaser is liable in an amount equal to any tax, penalty and interest
35 that the seller would have been required to pay under article 1 of this
36 chapter if the seller had not made a deduction pursuant to subsection B,
37 paragraph 15, subdivision (b) of this section. Payment of the amount
38 under this subsection exempts the purchaser from liability for any tax
39 imposed under article 4 of this chapter and related to the tangible
40 personal property purchased. The amount shall be treated as transaction
41 privilege tax to the purchaser and as tax revenues collected from the
42 seller to designate the distribution base pursuant to section 42-5029.

43 T. For the purposes of section 42-5032.01, the department shall
44 separately account for revenues collected under the retail classification
45 from businesses selling tangible personal property at retail:

1 1. On the premises of a multipurpose facility that is owned, leased
2 or operated by the tourism and sports authority pursuant to title 5,
3 chapter 8.

4 2. At professional football contests that are held in a stadium
5 located on the campus of an institution under the jurisdiction of the
6 Arizona board of regents.

7 U. In computing the tax base for the sale of a motor vehicle to a
8 nonresident of this state, if the purchaser's state of residence allows a
9 corresponding use tax exemption to the tax imposed by article 1 of this
10 chapter and the rate of the tax in the purchaser's state of residence is
11 lower than the rate prescribed in article 1 of this chapter or if the
12 purchaser's state of residence does not impose an excise tax, and the
13 nonresident has secured a special ninety day nonresident registration
14 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
15 there shall be deducted from the tax base a portion of the gross proceeds
16 or gross income from the sale so that the amount of transaction privilege
17 tax that is paid in this state is equal to the excise tax that is imposed
18 by the purchaser's state of residence on the nonexempt sale or use of the
19 motor vehicle.

20 V. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR,
21 REGARDLESS OF WHETHER THE PROPERTY WILL BE INCORPORATED INTO A BUILDING OR
22 STRUCTURE, IS CONSIDERED TO BE A SALE AT RETAIL AND IS SUBJECT TO TAXATION
23 UNDER THIS SECTION UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A
24 CERTIFICATE THAT IS SIGNED BY THE OWNER OF THE PROPERTY TO BE IMPROVED AND
25 THAT STATES THAT THE PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR WILL BE
26 USED FOR A PURPOSE IDENTIFIED IN SUBSECTION A OR B OF THIS SECTION. IF A
27 PERSON WHO IS IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT
28 RETAIL ALSO ENGAGES IN BUSINESS AS A CONTRACTOR AND REMOVES TANGIBLE
29 PERSONAL PROPERTY FROM RETAIL STOCK FOR USE IN CONTRACTING ACTIVITIES, THE
30 PURCHASE PRICE OF THAT PERSONAL PROPERTY IS SUBJECT TO USE TAX UNDER
31 SECTION 42-5155.

32 ~~V.~~ W. For the purposes of this section:

33 1. "Agricultural aircraft" means an aircraft that is built for
34 agricultural use for the aerial application of pesticides or fertilizer or
35 for aerial seeding.

36 2. "Aircraft" includes:

37 (a) An airplane flight simulator that is approved by the federal
38 aviation administration for use as a phase II or higher flight simulator
39 under appendix H, 14 Code of Federal Regulations part 121.

40 (b) Tangible personal property that is permanently affixed or
41 attached as a component part of an aircraft that is owned or operated by a
42 certificated or licensed carrier of persons or property.

43 3. "Other accessories and related equipment" includes aircraft
44 accessories and equipment such as ground service equipment that physically
45 contact aircraft at some point during the overall carrier operation.

1 4. "Selling at retail" means a sale for any purpose other than for
2 resale in the regular course of business in the form of tangible personal
3 property, but transfer of possession, lease and rental as used in the
4 definition of sale mean only such transactions as are found on
5 investigation to be in lieu of sales as defined without the words lease or
6 rental.

7 ~~W.~~ X. For the purposes of subsection I of this section:

8 1. "Assembler" means a person who unites or combines products,
9 wares or articles of manufacture so as to produce a change in form or
10 substance without changing or altering the component parts.

11 2. "Manufacturer" means a person who is principally engaged in the
12 fabrication, production or manufacture of products, wares or articles for
13 use from raw or prepared materials, imparting to those materials new
14 forms, qualities, properties and combinations.

15 3. "Modifier" means a person who reworks, changes or adds to
16 products, wares or articles of manufacture.

17 4. "Overhead materials" means tangible personal property, the gross
18 proceeds of sales or gross income derived from that would otherwise be
19 included in the retail classification, and that are used or consumed in
20 the performance of a contract, the cost of which is charged to an overhead
21 expense account and allocated to various contracts based on generally
22 accepted accounting principles and consistent with government contract
23 accounting standards.

24 5. "Repairer" means a person who restores or renews products, wares
25 or articles of manufacture.

26 6. "Subcontract" means an agreement between a contractor and any
27 person who is not an employee of the contractor for furnishing of supplies
28 or services that, in whole or in part, are necessary to the performance of
29 one or more government contracts, or under which any portion of the
30 contractor's obligation under one or more government contracts is
31 performed, undertaken or assumed and that includes provisions causing
32 title to overhead materials or other tangible personal property used in
33 the performance of the subcontract to pass to the government or that
34 includes provisions incorporating such title passing clauses in a
35 government contract into the subcontract. **FOR THE PURPOSES OF THIS
36 PARAGRAPH, "CONTRACTOR" HAS ITS ORDINARY AND COMMON MEANING AND DOES NOT
37 HAVE THE MEANING PRESCRIBED IN SECTION 42-5001.**

38 Sec. 15. Section 42-5061, Arizona Revised Statutes, as amended by
39 Laws 2018, chapter 104, section 15, chapter 249, section 1 and chapter
40 263, section 1, is amended to read:

41 42-5061. Retail classification; definitions

42 A. The retail classification is comprised of the business of
43 selling tangible personal property at retail. The tax base for the retail
44 classification is the gross proceeds of sales or gross income derived from

1 the business. The tax imposed on the retail classification does not apply
2 to the gross proceeds of sales or gross income from:

3 1. Professional or personal service occupations or businesses that
4 involve sales or transfers of tangible personal property only as
5 inconsequential elements.

6 2. Services rendered in addition to selling tangible personal
7 property at retail.

8 3. Sales of warranty or service contracts. The storage, use or
9 consumption of tangible personal property provided under the conditions of
10 such contracts is subject to tax under section 42-5156.

11 4. Sales of tangible personal property by any nonprofit
12 organization organized and operated exclusively for charitable purposes
13 and recognized by the United States internal revenue service under section
14 501(c)(3) of the internal revenue code.

15 5. Sales to persons engaged in business classified under the
16 restaurant classification of articles used by human beings for food, drink
17 or condiment, whether simple, mixed or compounded.

18 6. Business activity that is properly included in any other
19 business classification that is taxable under this article.

20 7. The sale of stocks and bonds.

21 8. Drugs and medical oxygen, including delivery hose, mask or tent,
22 regulator and tank, on the prescription of a member of the medical, dental
23 or veterinarian profession who is licensed by law to administer such
24 substances.

25 9. Prosthetic appliances as defined in section 23-501 and as
26 prescribed or recommended by a health professional who is licensed
27 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

28 10. Insulin, insulin syringes and glucose test strips.

29 11. Prescription eyeglasses or contact lenses.

30 12. Hearing aids as defined in section 36-1901.

31 13. Durable medical equipment that has a centers for medicare and
32 medicaid services common procedure code, is designated reimbursable by
33 medicare, is prescribed by a person who is licensed under title 32,
34 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
35 primarily and customarily used to serve a medical purpose, is generally
36 not useful to a person in the absence of illness or injury and is
37 appropriate for use in the home.

38 14. Sales of motor vehicles to nonresidents of this state for use
39 outside this state if the motor vehicle dealer ships or delivers the motor
40 vehicle to a destination out of this state.

41 15. Food, as provided in and subject to the conditions of article 3
42 of this chapter and section 42-5074.

43 16. Items purchased with United States department of agriculture
44 coupons issued under the supplemental nutrition assistance program
45 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;

1 7 United States Code sections 2011 through 2036b) by the United States
2 department of agriculture food and nutrition service or food instruments
3 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
4 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
5 section 1786).

6 17. Textbooks by any bookstore that are required by any state
7 university or community college.

8 18. Food and drink to a person that is engaged in a business that
9 is classified under the restaurant classification and that provides such
10 food and drink without monetary charge to its employees for their own
11 consumption on the premises during the employees' hours of employment.

12 19. Articles of food, drink or condiment and accessory tangible
13 personal property to a school district or charter school if such articles
14 and accessory tangible personal property are to be prepared and served to
15 persons for consumption on the premises of a public school within the
16 district or on the premises of the charter school during school hours.

17 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
18 article 1.

19 21. The sale of cash equivalents and the sale of precious metal
20 bullion and monetized bullion to the ultimate consumer, but the sale of
21 coins or other forms of money for manufacture into jewelry or works of art
22 is subject to the tax and the gross proceeds of sales or gross income
23 derived from the redemption of any cash equivalent by the holder as a
24 means of payment for goods or services that are taxable under this article
25 is subject to the tax. For the purposes of this paragraph:

26 (a) "Cash equivalents" means items or intangibles, whether or not
27 negotiable, that are sold to one or more persons, through which a value
28 denominated in money is purchased in advance and may be redeemed in full
29 or in part for tangible personal property, intangibles or services. Cash
30 equivalents include gift cards, stored value cards, gift certificates,
31 vouchers, traveler's checks, money orders or other instruments, orders or
32 electronic mechanisms, such as an electronic code, personal identification
33 number or digital payment mechanism, or any other prepaid intangible right
34 to acquire tangible personal property, intangibles or services in the
35 future, whether from the seller of the cash equivalent or from another
36 person. Cash equivalents do not include either of the following:

37 (i) Items or intangibles that are sold to one or more persons,
38 through which a value is not denominated in money.

39 (ii) Prepaid calling cards or prepaid authorization numbers for
40 telecommunications services made taxable by subsection P of this section.

1 (b) "Monetized bullion" means coins and other forms of money that
2 are manufactured from gold, silver or other metals and that have been or
3 are used as a medium of exchange in this or another state, the United
4 States or a foreign nation.

5 (c) "Precious metal bullion" means precious metal, including gold,
6 silver, platinum, rhodium and palladium, that has been smelted or refined
7 so that its value depends on its contents and not on its form.

8 22. Motor vehicle fuel and use fuel that are subject to a tax
9 imposed under title 28, chapter 16, article 1, sales of use fuel to a
10 holder of a valid single trip use fuel tax permit issued under section
11 28-5739, sales of aviation fuel that are subject to the tax imposed under
12 section 28-8344 and sales of jet fuel that are subject to the tax imposed
13 under article 8 of this chapter.

14 23. Tangible personal property sold to a person engaged in the
15 business of leasing or renting such property under the personal property
16 rental classification if such property is to be leased or rented by such
17 person.

18 24. Tangible personal property sold in interstate or foreign
19 commerce if prohibited from being so taxed by the constitution of the
20 United States or the constitution of this state.

21 25. Tangible personal property sold to:

22 (a) A qualifying hospital as defined in section 42-5001.

23 (b) A qualifying health care organization as defined in section
24 42-5001 if the tangible personal property is used by the organization
25 solely to provide health and medical related educational and charitable
26 services.

27 (c) A qualifying health care organization as defined in section
28 42-5001 if the organization is dedicated to providing educational,
29 therapeutic, rehabilitative and family medical education training for
30 blind and visually impaired children and children with multiple
31 disabilities from the time of birth to age twenty-one.

32 (d) A qualifying community health center as defined in section
33 42-5001.

34 (e) A nonprofit charitable organization that has qualified under
35 section 501(c)(3) of the internal revenue code and that regularly serves
36 meals to the needy and indigent on a continuing basis at no cost.

37 (f) For taxable periods beginning from and after June 30, 2001, a
38 nonprofit charitable organization that has qualified under section
39 501(c)(3) of the internal revenue code and that provides residential
40 apartment housing for low income persons over sixty-two years of age in a
41 facility that qualifies for a federal housing subsidy, if the tangible
42 personal property is used by the organization solely to provide
43 residential apartment housing for low income persons over sixty-two years
44 of age in a facility that qualifies for a federal housing subsidy.

1 (g) A qualifying health sciences educational institution as defined
2 in section 42-5001.

3 ~~(h) Any person representing or working on behalf of another person~~
4 ~~described in subdivisions (a) through (g) of this paragraph if the~~
5 ~~tangible personal property is incorporated or fabricated into a project~~
6 ~~described in section 42-5075, subsection 0.~~

7 26. Magazines or other periodicals or other publications by this
8 state to encourage tourist travel.

9 27. Tangible personal property sold to:

10 (a) A person that is subject to tax under this article by reason of
11 being engaged in business classified under section 42-5075 OR 42-5077 or
12 to a subcontractor working under the control of a person engaged in
13 business classified under section 42-5075 OR 42-5077, if the property so
14 sold is ~~any of the following:~~ INCORPORATED INTO ANY HIGHWAY, STREET OR
15 BRIDGE CONSTRUCTION PROJECT OR INTO A MANUFACTURED BUILDING.

16 ~~(i) Incorporated or fabricated by the person into any real~~
17 ~~property, structure, project, development or improvement as part of the~~
18 ~~business.~~

19 ~~(ii) Incorporated or fabricated by the person into any project~~
20 ~~described in section 42-5075, subsection 0.~~

21 ~~(iii) Used in environmental response or remediation activities~~
22 ~~under section 42-5075, subsection B, paragraph 6.~~

23 (b) A person that is not subject to tax under section 42-5075 and
24 that has been provided a copy of a certificate under section 42-5009,
25 subsection L, if the property so sold is incorporated ~~or fabricated by the~~
26 ~~person into the real property, structure, project, development or~~
27 ~~improvement~~ INTO A HIGHWAY, STREET OR BRIDGE CONSTRUCTION PROJECT
28 described in the certificate.

29 28. The sale of a motor vehicle to:

30 (a) A nonresident of this state if the purchaser's state of
31 residence does not allow a corresponding use tax exemption to the tax
32 imposed by article 1 of this chapter and if the nonresident has secured a
33 special ninety day nonresident registration permit for the vehicle as
34 prescribed by sections 28-2154 and 28-2154.01.

35 (b) An enrolled member of an Indian tribe who resides on the Indian
36 reservation established for that tribe.

37 29. Tangible personal property purchased in this state by a
38 nonprofit charitable organization that has qualified under section
39 501(c)(3) of the United States internal revenue code and that engages in
40 and uses such property exclusively in programs for persons with mental or
41 physical disabilities if the programs are exclusively for training, job
42 placement, rehabilitation or testing.

43 30. Sales of tangible personal property by a nonprofit organization
44 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
45 501(c)(6) of the internal revenue code if the organization is associated

1 with a major league baseball team or a national touring professional
2 golfing association and no part of the organization's net earnings inures
3 to the benefit of any private shareholder or individual. This paragraph
4 does not apply to an organization that is owned, managed or controlled, in
5 whole or in part, by a major league baseball team, or its owners,
6 officers, employees or agents, or by a major league baseball association
7 or professional golfing association, or its owners, officers, employees or
8 agents, unless the organization conducted or operated exhibition events in
9 this state before January 1, 2018 that were exempt from taxation under
10 section 42-5073.

11 31. Sales of commodities, as defined by title 7 United States Code
12 section 2, that are consigned for resale in a warehouse in this state in
13 or from which the commodity is deliverable on a contract for future
14 delivery subject to the rules of a commodity market regulated by the
15 United States commodity futures trading commission.

16 32. Sales of tangible personal property by a nonprofit organization
17 that is exempt from taxation under section 501(c)(3), 501(c)(4),
18 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
19 organization sponsors or operates a rodeo featuring primarily farm and
20 ranch animals and no part of the organization's net earnings inures to the
21 benefit of any private shareholder or individual.

22 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
23 propagative material to persons who use those items to commercially
24 produce agricultural, horticultural, viticultural or floricultural crops
25 in this state.

26 34. Machinery, equipment, technology or related supplies that are
27 only useful to assist a person with a physical disability as defined in
28 section 46-191 or a person who has a developmental disability as defined
29 in section 36-551 or has a head injury as defined in section 41-3201 to be
30 more independent and functional.

31 35. Sales of natural gas or liquefied petroleum gas used to propel
32 a motor vehicle.

33 36. Paper machine clothing, such as forming fabrics and dryer
34 felts, sold to a paper manufacturer and directly used or consumed in paper
35 manufacturing.

36 37. Petroleum, coke, natural gas, virgin fuel oil and electricity
37 sold to a qualified environmental technology manufacturer, producer or
38 processor as defined in section 41-1514.02 and directly used or consumed
39 in the generation or provision of on-site power or energy solely for
40 environmental technology manufacturing, producing or processing or
41 environmental protection. This paragraph shall apply for twenty full
42 consecutive calendar or fiscal years from the date the first paper
43 manufacturing machine is placed in service. In the case of an
44 environmental technology manufacturer, producer or processor who does not

1 manufacture paper, the time period shall begin with the date the first
2 manufacturing, processing or production equipment is placed in service.

3 38. Sales of liquid, solid or gaseous chemicals used in
4 manufacturing, processing, fabricating, mining, refining, metallurgical
5 operations, research and development and, beginning on January 1, 1999,
6 printing, if using or consuming the chemicals, alone or as part of an
7 integrated system of chemicals, involves direct contact with the materials
8 from which the product is produced for the purpose of causing or
9 permitting a chemical or physical change to occur in the materials as part
10 of the production process. This paragraph does not include chemicals that
11 are used or consumed in activities such as packaging, storage or
12 transportation but does not affect any deduction for such chemicals that
13 is otherwise provided by this section. For the purposes of this
14 paragraph, "printing" means a commercial printing operation and includes
15 job printing, engraving, embossing, copying and bookbinding.

16 39. Through December 31, 1994, personal property liquidation
17 transactions, conducted by a personal property liquidator. From and after
18 December 31, 1994, personal property liquidation transactions shall be
19 taxable under this section provided that nothing in this subsection shall
20 be construed to authorize the taxation of casual activities or
21 transactions under this chapter. For the purposes of this paragraph:

22 (a) "Personal property liquidation transaction" means a sale of
23 personal property made by a personal property liquidator acting solely on
24 behalf of the owner of the personal property sold at the dwelling of the
25 owner or on the death of any owner, on behalf of the surviving spouse, if
26 any, any devisee or heir or the personal representative of the estate of
27 the deceased, if one has been appointed.

28 (b) "Personal property liquidator" means a person who is retained
29 to conduct a sale in a personal property liquidation transaction.

30 40. Sales of food, drink and condiment for consumption within the
31 premises of any prison, jail or other institution under the jurisdiction
32 of the state department of corrections, the department of public safety,
33 the department of juvenile corrections or a county sheriff.

34 41. A motor vehicle and any repair and replacement parts and
35 tangible personal property becoming a part of such motor vehicle sold to a
36 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
37 article 4 and who is engaged in the business of leasing or renting such
38 property.

39 42. Sales of:

40 (a) Livestock and poultry to persons engaging in the businesses of
41 farming, ranching or producing livestock or poultry.

42 (b) Livestock and poultry feed, salts, vitamins and other additives
43 for livestock or poultry consumption that are sold to persons for use or
44 consumption by their own livestock or poultry, for use or consumption in
45 the businesses of farming, ranching and producing or feeding livestock,

1 poultry, or livestock or poultry products or for use or consumption in
2 noncommercial boarding of livestock. For the purposes of this paragraph,
3 "poultry" includes ratites.

4 43. Sales of implants used as growth promotants and injectable
5 medicines, not already exempt under paragraph 8 of this subsection, for
6 livestock or poultry owned by or in possession of persons who are engaged
7 in producing livestock, poultry, or livestock or poultry products or who
8 are engaged in feeding livestock or poultry commercially. For the
9 purposes of this paragraph, "poultry" includes ratites.

10 44. Sales of motor vehicles at auction to nonresidents of this
11 state for use outside this state if the vehicles are shipped or delivered
12 out of this state, regardless of where title to the motor vehicles passes
13 or its free on board point.

14 45. Tangible personal property sold to a person engaged in business
15 and subject to tax under the transient lodging classification if the
16 tangible personal property is a personal hygiene item or articles used by
17 human beings for food, drink or condiment, except alcoholic beverages,
18 that are furnished without additional charge to and intended to be
19 consumed by the transient during the transient's occupancy.

20 46. Sales of alternative fuel, as defined in section 1-215, to a
21 used oil fuel burner who has received a permit to burn used oil or used
22 oil fuel under section 49-426 or 49-480.

23 47. Sales of materials that are purchased by or for publicly funded
24 libraries including school district libraries, charter school libraries,
25 community college libraries, state university libraries or federal, state,
26 county or municipal libraries for use by the public as follows:

27 (a) Printed or photographic materials, beginning August 7, 1985.

28 (b) Electronic or digital media materials, beginning July 17, 1994.

29 48. Tangible personal property sold to a commercial airline and
30 consisting of food, beverages and condiments and accessories used for
31 serving the food and beverages, if those items are to be provided without
32 additional charge to passengers for consumption in flight. For the
33 purposes of this paragraph, "commercial airline" means a person holding a
34 federal certificate of public convenience and necessity or foreign air
35 carrier permit for air transportation to transport persons, property or
36 United States mail in intrastate, interstate or foreign commerce.

37 49. Sales of alternative fuel vehicles if the vehicle was
38 manufactured as a diesel fuel vehicle and converted to operate on
39 alternative fuel and equipment that is installed in a conventional diesel
40 fuel motor vehicle to convert the vehicle to operate on an alternative
41 fuel, as defined in section 1-215.

42 50. Sales of any spirituous, vinous or malt liquor by a person that
43 is licensed in this state as a wholesaler by the department of liquor
44 licenses and control pursuant to title 4, chapter 2, article 1.

1 51. Sales of tangible personal property to be incorporated or
2 installed as part of ~~environmental response or remediation activities~~
3 ~~under section 42-5075, subsection B, paragraph 6~~ SITE PREPARATION,
4 CONSTRUCTING, FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR OTHER
5 TANGIBLE PERSONAL PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT
6 EXEMPT INCORPORATED MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND
7 TANGIBLE PERSONAL PROPERTY INCORPORATED INTO THE PROJECT, TO PERFORM ONE
8 OR MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO A RELEASE OR SUSPECTED
9 RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR CONTAMINANT FROM A FACILITY
10 INTO THE ENVIRONMENT, UNLESS THE RELEASE WAS AUTHORIZED BY A PERMIT ISSUED
11 BY A GOVERNMENTAL AUTHORITY:

12 (a) ACTIONS TO MONITOR, ASSESS AND EVALUATE SUCH A RELEASE OR A
13 SUSPECTED RELEASE.

14 (b) EXCAVATING, REMOVING AND TRANSPORTING CONTAMINATED SOIL AND ITS
15 TREATMENT OR DISPOSAL.

16 (c) TREATING CONTAMINATED SOIL BY VAPOR EXTRACTION, CHEMICAL OR
17 PHYSICAL STABILIZATION, SOIL WASHING OR BIOLOGICAL TREATMENT TO REDUCE THE
18 CONCENTRATION, TOXICITY OR MOBILITY OF A CONTAMINANT.

19 (d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED
20 GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OF A
21 CONTAMINANT.

22 (e) INSTALLING STRUCTURES, SUCH AS CUTOFF WALLS OR CAPS, TO CONTAIN
23 CONTAMINANTS PRESENT IN GROUNDWATER OR SOIL AND PREVENT THEM FROM REACHING
24 A LOCATION WHERE THEY COULD THREATEN HUMAN HEALTH OR WELFARE OR THE
25 ENVIRONMENT.

26 THIS PARAGRAPH DOES NOT INCLUDE ASBESTOS REMOVAL OR CONSTRUCTING OR USING
27 ANCILLARY STRUCTURES SUCH AS MAINTENANCE SHEDS, OFFICES OR STORAGE
28 FACILITIES FOR UNATTACHED EQUIPMENT, POLLUTION CONTROL EQUIPMENT,
29 FACILITIES OR OTHER CONTROL ITEMS REQUIRED OR TO BE USED BY A PERSON TO
30 PREVENT OR CONTROL CONTAMINATION BEFORE IT REACHES THE ENVIRONMENT.

31 52. Sales of tangible personal property by a nonprofit organization
32 that is exempt from taxation under section 501(c)(6) of the internal
33 revenue code if the organization produces, organizes or promotes cultural
34 or civic related festivals or events and no part of the organization's net
35 earnings inures to the benefit of any private shareholder or individual.

36 53. Application services that are designed to assess or test
37 student learning or to promote curriculum design or enhancement purchased
38 by or for any school district, charter school, community college or state
39 university. For the purposes of this paragraph:

40 (a) "Application services" means software applications provided
41 remotely using hypertext transfer protocol or another network protocol.

42 (b) "Curriculum design or enhancement" means planning, implementing
43 or reporting on courses of study, lessons, assignments or other learning
44 activities.

1 54. Sales of motor vehicle fuel and use fuel to a qualified
2 business under section 41-1516 for off-road use in harvesting, processing
3 or transporting qualifying forest products removed from qualifying
4 projects as defined in section 41-1516.

5 55. Sales of repair parts installed in equipment used directly by a
6 qualified business under section 41-1516 in harvesting, processing or
7 transporting qualifying forest products removed from qualifying projects
8 as defined in section 41-1516.

9 56. Sales or other transfers of renewable energy credits or any
10 other unit created to track energy derived from renewable energy
11 resources. For the purposes of this paragraph, "renewable energy credit"
12 means a unit created administratively by the corporation commission or
13 governing body of a public power utility to track kilowatt hours of
14 electricity derived from a renewable energy resource or the kilowatt hour
15 equivalent of conventional energy resources displaced by distributed
16 renewable energy resources.

17 57. Computer data center equipment sold to the owner, operator or
18 qualified colocation tenant of a computer data center that is certified by
19 the Arizona commerce authority under section 41-1519 or an authorized
20 agent of the owner, operator or qualified colocation tenant during the
21 qualification period for use in the qualified computer data center. For
22 the purposes of this paragraph, "computer data center", "computer data
23 center equipment", "qualification period" and "qualified colocation
24 tenant" have the same meanings prescribed in section 41-1519.

25 58. Orthodontic devices dispensed by a dental professional who is
26 licensed under title 32, chapter 11 to a patient as part of the practice
27 of dentistry.

28 ~~59. Sales of tangible personal property incorporated or fabricated~~
29 ~~into a project described in section 42-5075, subsection 0, that is located~~
30 ~~within the exterior boundaries of an Indian reservation for which the~~
31 ~~owner, as defined in section 42-5075, of the project is an Indian tribe or~~
32 ~~an affiliated Indian. For the purposes of this paragraph:~~

33 ~~(a) "Affiliated Indian" means an individual native American Indian~~
34 ~~who is duly registered on the tribal rolls of the Indian tribe for whose~~
35 ~~benefit the Indian reservation was established.~~

36 ~~(b) "Indian reservation" means all lands that are within the limits~~
37 ~~of areas set aside by the United States for the exclusive use and~~
38 ~~occupancy of an Indian tribe by treaty, law or executive order and that~~
39 ~~are recognized as Indian reservations by the United States department of~~
40 ~~the interior.~~

41 ~~(c) "Indian tribe" means any organized nation, tribe, band or~~
42 ~~community that is recognized as an Indian tribe by the United States~~
43 ~~department of the interior and includes any entity formed under the laws~~
44 ~~of the Indian tribe.~~

1 59. TANGIBLE PERSONAL PROPERTY SOLD TO A QUALIFIED BUSINESS UNDER
2 SECTION 41-1516 IF THE PROPERTY SOLD IS TO BE INCORPORATED OR FABRICATED
3 INTO A BUILDING, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT
4 OWNED BY THE QUALIFIED BUSINESS FOR HARVESTING OR PROCESSING QUALIFYING
5 FOREST PRODUCTS. TO QUALIFY FOR THIS DEDUCTION, THE QUALIFIED BUSINESS
6 MUST PRESENT, AT THE TIME OF PURCHASE, ITS CERTIFICATION APPROVED BY THE
7 DEPARTMENT.

8 60. Sales of works of fine art, as defined in section 44-1771, at
9 an art auction or gallery in this state to nonresidents of this state for
10 use outside this state if the vendor ships or delivers the work of fine
11 art to a destination outside this state.

12 61. Sales of coal.

13 B. In addition to the deductions from the tax base prescribed by
14 subsection A of this section, the gross proceeds of sales or gross income
15 derived from sales of the following categories of tangible personal
16 property shall be deducted from the tax base:

17 1. Machinery, or equipment, used directly in manufacturing,
18 processing, fabricating, job printing, refining or metallurgical
19 operations. The terms "manufacturing", "processing", "fabricating", "job
20 printing", "refining" and "metallurgical" as used in this paragraph refer
21 to and include those operations commonly understood within their ordinary
22 meaning. "Metallurgical operations" includes leaching, milling,
23 precipitating, smelting and refining.

24 2. Mining machinery, or equipment, used directly in the process of
25 extracting ores or minerals from the earth for commercial purposes,
26 including equipment required to prepare the materials for extraction and
27 handling, loading or transporting such extracted material to the surface.
28 "Mining" includes underground, surface and open pit operations for
29 extracting ores and minerals.

30 3. Tangible personal property sold to persons engaged in business
31 classified under the telecommunications classification, ~~including a person~~
32 ~~representing or working on behalf of such a person in a manner described~~
33 ~~in section 42-5075, subsection 0,~~ and consisting of central office
34 switching equipment, switchboards, private branch exchange equipment,
35 microwave radio equipment and carrier equipment including optical fiber,
36 coaxial cable and other transmission media that are components of carrier
37 systems.

38 4. Machinery, equipment or transmission lines used directly in
39 producing or transmitting electrical power, but not including
40 distribution. Transformers and control equipment used at transmission
41 substation sites constitute equipment used in producing or transmitting
42 electrical power.

43 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
44 or to be used as breeding or production stock, including sales of

1 breedings or ownership shares in such animals used for breeding or
2 production.

3 6. Pipes or valves four inches in diameter or larger used to
4 transport oil, natural gas, artificial gas, water or coal slurry,
5 including compressor units, regulators, machinery and equipment, fittings,
6 seals and any other part that is used in operating the pipes or valves.

7 7. Aircraft, navigational and communication instruments and other
8 accessories and related equipment sold to:

9 (a) A person:

10 (i) Holding, or exempted by federal law from obtaining, a federal
11 certificate of public convenience and necessity for use as, in conjunction
12 with or becoming part of an aircraft to be used to transport persons for
13 hire in intrastate, interstate or foreign commerce.

14 (ii) That is certificated or licensed under federal aviation
15 administration regulations (14 Code of Federal Regulations part 121 or
16 135) as a scheduled or unscheduled carrier of persons for hire for use as
17 or in conjunction with or becoming part of an aircraft to be used to
18 transport persons for hire in intrastate, interstate or foreign commerce.

19 (iii) Holding a foreign air carrier permit for air transportation
20 for use as or in conjunction with or becoming a part of aircraft to be
21 used to transport persons, property or United States mail in intrastate,
22 interstate or foreign commerce.

23 (iv) Operating an aircraft to transport persons in any manner for
24 compensation or hire, or for use in a fractional ownership program that
25 meets the requirements of federal aviation administration regulations
26 (14 Code of Federal Regulations part 91, subpart K), including as an air
27 carrier, a foreign air carrier or a commercial operator or under a
28 restricted category, within the meaning of 14 Code of Federal Regulations,
29 regardless of whether the operation or aircraft is regulated or certified
30 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
31 of Federal Regulations.

32 (v) That will lease or otherwise transfer operational control,
33 within the meaning of federal aviation administration operations
34 specification A008, or its successor, of the aircraft, instruments or
35 accessories to one or more persons described in item (i), (ii), (iii) or
36 (iv) of this subdivision, subject to section 42-5009, subsection Q.

37 (b) Any foreign government.

38 (c) Persons who are not residents of this state and who will not
39 use such property in this state other than in removing such property from
40 this state. This subdivision also applies to corporations that are not
41 incorporated in this state, regardless of maintaining a place of business
42 in this state, if the principal corporate office is located outside this
43 state and the property will not be used in this state other than in
44 removing the property from this state.

1 8. Machinery, tools, equipment and related supplies used or
2 consumed directly in repairing, remodeling or maintaining aircraft,
3 aircraft engines or aircraft component parts by or on behalf of a
4 certificated or licensed carrier of persons or property.

5 9. Railroad rolling stock, rails, ties and signal control equipment
6 used directly to transport persons or property.

7 10. Machinery or equipment used directly to drill for oil or gas or
8 used directly in the process of extracting oil or gas from the earth for
9 commercial purposes.

10 11. Buses or other urban mass transit vehicles that are used
11 directly to transport persons or property for hire or pursuant to a
12 governmentally adopted and controlled urban mass transportation program
13 and that are sold to bus companies holding a federal certificate of
14 convenience and necessity or operated by any city, town or other
15 governmental entity or by any person contracting with such governmental
16 entity as part of a governmentally adopted and controlled program to
17 provide urban mass transportation.

18 12. Groundwater measuring devices required under section 45-604.

19 13. New machinery and equipment consisting of agricultural
20 aircraft, tractors, tractor-drawn implements, self-powered implements,
21 machinery and equipment necessary for extracting milk, and machinery and
22 equipment necessary for cooling milk and livestock, and drip irrigation
23 lines not already exempt under paragraph 6 of this subsection and that are
24 used for commercial production of agricultural, horticultural,
25 viticultural and floricultural crops and products in this state. For the
26 purposes of this paragraph:

27 (a) "New machinery and equipment" means machinery and equipment
28 that have never been sold at retail except pursuant to leases or rentals
29 that do not total two years or more.

30 (b) "Self-powered implements" includes machinery and equipment that
31 are electric-powered.

32 14. Machinery or equipment used in research and development. For
33 the purposes of this paragraph, "research and development" means basic and
34 applied research in the sciences and engineering, and designing,
35 developing or testing prototypes, processes or new products, including
36 research and development of computer software that is embedded in or an
37 integral part of the prototype or new product or that is required for
38 machinery or equipment otherwise exempt under this section to function
39 effectively. Research and development do not include manufacturing
40 quality control, routine consumer product testing, market research, sales
41 promotion, sales service, research in social sciences or psychology,
42 computer software research that is not included in the definition of
43 research and development, or other nontechnological activities or
44 technical services.

1 15. Tangible personal property that is used by either of the
2 following to receive, store, convert, produce, generate, decode, encode,
3 control or transmit telecommunications information:

4 (a) Any direct broadcast satellite television or data transmission
5 service that operates pursuant to 47 Code of Federal Regulations part 25.

6 (b) Any satellite television or data transmission facility, if both
7 of the following conditions are met:

8 (i) Over two-thirds of the transmissions, measured in megabytes,
9 transmitted by the facility during the test period were transmitted to or
10 on behalf of one or more direct broadcast satellite television or data
11 transmission services that operate pursuant to 47 Code of Federal
12 Regulations part 25.

13 (ii) Over two-thirds of the transmissions, measured in megabytes,
14 transmitted by or on behalf of those direct broadcast television or data
15 transmission services during the test period were transmitted by the
16 facility to or on behalf of those services.

17 For the purposes of subdivision (b) of this paragraph, "test period" means
18 the three hundred sixty-five day period beginning on the later of the date
19 on which the tangible personal property is purchased or the date on which
20 the direct broadcast satellite television or data transmission service
21 first transmits information to its customers.

22 16. Clean rooms that are used for manufacturing, processing,
23 fabrication or research and development, as defined in paragraph 14 of
24 this subsection, of semiconductor products. For the purposes of this
25 paragraph, "clean room" means all property that comprises or creates an
26 environment where humidity, temperature, particulate matter and
27 contamination are precisely controlled within specified parameters,
28 without regard to whether the property is actually contained within that
29 environment or whether any of the property is affixed to or incorporated
30 into real property. Clean room:

31 (a) Includes the integrated systems, fixtures, piping, movable
32 partitions, lighting and all property that is necessary or adapted to
33 reduce contamination or to control airflow, temperature, humidity,
34 chemical purity or other environmental conditions or manufacturing
35 tolerances, as well as the production machinery and equipment operating in
36 conjunction with the clean room environment.

37 (b) Does not include the building or other permanent, nonremovable
38 component of the building that houses the clean room environment.

39 17. Machinery and equipment used directly in the feeding of
40 poultry, the environmental control of housing for poultry, the movement of
41 eggs within a production and packaging facility or the sorting or cooling
42 of eggs. This exemption does not apply to vehicles used for transporting
43 eggs.

44 18. Machinery or equipment, including related structural
45 components, that is employed in connection with manufacturing, processing,

1 fabricating, job printing, refining, mining, natural gas pipelines,
2 metallurgical operations, telecommunications, producing or transmitting
3 electricity or research and development and that is used directly to meet
4 or exceed rules or regulations adopted by the federal energy regulatory
5 commission, the United States environmental protection agency, the United
6 States nuclear regulatory commission, the Arizona department of
7 environmental quality or a political subdivision of this state to prevent,
8 monitor, control or reduce land, water or air pollution.

9 19. Machinery and equipment that are sold to a person engaged in
10 the commercial production of livestock, livestock products or
11 agricultural, horticultural, viticultural or floricultural crops or
12 products in this state, ~~including a person representing or working on~~
13 ~~behalf of such a person in a manner described in section 42-5075,~~
14 ~~subsection 0,~~ if the machinery and equipment are used directly and
15 primarily to prevent, monitor, control or reduce air, water or land
16 pollution.

17 20. Machinery or equipment that enables a television station to
18 originate and broadcast or to receive and broadcast digital television
19 signals and that was purchased to facilitate compliance with the
20 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
21 States Code section 336) and the federal communications commission order
22 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
23 paragraph does not exempt any of the following:

24 (a) Repair or replacement parts purchased for the machinery or
25 equipment described in this paragraph.

26 (b) Machinery or equipment purchased to replace machinery or
27 equipment for which an exemption was previously claimed and taken under
28 this paragraph.

29 (c) Any machinery or equipment purchased after the television
30 station has ceased analog broadcasting, or purchased after November 1,
31 2009, whichever occurs first.

32 21. Qualifying equipment that is purchased from and after June 30,
33 2004 through June 30, 2024 by a qualified business under section 41-1516
34 for harvesting or processing qualifying forest products removed from
35 qualifying projects as defined in section 41-1516. To qualify for this
36 deduction, the qualified business at the time of purchase must present its
37 certification approved by the department.

38 C. The deductions provided by subsection B of this section do not
39 include sales of:

40 1. Expendable materials. For the purposes of this paragraph,
41 expendable materials do not include any of the categories of tangible
42 personal property specified in subsection B of this section regardless of
43 the cost or useful life of that property.

44 2. Janitorial equipment and hand tools.

45 3. Office equipment, furniture and supplies.

1 4. Tangible personal property used in selling or distributing
2 activities, other than the telecommunications transmissions described in
3 subsection B, paragraph 15 of this section.

4 5. Motor vehicles required to be licensed by this state, except
5 buses or other urban mass transit vehicles specifically exempted pursuant
6 to subsection B, paragraph 11 of this section, without regard to the use
7 of such motor vehicles.

8 6. Shops, buildings, docks, depots and all other materials of
9 whatever kind or character not specifically included as exempt.

10 7. Motors and pumps used in drip irrigation systems.

11 8. Machinery and equipment or other tangible personal property used
12 by a contractor in the performance of a contract.

13 D. In addition to the deductions from the tax base prescribed by
14 subsection A of this section, there shall be deducted from the tax base
15 the gross proceeds of sales or gross income derived from sales of
16 machinery, equipment, materials and other tangible personal property used
17 directly and predominantly to construct a qualified environmental
18 technology manufacturing, producing or processing facility as described in
19 section 41-1514.02. This subsection applies for ten full consecutive
20 calendar or fiscal years after the start of initial construction.

21 E. In computing the tax base, gross proceeds of sales or gross
22 income from retail sales of heavy trucks and trailers does not include any
23 amount attributable to federal excise taxes imposed by 26 United States
24 Code section 4051.

25 F. If a person is engaged in an occupation or business to which
26 subsection A of this section applies, the person's books shall be kept so
27 as to show separately the gross proceeds of sales of tangible personal
28 property and the gross income from sales of services, and if not so kept
29 the tax shall be imposed on the total of the person's gross proceeds of
30 sales of tangible personal property and gross income from services.

31 G. If a person is engaged in the business of selling tangible
32 personal property at both wholesale and retail, the tax under this section
33 applies only to the gross proceeds of the sales made other than at
34 wholesale if the person's books are kept so as to show separately the
35 gross proceeds of sales of each class, and if the books are not so kept,
36 the tax under this section applies to the gross proceeds of every sale so
37 made.

38 H. A person who engages in manufacturing, baling, crating, boxing,
39 barreling, canning, bottling, sacking, preserving, processing or otherwise
40 preparing for sale or commercial use any livestock, agricultural or
41 horticultural product or any other product, article, substance or
42 commodity and who sells the product of such business at retail in this
43 state is deemed, as to such sales, to be engaged in business classified
44 under the retail classification. This subsection does not apply to:

- 1 1. Agricultural producers who are owners, proprietors or tenants of
2 agricultural lands, orchards, farms or gardens where agricultural products
3 are grown, raised or prepared for market and who are marketing their own
4 agricultural products.
- 5 2. Businesses classified under the:
- 6 (a) Transporting classification.
7 (b) Utilities classification.
8 (c) Telecommunications classification.
9 (d) Pipeline classification.
10 (e) Private car line classification.
11 (f) Publication classification.
12 (g) Job printing classification.
13 ~~(h) Prime contracting classification.~~
14 (h) HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION.
15 (i) MANUFACTURED BUILDING DEALER CLASSIFICATION.
16 ~~(j) Restaurant classification.~~
- 17 I. The gross proceeds of sales or gross income derived from the
18 following shall be deducted from the tax base for the retail
19 classification:
- 20 1. Sales made directly to the United States government or its
21 departments or agencies by a manufacturer, modifier, assembler or
22 repairer.
- 23 2. Sales made directly to a manufacturer, modifier, assembler or
24 repairer if such sales are of any ingredient or component part of products
25 sold directly to the United States government or its departments or
26 agencies by the manufacturer, modifier, assembler or repairer.
- 27 3. Overhead materials or other tangible personal property that is
28 used in performing a contract between the United States government and a
29 manufacturer, modifier, assembler or repairer, including property used in
30 performing a subcontract with a government contractor who is a
31 manufacturer, modifier, assembler or repairer, to which title passes to
32 the government under the terms of the contract or subcontract.
- 33 4. Sales of overhead materials or other tangible personal property
34 to a manufacturer, modifier, assembler or repairer if the gross proceeds
35 of sales or gross income derived from the property by the manufacturer,
36 modifier, assembler or repairer will be exempt under paragraph 3 of this
37 subsection.
- 38 J. There shall be deducted from the tax base fifty percent of the
39 gross proceeds or gross income from any sale of tangible personal property
40 made directly to the United States government or its departments or
41 agencies that is not deducted under subsection I of this section.
- 42 K. The department shall require every person claiming a deduction
43 provided by subsection I or J of this section to file on forms prescribed
44 by the department at such times as the department directs a sworn

1 statement disclosing the name of the purchaser and the exact amount of
2 sales on which the exclusion or deduction is claimed.

3 L. In computing the tax base, gross proceeds of sales or gross
4 income does not include:

5 1. A manufacturer's cash rebate on the sales price of a motor
6 vehicle if the buyer assigns the buyer's right in the rebate to the
7 retailer.

8 2. The waste tire disposal fee imposed pursuant to section 44-1302.

9 M. There shall be deducted from the tax base the amount received
10 from sales of solar energy devices. The retailer shall register with the
11 department as a solar energy retailer. By registering, the retailer
12 acknowledges that it will make its books and records relating to sales of
13 solar energy devices available to the department for examination.

14 N. In computing the tax base in the case of the sale or transfer of
15 wireless telecommunications equipment as an inducement to a customer to
16 enter into or continue a contract for telecommunications services that are
17 taxable under section 42-5064, gross proceeds of sales or gross income
18 does not include any sales commissions or other compensation received by
19 the retailer as a result of the customer entering into or continuing a
20 contract for the telecommunications services.

21 O. For the purposes of this section, a sale of wireless
22 telecommunications equipment to a person who holds the equipment for sale
23 or transfer to a customer as an inducement to enter into or continue a
24 contract for telecommunications services that are taxable under section
25 42-5064 is considered to be a sale for resale in the regular course of
26 business.

27 P. Retail sales of prepaid calling cards or prepaid authorization
28 numbers for telecommunications services, including sales of
29 reauthorization of a prepaid card or authorization number, are subject to
30 tax under this section.

31 Q. For the purposes of this section, the diversion of gas from a
32 pipeline by a person engaged in the business of:

33 1. Operating a natural or artificial gas pipeline, for the sole
34 purpose of fueling compressor equipment to pressurize the pipeline, is not
35 a sale of the gas to the operator of the pipeline.

36 2. Converting natural gas into liquefied natural gas, for the sole
37 purpose of fueling compressor equipment used in the conversion process, is
38 not a sale of gas to the operator of the compressor equipment.

39 R. If a seller is entitled to a deduction pursuant to subsection B,
40 paragraph 15, subdivision (b) of this section, the department may require
41 the purchaser to establish that the requirements of subsection B,
42 paragraph 15, subdivision (b) of this section have been satisfied. If the
43 purchaser cannot establish that the requirements of subsection B,
44 paragraph 15, subdivision (b) of this section have been satisfied, the
45 purchaser is liable in an amount equal to any tax, penalty and interest

1 that the seller would have been required to pay under article 1 of this
2 chapter if the seller had not made a deduction pursuant to subsection B,
3 paragraph 15, subdivision (b) of this section. Payment of the amount
4 under this subsection exempts the purchaser from liability for any tax
5 imposed under article 4 of this chapter and related to the tangible
6 personal property purchased. The amount shall be treated as transaction
7 privilege tax to the purchaser and as tax revenues collected from the
8 seller to designate the distribution base pursuant to section 42-5029.

9 S. For the purposes of section 42-5032.01, the department shall
10 separately account for revenues collected under the retail classification
11 from businesses selling tangible personal property at retail:

12 1. On the premises of a multipurpose facility that is owned, leased
13 or operated by the tourism and sports authority pursuant to title 5,
14 chapter 8.

15 2. At professional football contests that are held in a stadium
16 located on the campus of an institution under the jurisdiction of the
17 Arizona board of regents.

18 T. In computing the tax base for the sale of a motor vehicle to a
19 nonresident of this state, if the purchaser's state of residence allows a
20 corresponding use tax exemption to the tax imposed by article 1 of this
21 chapter and the rate of the tax in the purchaser's state of residence is
22 lower than the rate prescribed in article 1 of this chapter or if the
23 purchaser's state of residence does not impose an excise tax, and the
24 nonresident has secured a special ninety day nonresident registration
25 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
26 there shall be deducted from the tax base a portion of the gross proceeds
27 or gross income from the sale so that the amount of transaction privilege
28 tax that is paid in this state is equal to the excise tax that is imposed
29 by the purchaser's state of residence on the nonexempt sale or use of the
30 motor vehicle.

31 U. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR,
32 REGARDLESS OF WHETHER THE PROPERTY WILL BE INCORPORATED INTO A BUILDING OR
33 STRUCTURE, IS CONSIDERED TO BE A SALE AT RETAIL AND IS SUBJECT TO TAXATION
34 UNDER THIS SECTION UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A
35 CERTIFICATE THAT IS SIGNED BY THE OWNER OF THE PROPERTY TO BE IMPROVED AND
36 THAT STATES THAT THE PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR WILL BE
37 USED FOR A PURPOSE IDENTIFIED IN SUBSECTION A OR B OF THIS SECTION. IF A
38 PERSON WHO IS IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT
39 RETAIL ALSO ENGAGES IN BUSINESS AS A CONTRACTOR AND REMOVES TANGIBLE
40 PERSONAL PROPERTY FROM RETAIL STOCK FOR USE IN CONTRACTING ACTIVITIES, THE
41 PURCHASE PRICE OF THAT PERSONAL PROPERTY IS SUBJECT TO USE TAX UNDER
42 SECTION 42-5155.

43 ~~U.~~ V. For the purposes of this section:

1 1. "Agricultural aircraft" means an aircraft that is built for
2 agricultural use for the aerial application of pesticides or fertilizer or
3 for aerial seeding.

4 2. "Aircraft" includes:

5 (a) An airplane flight simulator that is approved by the federal
6 aviation administration for use as a phase II or higher flight simulator
7 under appendix H, 14 Code of Federal Regulations part 121.

8 (b) Tangible personal property that is permanently affixed or
9 attached as a component part of an aircraft that is owned or operated by a
10 certificated or licensed carrier of persons or property.

11 3. "Other accessories and related equipment" includes aircraft
12 accessories and equipment such as ground service equipment that physically
13 contact aircraft at some point during the overall carrier operation.

14 4. "Selling at retail" means a sale for any purpose other than for
15 resale in the regular course of business in the form of tangible personal
16 property, but transfer of possession, lease and rental as used in the
17 definition of sale mean only such transactions as are found on
18 investigation to be in lieu of sales as defined without the words lease or
19 rental.

20 ~~V.~~ W. For the purposes of subsection I of this section:

21 1. "Assembler" means a person who unites or combines products,
22 wares or articles of manufacture so as to produce a change in form or
23 substance without changing or altering the component parts.

24 2. "Manufacturer" means a person who is principally engaged in the
25 fabrication, production or manufacture of products, wares or articles for
26 use from raw or prepared materials, imparting to those materials new
27 forms, qualities, properties and combinations.

28 3. "Modifier" means a person who reworks, changes or adds to
29 products, wares or articles of manufacture.

30 4. "Overhead materials" means tangible personal property, the gross
31 proceeds of sales or gross income derived from that would otherwise be
32 included in the retail classification, and that are used or consumed in
33 the performance of a contract, the cost of which is charged to an overhead
34 expense account and allocated to various contracts based on generally
35 accepted accounting principles and consistent with government contract
36 accounting standards.

37 5. "Repairer" means a person who restores or renews products, wares
38 or articles of manufacture.

39 6. "Subcontract" means an agreement between a contractor and any
40 person who is not an employee of the contractor for furnishing of supplies
41 or services that, in whole or in part, are necessary to the performance of
42 one or more government contracts, or under which any portion of the
43 contractor's obligation under one or more government contracts is
44 performed, undertaken or assumed and that includes provisions causing
45 title to overhead materials or other tangible personal property used in

1 the performance of the subcontract to pass to the government or that
2 includes provisions incorporating such title passing clauses in a
3 government contract into the subcontract. FOR THE PURPOSES OF THIS
4 PARAGRAPH, "CONTRACTOR" HAS ITS ORDINARY AND COMMON MEANING AND DOES NOT
5 HAVE THE MEANING PRESCRIBED IN SECTION 42-5001.

6 Sec. 16. Repeal

7 Section ~~42-5075~~, Arizona Revised Statutes, is repealed.

8 Sec. 17. Title 42, chapter 5, article 2, Arizona Revised Statutes,
9 is amended by adding a new section 42-5075 and section 42-5077, to read:

10 ~~42-5075. Highway, street and bridge construction~~
11 ~~classification; exemptions; definitions~~

12 A. THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION IS
13 COMPRISED OF THE BUSINESS OF CONSTRUCTING, ALTERING OR REPAIRING HIGHWAYS,
14 STREETS AND BRIDGES THAT PRIMARILY INVOLVE SURFACE OR SUBSURFACE
15 IMPROVEMENTS TO LAND PURSUANT TO CONTRACTS THAT ARE SUBJECT TO THE
16 PROCUREMENT REQUIREMENTS OF TITLE 28, CHAPTER 19, 20 OR 22 OR OF TITLE 34,
17 CHAPTER 2 OR 6, EVEN IF A CONTRACT MAY INCIDENTALY INCLUDE VERTICAL
18 IMPROVEMENTS.

19 B. THE TAX BASE FOR THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION
20 CLASSIFICATION IS SIXTY-FIVE PERCENT OF THE GROSS PROCEEDS OF SALES OR
21 GROSS INCOME DERIVED FROM THE BUSINESS. THE FOLLOWING AMOUNTS SHALL BE
22 DEDUCTED FROM THE GROSS PROCEEDS OF SALES OR GROSS INCOME BEFORE COMPUTING
23 THE TAX BASE:

24 1. INCOME RECEIVED FROM A CONTRACT ENTERED INTO FOR THE
25 CONSTRUCTION, MODIFICATION OR REPAIR OF ANY HIGHWAY, ROAD, BRIDGE OR
26 EXCAVATION LOCATED IN AN ACTIVE MILITARY REUSE ZONE AFTER THE ZONE IS
27 INITIALLY ESTABLISHED OR RENEWED UNDER SECTION 41-1531. TO BE ELIGIBLE TO
28 QUALIFY FOR THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE CONTRACT, THE
29 CONTRACTOR MUST APPLY FOR A LETTER OF QUALIFICATION FROM THE DEPARTMENT.

30 2. INCOME ATTRIBUTABLE TO A SEPARATE WRITTEN CONTRACT FOR DESIGN
31 PHASE SERVICES OR PROFESSIONAL SERVICES, EXECUTED BEFORE THE CONSTRUCTION,
32 ALTERATION OR REPAIR BEGINS AND WITH TERMS, CONDITIONS AND PRICING OF ALL
33 OF THESE SERVICES SEPARATELY STATED IN THE CONTRACT FROM THOSE FOR
34 CONSTRUCTION PHASE SERVICES, REGARDLESS OF WHETHER THE SERVICES ARE
35 PROVIDED SEQUENTIALLY TO OR CONCURRENT WITH CONSTRUCTION ACTIVITIES THAT
36 ARE SUBJECT TO TAX UNDER THIS SECTION. THE DEDUCTION UNDER THIS PARAGRAPH
37 DOES NOT INCLUDE INCOME ATTRIBUTABLE TO CONSTRUCTION PHASE SERVICES.

38 3. INCOME ATTRIBUTABLE TO THE ACTUAL DIRECT COSTS OF PROVIDING
39 ARCHITECTURAL OR ENGINEERING SERVICES THAT ARE INCORPORATED IN A CONTRACT.
40 FOR THE PURPOSES OF THIS PARAGRAPH, "DIRECT COSTS" MEANS THE PORTION OF
41 THE ACTUAL COSTS THAT IS DIRECTLY EXPENDED IN PROVIDING ARCHITECTURAL OR
42 ENGINEERING SERVICES.

43 C. SUBCONTRACTORS WHO PERFORM SERVICES WITH RESPECT TO THE
44 CONSTRUCTING, ALTERING OR REPAIRING HIGHWAYS, STREETS OR BRIDGES ARE NOT
45 SUBJECT TO TAX PURSUANT TO THIS SECTION IF THEY CAN DEMONSTRATE THAT THE

1 JOB WAS WITHIN THE CONTROL OF A PRIME CONTRACTOR OR CONTRACTORS AND THAT
2 THE PRIME CONTRACTOR IS LIABLE FOR THE TAX ON THE GROSS PROCEEDS OF SALES
3 OR GROSS INCOME ATTRIBUTABLE TO THE JOB AND FROM WHICH THE SUBCONTRACTORS
4 WERE PAID.

5 D. AMOUNTS RECEIVED BY A CONTRACTOR FOR A PROJECT ARE EXCLUDED FROM
6 THAT CONTRACTOR'S GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE
7 BUSINESS IF THE PERSON WHO HIRED THE CONTRACTOR EXECUTES AND PROVIDES A
8 CERTIFICATE TO THE CONTRACTOR STATING THAT THE PERSON PROVIDING THE
9 CERTIFICATE IS A PRIME CONTRACTOR IN THE BUSINESS OF CONSTRUCTING,
10 ALTERING OR REPAIRING HIGHWAYS, STREETS AND BRIDGES AND IS THUS LIABLE FOR
11 THE TAX UNDER THIS SECTION. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF
12 THE CERTIFICATE. IF THE CONTRACTOR HAS REASON TO BELIEVE THAT THE
13 INFORMATION CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE
14 DEPARTMENT MAY DISREGARD THE CERTIFICATE. IF THE PERSON WHO PROVIDES THE
15 CERTIFICATE IS NOT LIABLE FOR THE TAX AS A PRIME CONTRACTOR, THAT PERSON
16 IS NEVERTHELESS DEEMED TO BE THE PRIME CONTRACTOR IN LIEU OF THE
17 CONTRACTOR AND IS SUBJECT TO THE TAX UNDER THIS SECTION ON THE GROSS
18 RECEIPTS OR GROSS PROCEEDS RECEIVED BY THE CONTRACTOR.

19 E. AGENCIES OF THIS STATE AND COUNTIES, CITIES AND TOWNS THAT ARE
20 SUBJECT TO PROCUREMENT PROCESSES UNDER TITLE 28, CHAPTER 19, 20 OR 22 OR
21 OF TITLE 34, CHAPTER 2 OR 6 SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A
22 NOTICE TO BIDDERS WHEN THOSE PROJECTS ARE SUBJECT TO THIS SECTION. THIS
23 SUBSECTION DOES NOT APPLY TO CONTRACTS WITH COMMUNITY COLLEGE DISTRICTS,
24 SCHOOL DISTRICTS AND ANY SPECIAL TAXING DISTRICT UNDER TITLE 48 IF THE
25 DISTRICT DOES NOT SUBSTANTIALLY ENGAGE IN THE CONSTRUCTING, ALTERING OR
26 REPAIRING HIGHWAYS, STREETS AND BRIDGES.

27 F. FOR THE PURPOSES OF THIS SECTION:

28 1. "CONSTRUCTION PHASE SERVICES" MEANS SERVICES TO EXECUTE AND
29 COMPLETE ANY CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET OR
30 BRIDGE, INCLUDING THE FOLLOWING:

31 (a) ADMINISTERING OR SUPERVISING ANY WORK PERFORMED WITH RESPECT TO
32 THE PROJECT, INCLUDING TEAM MANAGEMENT AND COORDINATION, SCHEDULING, COST
33 CONTROLS, SUBMITTAL PROCESS MANAGEMENT, FIELD MANAGEMENT, SAFETY PROGRAM,
34 CLOSE-OUT PROCESS AND WARRANTY PERIOD SERVICES.

35 (b) ADMINISTERING OR SUPERVISING ANY WORK PERFORMED PURSUANT TO A
36 PUNCH LIST. FOR THE PURPOSES OF THIS SUBDIVISION, "PUNCH LIST" MEANS
37 MINOR ITEMS OF WORK PERFORMED AFTER SUBSTANTIAL COMPLETION AND BEFORE
38 FINAL COMPLETION OF THE PROJECT.

39 (c) ADMINISTERING OR SUPERVISING ANY WORK PERFORMED PURSUANT TO A
40 CHANGE ORDER. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE ORDER" MEANS
41 A WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT PROVIDING FOR
42 ALL OF THE FOLLOWING:

43 (i) THE SCOPE OF A CHANGE IN THE WORK, CONTRACT FOR WORK OR OTHER
44 CONTRACT DOCUMENTS.

1 (ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM
2 PRICE AS SET IN THE CONTRACT. FOR THE PURPOSES OF THIS ITEM, "GUARANTEED
3 MAXIMUM PRICE" MEANS THE AMOUNT GUARANTEED TO BE THE MAXIMUM AMOUNT DUE TO
4 A CONTRACTOR FOR THE PERFORMANCE OF ALL WORK FOR THE PROJECT.

5 (iii) THE EXTENT OF AN ADJUSTMENT, IF ANY, TO THE CONTRACT TIME OF
6 PERFORMANCE SET FORTH IN THE CONTRACT.

7 (d) ADMINISTERING OR SUPERVISING ANY WORK PERFORMED PURSUANT TO A
8 CHANGE DIRECTIVE. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE
9 DIRECTIVE" MEANS A WRITTEN ORDER DIRECTING A CHANGE IN WORK BEFORE
10 AGREEMENT ON AN ADJUSTMENT OF THE GUARANTEED MAXIMUM PRICE OR CONTRACT
11 TIME.

12 (e) INSPECTING TO DETERMINE THE DATES OF SUBSTANTIAL COMPLETION OR
13 FINAL COMPLETION.

14 (f) PREPARING ANY MANUAL, WARRANTY, AS-BUILT DRAWING, SPARE OR
15 OTHER ITEM THE CONTRACTOR MUST FURNISH PURSUANT TO THE CONTRACT. FOR THE
16 PURPOSES OF THIS SUBDIVISION, "AS-BUILT DRAWING" MEANS A DRAWING THAT
17 INDICATES FIELD CHANGES MADE TO ADAPT TO FIELD CONDITIONS, FIELD CHANGES
18 RESULTING FROM CHANGE ORDERS OR BURIED AND CONCEALED INSTALLATION OF
19 PIPING, CONDUIT AND UTILITY SERVICES.

20 (g) PREPARING STATUS REPORTS AFTER WORK HAS BEGUN DETAILING THE
21 PROGRESS OF WORK PERFORMED, INCLUDING PREPARING ANY OF THE FOLLOWING:

22 (i) MASTER SCHEDULE UPDATES.

23 (ii) MODIFICATION WORK CASH-FLOW PROJECTION UPDATES.

24 (iii) SITE REPORTS MADE ON A PERIODIC BASIS.

25 (iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN
26 WORK DOCUMENTS THAT REQUIRE RESOLUTION.

27 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT ARISE IN
28 CONNECTION WITH THE WORK.

29 (h) PREPARING DAILY LOGS, INCLUDING DOCUMENTATION OF PERSONNEL,
30 WEATHER CONDITIONS AND ON-SITE OCCURRENCES.

31 (i) PREPARING ANY SUBMITTALS OR SHOP DRAWINGS USED BY THE
32 CONTRACTOR TO ILLUSTRATE DETAILS OF THE WORK PERFORMED.

33 (j) ADMINISTERING OR SUPERVISING ANY OTHER ACTIVITIES FOR WHICH A
34 CONTRACTOR RECEIVES A CERTIFICATE FOR PAYMENT OR CERTIFICATE FOR FINAL
35 PAYMENT BASED ON THE PROGRESS OF THE WORK PERFORMED ON THE PROJECT.

36 2. "DESIGN PHASE SERVICES" MEANS SERVICES FOR DEVELOPING AND
37 COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE
38 SERVICES, INCLUDING THE FOLLOWING:

39 (a) EVALUATING SURVEYS, REPORTS, TEST RESULTS OR ANY OTHER
40 INFORMATION ON SITE CONDITIONS FOR THE PROJECT, INCLUDING PHYSICAL
41 CHARACTERISTICS, LEGAL LIMITATIONS AND UTILITY LOCATIONS FOR THE SITE.

42 (b) EVALUATING ANY CRITERIA OR PROGRAMMING OBJECTIVES FOR THE
43 PROJECT TO ASCERTAIN REQUIREMENTS FOR THE PROJECT, SUCH AS PHYSICAL
44 REQUIREMENTS AFFECTING COST OR PROJECTED USE OF THE PROJECT.

1 (c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM
2 DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,
3 CONSTRUCTION, ALTERATION OR REPAIR DOCUMENTS OR DOCUMENTS THAT IDENTIFY
4 THE SCOPE OF OR MATERIALS FOR THE PROJECT.

5 (d) PREPARING AN INITIAL SCHEDULE FOR THE PROJECT, EXCLUDING
6 PREPARING UPDATES TO THE MASTER SCHEDULE AFTER WORK HAS BEGUN.

7 (e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF CONSTRUCTION,
8 ALTERATION OR REPAIR WORK BEFORE COMPLETION OF THE FINAL DESIGN OF THE
9 PROJECT, INCLUDING AN ESTIMATE OR SCHEDULE OF VALUES FOR ANY OF THE
10 FOLLOWING:

11 (i) LABOR, MATERIALS, MACHINERY AND EQUIPMENT, TOOLS, WATER, HEAT,
12 UTILITIES, TRANSPORTATION AND OTHER FACILITIES AND SERVICES USED IN THE
13 EXECUTION AND COMPLETION OF THE WORK, REGARDLESS OF WHETHER THEY ARE
14 TEMPORARY OR PERMANENT OR WHETHER THEY ARE INCORPORATED IN THE WORK.

15 (ii) THE COST OF LABOR AND MATERIALS TO BE FURNISHED BY THE OWNER
16 OF THE REAL PROPERTY.

17 (iii) THE COST OF ANY LABOR OR MATERIALS TO BE FURNISHED BY THE
18 OWNER OF THE REAL PROPERTY.

19 (iv) ANY FEE PAID BY THE OWNER OF THE REAL PROPERTY TO THE
20 CONTRACTOR PURSUANT TO THE CONTRACT.

21 (v) ANY BOND AND INSURANCE PREMIUMS.

22 (vi) ANY APPLICABLE TAXES.

23 (vii) ANY CONTINGENCY FEES FOR THE CONTRACTOR THAT MAY BE USED
24 BEFORE FINAL COMPLETION OF THE PROJECT.

25 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS
26 TO PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF
27 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, CONSTRUCTION, ALTERATION OR
28 REPAIR FEASIBILITY, AVAILABILITY OF MATERIALS AND LABOR, LOCAL
29 CONSTRUCTION, ALTERATION OR REPAIR ACTIVITY AS RELATED TO SCHEDULES AND
30 TIME REQUIREMENTS FOR CONSTRUCTION, ALTERATION OR REPAIR WORK.

31 (g) PREPARING THE PLAN AND PROCEDURES FOR SELECTION OF
32 SUBCONTRACTORS, INCLUDING ANY PREQUALIFICATION OF SUBCONTRACTOR
33 CANDIDATES.

34 42-5077. Manufactured building dealer classification;
35 exemptions; definitions

36 A. THE MANUFACTURED BUILDING DEALER CLASSIFICATION IS COMPRISED OF
37 THE BUSINESS OF SELLING MANUFACTURED BUILDINGS. SALES FOR RESALE TO
38 ANOTHER MANUFACTURED BUILDING DEALER ARE NOT SUBJECT TO THIS TAX. SALES
39 FOR RESALE DO NOT INCLUDE SALES TO A LESSOR OF MANUFACTURED BUILDINGS.
40 THE SALE OF A USED MANUFACTURED BUILDING IS NOT TAXABLE UNDER THIS
41 CHAPTER.

42 B. THE TAX BASE FOR THE MANUFACTURED BUILDING DEALER CLASSIFICATION
43 IS SIXTY-FIVE PERCENT OF THE GROSS PROCEEDS OF SALES OR GROSS INCOME
44 DERIVED FROM THE BUSINESS. THE FOLLOWING AMOUNTS SHALL BE DEDUCTED FROM
45 THE GROSS PROCEEDS OF SALES OR GROSS INCOME BEFORE COMPUTING THE TAX BASE:

1 1. THE SALES PRICE OF LAND, WHICH MAY NOT EXCEED THE FAIR MARKET
2 VALUE.

3 2. THE SALES PRICE OF FURNITURE, FURNISHINGS, FIXTURES, APPLIANCES
4 AND ATTACHMENTS THAT ARE NOT INCORPORATED AS COMPONENT PARTS OF OR
5 ATTACHED TO A MANUFACTURED BUILDING OR THE SETUP SITE. THE SALE OF SUCH
6 ITEMS MAY BE SUBJECT TO THE TAXES IMPOSED BY ARTICLE 1 OF THIS CHAPTER
7 SEPARATELY AND DISTINCTLY FROM THE SALE OF THE MANUFACTURED BUILDING.

8 C. EVERY PERSON ENGAGING OR CONTINUING IN THIS STATE IN THE
9 BUSINESS OF A MANUFACTURED BUILDING DEALER SHALL PRESENT TO THE PURCHASER
10 OF THE MANUFACTURED BUILDING A WRITTEN RECEIPT OF THE GROSS INCOME OR
11 GROSS PROCEEDS OF SALES FROM SUCH ACTIVITY AND SHALL SEPARATELY STATE THE
12 TAXES TO BE PAID PURSUANT TO THIS SECTION.

13 D. THE FOLLOWING APPLY IN DETERMINING THE TAXABLE SITUS OF SALES OF
14 MANUFACTURED BUILDINGS:

15 1. FOR SALES IN THIS STATE FOR WHICH THE MANUFACTURED BUILDING
16 DEALER CONTRACTS TO DELIVER THE BUILDING TO A SETUP SITE OR TO PERFORM THE
17 SETUP IN THIS STATE, THE TAXABLE SITUS IS THE SETUP SITE.

18 2. FOR SALES IN THIS STATE FOR WHICH THE MANUFACTURED BUILDING
19 DEALER DOES NOT CONTRACT TO DELIVER THE BUILDING TO A SETUP SITE OR DOES
20 NOT PERFORM THE SETUP, THE TAXABLE SITUS IS THE LOCATION OF THE DEALERSHIP
21 WHERE THE BUILDING IS DELIVERED TO THE BUYER.

22 3. FOR SALES IN THIS STATE FOR WHICH THE MANUFACTURED BUILDING
23 DEALER CONTRACTS TO DELIVER THE BUILDING TO A SETUP SITE THAT IS OUTSIDE
24 THIS STATE, THE SITUS IS OUTSIDE THIS STATE AND THE TRANSACTION IS
25 EXCLUDED FROM TAX.

26 E. FOR THE PURPOSES OF THIS SECTION:

27 1. "MANUFACTURED BUILDING" MEANS A MANUFACTURED HOME, MOBILE HOME
28 OR FACTORY-BUILT BUILDING, AS DEFINED IN SECTION 41-4001.

29 2. "MANUFACTURED BUILDING DEALER" MEANS A DEALER WHO EITHER:

30 (a) IS LICENSED PURSUANT TO TITLE 41, CHAPTER 37, ARTICLE 4 AND WHO
31 SELLS MANUFACTURED BUILDINGS TO THE FINAL CONSUMER.

32 (b) SUPERVISES, PERFORMS OR COORDINATES THE EXCAVATION AND
33 COMPLETION OF SITE IMPROVEMENTS OR THE SETUP OF A MANUFACTURED BUILDING,
34 INCLUDING THE CONTRACTING, IF ANY, WITH ANY SUBCONTRACTOR OR SPECIALTY
35 CONTRACTOR FOR THE COMPLETION OF THE CONTRACT.

36 3. SALE OF A USED MANUFACTURED BUILDING DOES NOT INCLUDE A LEASE OF
37 A USED MANUFACTURED BUILDING.

38 Sec. 18. Section 42-5151, Arizona Revised Statutes, is amended to
39 read:

40 42-5151. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Ancillary services" means those services so designated in
43 federal energy regulatory commission order 888 adopted in 1996 that
44 include the services necessary to support the transmission of electricity

1 from resources to loads while maintaining reliable operation of the
2 transmission system according to good utility practice.

3 ~~2.~~ 2. "CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.

4 ~~3.~~ 3. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY
5 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR
6 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR
7 DOES PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY,
8 ROAD, RAILROAD, EXCAVATION OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR
9 IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING THE ERECTION
10 OF SCAFFOLDING OR ANOTHER STRUCTURE OR WORKS IN CONNECTION WITH SUCH A
11 PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR ALL
12 PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION GOVERNS WITHOUT REGARD
13 TO WHETHER THE CONTRACTOR IS ACTING IN FULFILLMENT OF A CONTRACT.

14 ~~2.~~ 4. "Electric distribution service" means distributing
15 electricity to retail electric customers through the use of electric
16 distribution facilities.

17 ~~3.~~ 5. "Electric generation service" means providing electricity
18 for sale to retail electric customers but excluding electric distribution
19 or transmission services.

20 6. "Electricity" means electric energy, electric capacity or
21 electric capacity and energy.

22 7. "Electricity supplier" means a person, whether acting in a
23 principal, agent or other capacity, that offers to sell electricity to a
24 retail electric customer in this state.

25 ~~4.~~ 8. "Electric transmission service" means transmitting
26 electricity to retail electric customers or to electric distribution
27 facilities so classified by the federal energy regulatory commission or,
28 to the extent permitted by law, so classified by the Arizona corporation
29 commission.

30 ~~5.~~ 9. "Electric utility services" means the business of providing
31 electric ancillary services, electric distribution services, electric
32 generation services, electric transmission services and other services
33 related to providing electricity.

34 ~~6.~~ 10. "Natural gas" means natural or artificial gas, and includes
35 methane and propane gas, the natural gas commodity, natural gas pipeline
36 capacity or natural gas commodity and pipeline capacity.

37 ~~7.~~ 11. "Natural gas utility services" means the business of
38 selling natural gas or providing natural gas transportation services or
39 other services related to providing natural gas.

40 ~~10.~~ 12. "Notice" means written notice served personally or by
41 certified mail and addressed to the last known address of the person to
42 whom such notice is given.

43 ~~11.~~ 13. "Other services" includes metering, meter reading services,
44 billing and collecting services.

1 ~~12:~~ 14. "Person" means an individual, firm, partnership, joint
2 venture, association, corporation, estate, trust, receiver or syndicate,
3 this state or a county, city, municipality, district or other political
4 subdivision or agency thereof.

5 ~~13:~~ 15. "Purchase" means any transfer, exchange or barter,
6 conditional or otherwise, in any manner or by any means, of tangible
7 personal property for a consideration, including transactions by which the
8 possession of property is transferred but the seller retains the title as
9 security for payment.

10 ~~14:~~ 16. "Purchase price" or "sales price" means the total amount
11 for which tangible personal property is sold, including any services that
12 are a part of the sale, valued in money, whether paid in money or
13 otherwise, and any amount for which credit is given to the purchaser by
14 the seller without any deduction on account of the cost of the property
15 sold, materials used, labor or services performed, interest charged,
16 losses or other expenses, but does not include:

17 (a) Discounts allowed and taken.

18 (b) Charges for labor or services in installing, remodeling or
19 repairing.

20 (c) Freight costs billed to and collected from a purchaser by a
21 retailer for tangible personal property ~~which~~ THAT, on the order of the
22 retailer, is shipped directly from a manufacturer or wholesaler to the
23 purchaser.

24 (d) Amounts attributable to federal excise taxes imposed by 26
25 United States Code section 4001, 4051 or 4081 on sales of heavy trucks and
26 trailers and automobiles or on sales of use fuel, as defined in section
27 28-5601.

28 (e) The value of merchandise that is traded in on the purchase of
29 new or pre-owned merchandise when the trade-in allowance is deducted from
30 the sales price of the new or pre-owned merchandise before the completion
31 of the sale.

32 ~~15:~~ 17. "Retail electric customer" means a person who purchases
33 electricity for that person's own use, including use in that person's
34 trade or business, and not for resale, redistribution or retransmission.

35 ~~17:~~ 18. "Retailer" includes:

36 (a) Every person engaged in the business of making sales of
37 tangible personal property for storage, use or other consumption or in the
38 business of making sales at auction of tangible personal property owned by
39 that person or others for storage, use or other consumption. If in the
40 opinion of the department it is necessary for the efficient administration
41 of this article to regard any salesmen, representatives, peddlers or
42 canvassers as the agents of the dealers, distributors, supervisors or
43 employers under whom they operate or from whom they obtain the tangible
44 personal property sold by them, regardless of whether they are making
45 sales on their own behalf or on behalf of such dealers, distributors,

1 supervisors or employers, the department may so regard them and may regard
2 the dealers, distributors, supervisors or employers as retailers for
3 purposes of this article.

4 (b) A person who solicits orders for tangible personal property by
5 mail if the solicitations are substantial and recurring or if the retailer
6 benefits from any banking, financing, debt collection, telecommunication,
7 television shopping system, cable, optic, microwave or other communication
8 system or marketing activities occurring in this state or benefits from
9 the location in this state of authorized installation, servicing or repair
10 facilities.

11 ~~16:~~ 19. "Retail natural gas customer" means a person who purchases
12 natural gas for that person's own use, including use in that person's
13 trade or business, and not for resale, redistribution or retransmission.

14 ~~18:~~ 20. "Solar daylighting" means a device that is specifically
15 designed to capture and redirect the visible portion of the solar beam,
16 while controlling the infrared portion, for use in illuminating interior
17 building spaces in lieu of artificial lighting.

18 ~~19:~~ 21. "Solar energy device" means a system or series of
19 mechanisms designed primarily to provide heating, to provide cooling, to
20 produce electrical power, to produce mechanical power, to provide solar
21 daylighting or to provide any combination of the foregoing by means of
22 collecting and transferring solar generated energy into such uses by
23 either active or passive means, including wind generator systems that
24 produce electricity. Solar energy systems may also have the capability of
25 storing solar energy for future use. Passive systems shall clearly be
26 designed as a solar energy device, such as a trombe wall, and not merely
27 as a part of a normal structure, such as a window.

28 ~~20:~~ 22. "Storage" means keeping or retaining tangible personal
29 property purchased from a retailer for any purpose except sale in the
30 regular course of business or subsequent use solely outside this state.
31 For the purposes of this paragraph, sale in the regular course of business
32 does not include the transfer of title or possession of coal back and
33 forth between an owner or operator of a power plant and a person who is
34 responsible for refining coal if both of the following apply:

35 (a) The transfer of title or possession of the coal is for the
36 purpose of refining the coal.

37 (b) The title or possession of the coal is transferred back to the
38 owner or operator of the power plant after completion of the coal refining
39 process. For the purposes of this subdivision, "coal refining process"
40 means the application of a coal additive system that aids the reduction of
41 power plant emissions during the combustion of coal and the treatment of
42 flue gas.

43 ~~21:~~ 23. "Taxpayer" means any retailer or person storing, using or
44 consuming tangible personal property **OF WHICH** the storage, use or

1 consumption ~~of which~~ is subject to the tax imposed by this article ~~when~~
2 ~~such~~ IF THE tax was not paid to a retailer.

3 ~~22.~~ 24. "Use or consumption" means the exercise of any right or
4 power over tangible personal property incidental to owning the property
5 except holding for sale or selling the property in the regular course of
6 business. For the purposes of this paragraph, selling the property in the
7 regular course of business does not include the transfer of title or
8 possession of coal back and forth between an owner or operator of a power
9 plant and a person who is responsible for refining coal if both of the
10 following apply:

11 (a) The transfer of title or possession of the coal is for the
12 purpose of refining the coal.

13 (b) The title or possession of the coal is transferred back to the
14 owner or operator of the power plant after completion of the coal refining
15 process. For the purposes of this subdivision, "coal refining process"
16 means the application of a coal additive system that aids the reduction of
17 power plant emissions during the combustion of coal and the treatment of
18 flue gas.

19 ~~23.~~ 25. "Utility business" means a person that is engaged in the
20 business of providing electric utility services to retail electric
21 customers or natural gas utility services to retail natural gas customers.

22 Sec. 19. Subject to the requirements of article IV, part 1, section
23 1, Constitution of Arizona, section 42-5155, Arizona Revised Statutes, is
24 amended to read:

25 42-5155. Levy of tax; tax rate; purchaser's liability

26 A. There is levied and imposed an excise tax on the storage, use or
27 consumption in this state of tangible personal property purchased from a
28 retailer or utility business, as a percentage of the sales price. A
29 manufactured building purchased outside this state and set up in this
30 state is subject to tax under this section and in this case the rate is a
31 percentage of sixty-five percent of the sales price.

32 B. The tax imposed by this section applies to any purchaser that
33 purchased tangible personal property for resale but subsequently uses or
34 consumes the property.

35 C. THE PURCHASE OF TANGIBLE PERSONAL PROPERTY BY A CONTRACTOR,
36 REGARDLESS OF WHETHER IT WILL BE INCORPORATED INTO A BUILDING OR
37 STRUCTURE, IS CONSIDERED TO BE A PURCHASE AT RETAIL AND IS SUBJECT TO
38 TAXATION UNDER THIS SECTION UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER
39 A CERTIFICATE THAT IS SIGNED BY THE OWNER OF THE PROPERTY TO BE IMPROVED
40 AND THAT STATES THAT THE PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR
41 WILL BE USED FOR A PURPOSE IDENTIFIED IN SECTION 42-5159, SUBSECTION A
42 OR B. IF A PERSON THAT IS IN THE BUSINESS OF SELLING TANGIBLE PERSONAL
43 PROPERTY AT RETAIL ALSO ENGAGES IN BUSINESS AS A CONTRACTOR AND REMOVES
44 TANGIBLE PERSONAL PROPERTY FROM RETAIL STOCK FOR USE IN CONTRACTING

1 ACTIVITIES, THE PURCHASE PRICE OF THAT PERSONAL PROPERTY IS SUBJECT TO TAX
2 UNDER SUBSECTION B OF THIS SECTION.

3 ~~C.~~ D. The tax rate shall equal the rate of tax prescribed by
4 section 42-5010, subsection A as applied to retailers and utility
5 businesses according to the respective classification under articles 1 and
6 2 of this chapter for the same type of transaction or business activity.

7 ~~D.~~ E. In addition to the rate prescribed by subsection ~~C~~ D of
8 this section, if approved by the qualified electors voting at a statewide
9 general election, an additional rate increment of six-tenths of one ~~per~~
10 ~~cent~~ PERCENT is imposed and shall be collected through June 30, 2021. The
11 taxpayer shall pay taxes pursuant to this subsection at the same time and
12 in the same manner as under subsection ~~C~~ D of this section. The
13 department shall separately account for the revenues collected with
14 respect to the rate imposed pursuant to this subsection, and the state
15 treasurer shall pay all of those revenues in the manner prescribed by
16 section 42-5029, subsection E.

17 ~~E.~~ F. From and after June 30, 2021 through June 30, 2041, in
18 addition to the rate prescribed by subsection ~~C~~ D of this section, an
19 additional rate increment of six-tenths of one percent is imposed and
20 shall be collected. The taxpayer shall pay taxes pursuant to this
21 subsection at the same time and in the same manner as under subsection
22 ~~C~~ D of this section. The department shall separately account for the
23 revenues collected with respect to the rate imposed pursuant to this
24 subsection, and the state treasurer shall pay all of those revenues in the
25 manner prescribed by section 42-5029.02, subsection A.

26 ~~F.~~ G. Every person storing, using or consuming in this state
27 tangible personal property purchased from a retailer or utility business
28 is liable for the tax. The person's liability is not extinguished until
29 the tax has been paid to this state.

30 ~~G.~~ H. A receipt from a retailer or utility business that maintains
31 a place of business in this state or from a retailer or utility business
32 that is authorized by the department to collect the tax, under such rules
33 as it may prescribe, and that is for the purposes of this article regarded
34 as a retailer or utility business maintaining a place of business in this
35 state, given to the purchaser as provided in section 42-5161 is sufficient
36 to relieve the purchaser from further liability for the tax to which the
37 receipt refers.

38 Sec. 20. Section 42-5159, Arizona Revised Statutes, is amended to
39 read:

40 42-5159. Exemptions

41 A. The tax levied by this article does not apply to the storage,
42 use or consumption in this state of the following described tangible
43 personal property:

1 1. Tangible personal property, sold in this state, the gross
2 receipts from the sale of which are included in the measure of the tax
3 imposed by articles 1 and 2 of this chapter.

4 2. Tangible personal property, the sale or use of which has already
5 been subjected to an excise tax at a rate equal to or exceeding the tax
6 imposed by this article under the laws of another state of the United
7 States. If the excise tax imposed by the other state is at a rate less
8 than the tax imposed by this article, the tax imposed by this article is
9 reduced by the amount of the tax already imposed by the other state.

10 3. Tangible personal property, the storage, use or consumption of
11 which the constitution or laws of the United States prohibit this state
12 from taxing or to the extent that the rate or imposition of tax is
13 unconstitutional under the laws of the United States.

14 4. Tangible personal property that directly enters into and becomes
15 an ingredient or component part of any manufactured, fabricated or
16 processed article, substance or commodity for sale in the regular course
17 of business.

18 5. Motor vehicle fuel and use fuel, the sales, distribution or use
19 of which in this state is subject to the tax imposed under title 28,
20 chapter 16, article 1, use fuel that is sold to or used by a person
21 holding a valid single trip use fuel tax permit issued under
22 section 28-5739, aviation fuel, the sales, distribution or use of which in
23 this state is subject to the tax imposed under section 28-8344, and jet
24 fuel, the sales, distribution or use of which in this state is subject to
25 the tax imposed under article 8 of this chapter.

26 6. Tangible personal property brought into this state by an
27 individual who was a nonresident at the time the property was purchased
28 for storage, use or consumption by the individual if the first actual use
29 or consumption of the property was outside this state, unless the property
30 is used in conducting a business in this state.

31 7. Purchases of implants used as growth promotants and injectable
32 medicines, not already exempt under paragraph 16 of this subsection, for
33 livestock and poultry owned by, or in possession of, persons who are
34 engaged in producing livestock, poultry, or livestock or poultry products,
35 or who are engaged in feeding livestock or poultry commercially. For the
36 purposes of this paragraph, "poultry" includes ratites.

37 8. Purchases of:

38 (a) Livestock and poultry to persons engaging in the businesses of
39 farming, ranching or producing livestock or poultry.

40 (b) Livestock and poultry feed, salts, vitamins and other additives
41 sold to persons for use or consumption in the businesses of farming,
42 ranching and producing or feeding livestock or poultry or for use or
43 consumption in noncommercial boarding of livestock. For the purposes of
44 this paragraph, "poultry" includes ratites.

1 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
2 material for use in commercially producing agricultural, horticultural,
3 viticultural or floricultural crops in this state.

4 10. Tangible personal property not exceeding ~~two hundred dollars~~
5 \$200 in any one month purchased by an individual at retail outside the
6 continental limits of the United States for the individual's own personal
7 use and enjoyment.

8 11. Advertising supplements that are intended for sale with
9 newspapers published in this state and that have already been subjected to
10 an excise tax under the laws of another state in the United States that
11 equals or exceeds the tax imposed by this article.

12 12. Materials that are purchased by or for publicly funded
13 libraries including school district libraries, charter school libraries,
14 community college libraries, state university libraries or federal, state,
15 county or municipal libraries for use by the public as follows:

16 (a) Printed or photographic materials, beginning August 7, 1985.

17 (b) Electronic or digital media materials, beginning July 17, 1994.

18 13. Tangible personal property purchased by:

19 (a) A hospital organized and operated exclusively for charitable
20 purposes, no part of the net earnings of which inures to the benefit of
21 any private shareholder or individual.

22 (b) A hospital operated by this state or a political subdivision of
23 this state.

24 (c) A licensed nursing care institution or a licensed residential
25 care institution or a residential care facility operated in conjunction
26 with a licensed nursing care institution or a licensed kidney dialysis
27 center, which provides medical services, nursing services or health
28 related services and is not used or held for profit.

29 (d) A qualifying health care organization, as defined in section
30 42-5001, if the tangible personal property is used by the organization
31 solely to provide health and medical related educational and charitable
32 services.

33 (e) A qualifying health care organization as defined in section
34 42-5001 if the organization is dedicated to providing educational,
35 therapeutic, rehabilitative and family medical education training for
36 blind and visually impaired children and children with multiple
37 disabilities from the time of birth to age twenty-one.

38 (f) A nonprofit charitable organization that has qualified under
39 section 501(c)(3) of the United States internal revenue code and that
40 engages in and uses such property exclusively in programs for persons with
41 mental or physical disabilities if the programs are exclusively for
42 training, job placement, rehabilitation or testing.

43 (g) A person that is subject to tax under this chapter by reason of
44 being engaged in business classified under section 42-5075 OR 42-5077, or
45 a subcontractor working under the control of a person that is engaged in

1 business classified under section 42-5075 OR 42-5077, if the tangible
2 personal property is ~~any of the following:~~ INCORPORATED INTO ANY HIGHWAY,
3 STREET OR BRIDGE CONSTRUCTION PROJECT OR INTO A MANUFACTURED BUILDING.

4 ~~(i) Incorporated or fabricated by the person into a structure,~~
5 ~~project, development or improvement in fulfillment of a contract.~~

6 ~~(ii) Incorporated or fabricated by the person into any project~~
7 ~~described in section 42-5075, subsection 0.~~

8 ~~(iii) Used in environmental response or remediation activities~~
9 ~~under section 42-5075, subsection B, paragraph 6.~~

10 (h) A person that is not subject to tax under section 42-5075 and
11 that has been provided a copy of a certificate described in section
12 42-5009, subsection L, if the property purchased is incorporated ~~or~~
13 ~~fabricated by the person into the real property, structure, project,~~
14 ~~development or improvement~~ INTO A HIGHWAY, STREET OR BRIDGE CONSTRUCTION
15 PROJECT described in the certificate.

16 (i) A nonprofit charitable organization that has qualified under
17 section 501(c)(3) of the internal revenue code if the property is
18 purchased from the parent or an affiliate organization that is located
19 outside this state.

20 (j) A qualifying community health center as defined in section
21 42-5001.

22 (k) A nonprofit charitable organization that has qualified under
23 section 501(c)(3) of the internal revenue code and that regularly serves
24 meals to the needy and indigent on a continuing basis at no cost.

25 (l) A person engaged in business under the transient lodging
26 classification if the property is a personal hygiene item or articles used
27 by human beings for food, drink or condiment, except alcoholic beverages,
28 which are furnished without additional charge to and intended to be
29 consumed by the transient during the transient's occupancy.

30 (m) For taxable periods beginning from and after June 30, 2001, a
31 nonprofit charitable organization that has qualified under section
32 501(c)(3) of the internal revenue code and that provides residential
33 apartment housing for low income persons over sixty-two years of age in a
34 facility that qualifies for a federal housing subsidy, if the tangible
35 personal property is used by the organization solely to provide
36 residential apartment housing for low income persons over sixty-two years
37 of age in a facility that qualifies for a federal housing subsidy.

38 (n) A qualifying health sciences educational institution as defined
39 in section 42-5001.

40 ~~(o) A person representing or working on behalf of any person~~
41 ~~described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m)~~
42 ~~or (n) of this paragraph, if the tangible personal property is~~
43 ~~incorporated or fabricated into a project described in section 42-5075,~~
44 ~~subsection 0.~~

1 14. Commodities, as defined by title 7 United States Code
2 section 2, that are consigned for resale in a warehouse in this state in
3 or from which the commodity is deliverable on a contract for future
4 delivery subject to the rules of a commodity market regulated by the
5 United States commodity futures trading commission.

6 15. Tangible personal property sold by:

7 (a) Any nonprofit organization organized and operated exclusively
8 for charitable purposes and recognized by the United States internal
9 revenue service under section 501(c)(3) of the internal revenue code.

10 (b) A nonprofit organization that is exempt from taxation under
11 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if
12 the organization is associated with a major league baseball team or a
13 national touring professional golfing association and no part of the
14 organization's net earnings inures to the benefit of any private
15 shareholder or individual. This subdivision does not apply to an
16 organization that is owned, managed or controlled, in whole or in part, by
17 a major league baseball team, or its owners, officers, employees or
18 agents, or by a major league baseball association or professional golfing
19 association, or its owners, officers, employees or agents, unless the
20 organization conducted or operated exhibition events in this state before
21 January 1, 2018 that were exempt from transaction privilege tax under
22 section 42-5073.

23 (c) A nonprofit organization that is exempt from taxation under
24 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
25 internal revenue code if the organization sponsors or operates a rodeo
26 featuring primarily farm and ranch animals and no part of the
27 organization's net earnings inures to the benefit of any private
28 shareholder or individual.

29 16. Drugs and medical oxygen, including delivery hose, mask or
30 tent, regulator and tank, on the prescription of a member of the medical,
31 dental or veterinarian profession who is licensed by law to administer
32 such substances.

33 17. Prosthetic appliances, as defined in section 23-501, prescribed
34 or recommended by a person who is licensed, registered or otherwise
35 professionally credentialed as a physician, dentist, podiatrist,
36 chiropractor, naturopath, homeopath, nurse or optometrist.

37 18. Prescription eyeglasses and contact lenses.

38 19. Insulin, insulin syringes and glucose test strips.

39 20. Hearing aids as defined in section 36-1901.

40 21. Durable medical equipment that has a centers for medicare and
41 medicaid services common procedure code, is designated reimbursable by
42 medicare, is prescribed by a person who is licensed under title 32,
43 chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and
44 customarily used to serve a medical purpose, is generally not useful to a

1 person in the absence of illness or injury and is appropriate for use in
2 the home.

3 22. Food, as provided in and subject to the conditions of article 3
4 of this chapter and section 42-5074.

5 23. Items purchased with United States department of agriculture
6 coupons issued under the supplemental nutrition assistance program
7 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
8 7 United States Code sections 2011 through 2036b) by the United States
9 department of agriculture food and nutrition service or food instruments
10 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
11 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
12 section 1786).

13 24. Food and drink provided without monetary charge by a taxpayer
14 that is subject to section 42-5074 to its employees for their own
15 consumption on the premises during the employees' hours of employment.

16 25. Tangible personal property that is used or consumed in a
17 business subject to section 42-5074 for human food, drink or condiment,
18 whether simple, mixed or compounded.

19 26. Food, drink or condiment and accessory tangible personal
20 property that are acquired for use by or provided to a school district or
21 charter school if they are to be either served or prepared and served to
22 persons for consumption on the premises of a public school in the school
23 district or on the premises of the charter school during school hours.

24 27. Lottery tickets or shares purchased pursuant to title 5,
25 chapter 5.1, article 1.

26 28. Textbooks, sold by a bookstore, that are required by any state
27 university or community college.

28 29. Magazines, other periodicals or other publications produced by
29 this state to encourage tourist travel.

30 30. Paper machine clothing, such as forming fabrics and dryer
31 felts, purchased by a paper manufacturer and directly used or consumed in
32 paper manufacturing.

33 31. Coal, petroleum, coke, natural gas, virgin fuel oil and
34 electricity purchased by a qualified environmental technology
35 manufacturer, producer or processor as defined in section 41-1514.02 and
36 directly used or consumed in the generation or provision of on-site power
37 or energy solely for environmental technology manufacturing, producing or
38 processing or environmental protection. This paragraph shall apply for
39 twenty full consecutive calendar or fiscal years from the date the first
40 paper manufacturing machine is placed in service. In the case of an
41 environmental technology manufacturer, producer or processor who does not
42 manufacture paper, the time period shall begin with the date the first
43 manufacturing, processing or production equipment is placed in service.

44 32. Motor vehicles that are removed from inventory by a motor
45 vehicle dealer as defined in section 28-4301 and that are provided to:

1 (a) Charitable or educational institutions that are exempt from
2 taxation under section 501(c)(3) of the internal revenue code.

3 (b) Public educational institutions.

4 (c) State universities or affiliated organizations of a state
5 university if no part of the organization's net earnings inures to the
6 benefit of any private shareholder or individual.

7 33. Natural gas or liquefied petroleum gas used to propel a motor
8 vehicle.

9 34. Machinery, equipment, technology or related supplies that are
10 only useful to assist a person with a physical disability as defined in
11 section 46-191 or a person who has a developmental disability as defined
12 in section 36-551 or has a head injury as defined in section 41-3201 to be
13 more independent and functional.

14 35. Liquid, solid or gaseous chemicals used in manufacturing,
15 processing, fabricating, mining, refining, metallurgical operations,
16 research and development and, beginning on January 1, 1999, printing, if
17 using or consuming the chemicals, alone or as part of an integrated system
18 of chemicals, involves direct contact with the materials from which the
19 product is produced for the purpose of causing or permitting a chemical or
20 physical change to occur in the materials as part of the production
21 process. This paragraph does not include chemicals that are used or
22 consumed in activities such as packaging, storage or transportation but
23 does not affect any exemption for such chemicals that is otherwise
24 provided by this section. For the purposes of this paragraph, "printing"
25 means a commercial printing operation and includes job printing,
26 engraving, embossing, copying and bookbinding.

27 36. Food, drink and condiment purchased for consumption within the
28 premises of any prison, jail or other institution under the jurisdiction
29 of the state department of corrections, the department of public safety,
30 the department of juvenile corrections or a county sheriff.

31 37. A motor vehicle and any repair and replacement parts and
32 tangible personal property becoming a part of such motor vehicle sold to a
33 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
34 article 4 and who is engaged in the business of leasing or renting such
35 property.

36 38. Tangible personal property that is or directly enters into and
37 becomes an ingredient or component part of cards used as prescription plan
38 identification cards.

39 39. Overhead materials or other tangible personal property that is
40 used in performing a contract between the United States government and a
41 manufacturer, modifier, assembler or repairer, including property used in
42 performing a subcontract with a government contractor who is a
43 manufacturer, modifier, assembler or repairer, to which title passes to
44 the government under the terms of the contract or subcontract. For the
45 purposes of this paragraph:

1 (a) "Overhead materials" means tangible personal property, the
2 gross proceeds of sales or gross income derived from which would otherwise
3 be included in the retail classification, that is used or consumed in the
4 performance of a contract, the cost of which is charged to an overhead
5 expense account and allocated to various contracts based on generally
6 accepted accounting principles and consistent with government contract
7 accounting standards.

8 (b) "Subcontract" means an agreement between a contractor and any
9 person who is not an employee of the contractor for furnishing of supplies
10 or services that, in whole or in part, are necessary to the performance of
11 one or more government contracts, or under which any portion of the
12 contractor's obligation under one or more government contracts is
13 performed, undertaken or assumed, and that includes provisions causing
14 title to overhead materials or other tangible personal property used in
15 the performance of the subcontract to pass to the government or that
16 includes provisions incorporating such title passing clauses in a
17 government contract into the subcontract. FOR THE PURPOSES OF THIS
18 SUBDIVISION, "CONTRACTOR" HAS ITS ORDINARY AND COMMON MEANING AND DOES NOT
19 HAVE THE MEANING PRESCRIBED IN SECTION 42-5151.

20 40. Through December 31, 1994, tangible personal property sold
21 pursuant to a personal property liquidation transaction, as defined in
22 section 42-5061. From and after December 31, 1994, tangible personal
23 property sold pursuant to a personal property liquidation transaction, as
24 defined in section 42-5061, if the gross proceeds of the sales were
25 included in the measure of the tax imposed by article 1 of this chapter or
26 if the personal property liquidation was a casual activity or transaction.

27 41. Wireless telecommunications equipment that is held for sale or
28 transfer to a customer as an inducement to enter into or continue a
29 contract for telecommunications services that are taxable under section
30 42-5064.

31 42. Alternative fuel, as defined in section 1-215, purchased by a
32 used oil fuel burner who has received a permit to burn used oil or used
33 oil fuel under section 49-426 or 49-480.

34 43. Tangible personal property purchased by a commercial airline
35 and consisting of food, beverages and condiments and accessories used for
36 serving the food and beverages, if those items are to be provided without
37 additional charge to passengers for consumption in flight. For the
38 purposes of this paragraph, "commercial airline" means a person holding a
39 federal certificate of public convenience and necessity or foreign air
40 carrier permit for air transportation to transport persons, property or
41 United States mail in intrastate, interstate or foreign commerce.

42 44. Alternative fuel vehicles if the vehicle was manufactured as a
43 diesel fuel vehicle and converted to operate on alternative fuel and
44 equipment that is installed in a conventional diesel fuel motor vehicle to

1 convert the vehicle to operate on an alternative fuel, as defined in
2 section 1-215.

3 45. Gas diverted from a pipeline, by a person engaged in the
4 business of:

5 (a) Operating a natural or artificial gas pipeline, and used or
6 consumed for the sole purpose of fueling compressor equipment that
7 pressurizes the pipeline.

8 (b) Converting natural gas into liquefied natural gas, and used or
9 consumed for the sole purpose of fueling compressor equipment used in the
10 conversion process.

11 46. Tangible personal property that is excluded, exempt or
12 deductible from transaction privilege tax pursuant to section 42-5063.

13 47. Tangible personal property purchased to be incorporated or
14 installed as part of ~~environmental response or remediation activities~~
15 ~~under section 42-5075, subsection B, paragraph 6~~ SITE PREPARATION,
16 CONSTRUCTING, FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR OTHER
17 TANGIBLE PERSONAL PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT
18 EXEMPT INCORPORATED MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND
19 TANGIBLE PERSONAL PROPERTY INCORPORATED INTO THE PROJECT, TO PERFORM ONE
20 OR MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO A RELEASE OR SUSPECTED
21 RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR CONTAMINANT FROM A FACILITY
22 INTO THE ENVIRONMENT, UNLESS THE RELEASE WAS AUTHORIZED BY A PERMIT ISSUED
23 BY A GOVERNMENTAL AUTHORITY:

24 (a) ACTIONS TO MONITOR, ASSESS AND EVALUATE SUCH A RELEASE OR A
25 SUSPECTED RELEASE.

26 (b) EXCAVATING, REMOVING AND TRANSPORTING CONTAMINATED SOIL AND ITS
27 TREATMENT OR DISPOSAL.

28 (c) TREATING CONTAMINATED SOIL BY VAPOR EXTRACTION, CHEMICAL OR
29 PHYSICAL STABILIZATION, SOIL WASHING OR BIOLOGICAL TREATMENT TO REDUCE THE
30 CONCENTRATION, TOXICITY OR MOBILITY OF A CONTAMINANT.

31 (d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED
32 GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OF A
33 CONTAMINANT.

34 (e) INSTALLING STRUCTURES, SUCH AS CUTOFF WALLS OR CAPS, TO CONTAIN
35 CONTAMINANTS PRESENT IN GROUNDWATER OR SOIL AND PREVENT THEM FROM REACHING
36 A LOCATION WHERE THEY COULD THREATEN HUMAN HEALTH OR WELFARE OR THE
37 ENVIRONMENT.

38 THIS PARAGRAPH DOES NOT INCLUDE ASBESTOS REMOVAL OR CONSTRUCTING OR USING
39 ANCILLARY STRUCTURES SUCH AS MAINTENANCE SHEDS, OFFICES OR STORAGE
40 FACILITIES FOR UNATTACHED EQUIPMENT, POLLUTION CONTROL EQUIPMENT,
41 FACILITIES OR OTHER CONTROL ITEMS REQUIRED OR TO BE USED BY A PERSON TO
42 PREVENT OR CONTROL CONTAMINATION BEFORE IT REACHES THE ENVIRONMENT.

43 48. Tangible personal property sold by a nonprofit organization
44 that is exempt from taxation under section 501(c)(6) of the internal
45 revenue code if the organization produces, organizes or promotes cultural

1 or civic related festivals or events and no part of the organization's net
2 earnings inures to the benefit of any private shareholder or individual.

3 49. Prepared food, drink or condiment donated by a restaurant as
4 classified in section 42-5074, subsection A to a nonprofit charitable
5 organization that has qualified under section 501(c)(3) of the internal
6 revenue code and that regularly serves meals to the needy and indigent on
7 a continuing basis at no cost.

8 50. Application services that are designed to assess or test
9 student learning or to promote curriculum design or enhancement purchased
10 by or for any school district, charter school, community college or state
11 university. For the purposes of this paragraph:

12 (a) "Application services" means software applications provided
13 remotely using hypertext transfer protocol or another network protocol.

14 (b) "Curriculum design or enhancement" means planning, implementing
15 or reporting on courses of study, lessons, assignments or other learning
16 activities.

17 51. Motor vehicle fuel and use fuel to a qualified business under
18 section 41-1516 for off-road use in harvesting, processing or transporting
19 qualifying forest products removed from qualifying projects as defined in
20 section 41-1516.

21 52. Repair parts installed in equipment used directly by a
22 qualified business under section 41-1516 in harvesting, processing or
23 transporting qualifying forest products removed from qualifying projects
24 as defined in section 41-1516.

25 53. Renewable energy credits or any other unit created to track
26 energy derived from renewable energy resources. For the purposes of this
27 paragraph, "renewable energy credit" means a unit created administratively
28 by the corporation commission or governing body of a public power entity
29 to track kilowatt hours of electricity derived from a renewable energy
30 resource or the kilowatt hour equivalent of conventional energy resources
31 displaced by distributed renewable energy resources.

32 54. Computer data center equipment sold to the owner, operator or
33 qualified colocation tenant of a computer data center that is certified by
34 the Arizona commerce authority under section 41-1519 or an authorized
35 agent of the owner, operator or qualified colocation tenant during the
36 qualification period for use in the qualified computer data center. For
37 the purposes of this paragraph, "computer data center", "computer data
38 center equipment", "qualification period" and "qualified colocation
39 tenant" have the same meanings prescribed in section 41-1519.

40 55. Coal acquired from an owner or operator of a power plant by a
41 person who is responsible for refining coal if both of the following
42 apply:

43 (a) The transfer of title or possession of the coal is for the
44 purpose of refining the coal.

1 (b) The title or possession of the coal is transferred back to the
2 owner or operator of the power plant after completion of the coal refining
3 process. For the purposes of this subdivision, "coal refining process"
4 means the application of a coal additive system that aids the reduction of
5 power plant emissions during the combustion of coal and the treatment of
6 flue gas.

7 ~~56. Tangible personal property incorporated or fabricated into a
8 project described in section 42-5075, subsection 0, that is located within
9 the exterior boundaries of an Indian reservation for which the owner, as
10 defined in section 42-5075, of the project is an Indian tribe or an
11 affiliated Indian. For the purposes of this paragraph:~~

12 ~~(a) "Affiliated Indian" means an individual native American Indian
13 who is duly registered on the tribal rolls of the Indian tribe for whose
14 benefit the Indian reservation was established.~~

15 ~~(b) "Indian reservation" means all lands that are within the limits
16 of areas set aside by the United States for the exclusive use and
17 occupancy of an Indian tribe by treaty, law or executive order and that
18 are recognized as Indian reservations by the United States department of
19 the interior.~~

20 ~~(c) "Indian tribe" means any organized nation, tribe, band or
21 community that is recognized as an Indian tribe by the United States
22 department of the interior and includes any entity formed under the laws
23 of the Indian tribe.~~

24 56. TANGIBLE PERSONAL PROPERTY PURCHASED BY A QUALIFIED BUSINESS
25 UNDER SECTION 41-1516 IF THE PROPERTY SOLD IS TO BE INCORPORATED OR
26 FABRICATED INTO A BUILDING, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR
27 IMPROVEMENT OWNED BY THE QUALIFIED BUSINESS FOR HARVESTING OR PROCESSING
28 QUALIFYING FOREST PRODUCTS. TO QUALIFY FOR THIS EXEMPTION, THE QUALIFIED
29 BUSINESS MUST PRESENT, AT THE TIME OF PURCHASE, ITS CERTIFICATION APPROVED
30 BY THE DEPARTMENT.

31 57. Cash equivalents, precious metal bullion and monetized bullion
32 purchased by the ultimate consumer, but coins or other forms of money for
33 manufacture into jewelry or works of art are subject to tax, and tangible
34 personal property that is purchased through the redemption of any cash
35 equivalent by the holder as a means of payment for goods that are subject
36 to tax under this article is subject to tax. For the purposes of this
37 paragraph:

38 (a) "Cash equivalents" means items, whether or not negotiable, that
39 are sold to one or more persons, through which a value denominated in
40 money is purchased in advance and that may be redeemed in full or in part
41 for tangible personal property, intangibles or services. Cash equivalents
42 include gift cards, stored value cards, gift certificates, vouchers,
43 traveler's checks, money orders or other tangible instruments or orders.
44 Cash equivalents do not include either of the following:

1 (i) Items that are sold to one or more persons and through which a
2 value is not denominated in money.

3 (ii) Prepaid calling cards for telecommunications services.

4 (b) "Monetized bullion" means coins and other forms of money that
5 are manufactured from gold, silver or other metals and that have been or
6 are used as a medium of exchange in this or another state, the United
7 States or a foreign nation.

8 (c) "Precious metal bullion" means precious metal, including gold,
9 silver, platinum, rhodium and palladium, that has been smelted or refined
10 so that its value depends on its contents and not on its form.

11 B. In addition to the exemptions allowed by subsection A of this
12 section, the following categories of tangible personal property are also
13 exempt:

14 1. Machinery, or equipment, used directly in manufacturing,
15 processing, fabricating, job printing, refining or metallurgical
16 operations. The terms "manufacturing", "processing", "fabricating", "job
17 printing", "refining" and "metallurgical" as used in this paragraph refer
18 to and include those operations commonly understood within their ordinary
19 meaning. "Metallurgical operations" includes leaching, milling,
20 precipitating, smelting and refining. **MANUFACTURING AND PROCESSING DO NOT**
21 **INCLUDE ENGAGING IN THE BUSINESS OF CONTRACTING.**

22 2. Machinery, or equipment, used directly in the process of
23 extracting ores or minerals from the earth for commercial purposes,
24 including equipment required to prepare the materials for extraction and
25 handling, loading or transporting such extracted material to the surface.
26 "Mining" includes underground, surface and open pit operations for
27 extracting ores and minerals.

28 3. Tangible personal property sold to persons engaged in business
29 classified under the telecommunications classification under section
30 ~~42-5064, including a person representing or working on behalf of such a~~
31 ~~person in a manner described in section 42-5075, subsection 0,~~ and
32 consisting of central office switching equipment, switchboards, private
33 branch exchange equipment, microwave radio equipment and carrier equipment
34 including optical fiber, coaxial cable and other transmission media that
35 are components of carrier systems.

36 4. Machinery, equipment or transmission lines used directly in
37 producing or transmitting electrical power, but not including
38 distribution. Transformers and control equipment used at transmission
39 substation sites constitute equipment used in producing or transmitting
40 electrical power.

41 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
42 or to be used as breeding or production stock, including sales of
43 breedings or ownership shares in such animals used for breeding or
44 production.

1 6. Pipes or valves four inches in diameter or larger used to
2 transport oil, natural gas, artificial gas, water or coal slurry,
3 including compressor units, regulators, machinery and equipment, fittings,
4 seals and any other part that is used in operating the pipes or valves.

5 7. Aircraft, navigational and communication instruments and other
6 accessories and related equipment sold to:

7 (a) A person:

8 (i) Holding, or exempted by federal law from obtaining, a federal
9 certificate of public convenience and necessity for use as, in conjunction
10 with or becoming part of an aircraft to be used to transport persons for
11 hire in intrastate, interstate or foreign commerce.

12 (ii) That is certificated or licensed under federal aviation
13 administration regulations (14 Code of Federal Regulations part 121 or
14 135) as a scheduled or unscheduled carrier of persons for hire for use as
15 or in conjunction with or becoming part of an aircraft to be used to
16 transport persons for hire in intrastate, interstate or foreign commerce.

17 (iii) Holding a foreign air carrier permit for air transportation
18 for use as or in conjunction with or becoming a part of aircraft to be
19 used to transport persons, property or United States mail in intrastate,
20 interstate or foreign commerce.

21 (iv) Operating an aircraft to transport persons in any manner for
22 compensation or hire, or for use in a fractional ownership program that
23 meets the requirements of federal aviation administration regulations (14
24 Code of Federal Regulations part 91, subpart K), including as an air
25 carrier, a foreign air carrier or a commercial operator or under a
26 restricted category, within the meaning of 14 Code of Federal Regulations,
27 regardless of whether the operation or aircraft is regulated or certified
28 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
29 of Federal Regulations.

30 (v) That will lease or otherwise transfer operational control,
31 within the meaning of federal aviation administration operations
32 specification A008, or its successor, of the aircraft, instruments or
33 accessories to one or more persons described in item (i), (ii), (iii) or
34 (iv) of this subdivision, subject to section 42-5009, subsection Q.

35 (b) Any foreign government.

36 (c) Persons who are not residents of this state and who will not
37 use such property in this state other than in removing such property from
38 this state. This subdivision also applies to corporations that are not
39 incorporated in this state, regardless of maintaining a place of business
40 in this state, if the principal corporate office is located outside this
41 state and the property will not be used in this state other than in
42 removing the property from this state.

43 8. Machinery, tools, equipment and related supplies used or
44 consumed directly in repairing, remodeling or maintaining aircraft,

1 aircraft engines or aircraft component parts by or on behalf of a
2 certificated or licensed carrier of persons or property.

3 9. Rolling stock, rails, ties and signal control equipment used
4 directly to transport persons or property.

5 10. Machinery or equipment used directly to drill for oil or gas or
6 used directly in the process of extracting oil or gas from the earth for
7 commercial purposes.

8 11. Buses or other urban mass transit vehicles that are used
9 directly to transport persons or property for hire or pursuant to a
10 governmentally adopted and controlled urban mass transportation program
11 and that are sold to bus companies holding a federal certificate of
12 convenience and necessity or operated by any city, town or other
13 governmental entity or by any person contracting with such governmental
14 entity as part of a governmentally adopted and controlled program to
15 provide urban mass transportation.

16 12. Groundwater measuring devices required under section 45-604.

17 13. New machinery and equipment consisting of agricultural
18 aircraft, tractors, tractor-drawn implements, self-powered implements,
19 machinery and equipment necessary for extracting milk, and machinery and
20 equipment necessary for cooling milk and livestock, and drip irrigation
21 lines not already exempt under paragraph 6 of this subsection and that are
22 used for commercial production of agricultural, horticultural,
23 viticultural and floricultural crops and products in this state. For the
24 purposes of this paragraph:

25 (a) "New machinery and equipment" means machinery or equipment that
26 has never been sold at retail except pursuant to leases or rentals that do
27 not total two years or more.

28 (b) "Self-powered implements" includes machinery and equipment that
29 are electric-powered.

30 14. Machinery or equipment used in research and development. For
31 the purposes of this paragraph, "research and development" means basic and
32 applied research in the sciences and engineering, and designing,
33 developing or testing prototypes, processes or new products, including
34 research and development of computer software that is embedded in or an
35 integral part of the prototype or new product or that is required for
36 machinery or equipment otherwise exempt under this section to function
37 effectively. Research and development do not include manufacturing
38 quality control, routine consumer product testing, market research, sales
39 promotion, sales service, research in social sciences or psychology,
40 computer software research that is not included in the definition of
41 research and development, or other nontechnological activities or
42 technical services.

43 15. Tangible personal property that is used by either of the
44 following to receive, store, convert, produce, generate, decode, encode,
45 control or transmit telecommunications information:

1 (a) Any direct broadcast satellite television or data transmission
2 service that operates pursuant to 47 Code of Federal Regulations part 25.

3 (b) Any satellite television or data transmission facility, if both
4 of the following conditions are met:

5 (i) Over two-thirds of the transmissions, measured in megabytes,
6 transmitted by the facility during the test period were transmitted to or
7 on behalf of one or more direct broadcast satellite television or data
8 transmission services that operate pursuant to 47 Code of Federal
9 Regulations part 25.

10 (ii) Over two-thirds of the transmissions, measured in megabytes,
11 transmitted by or on behalf of those direct broadcast television or data
12 transmission services during the test period were transmitted by the
13 facility to or on behalf of those services.

14 For the purposes of subdivision (b) of this paragraph, "test period" means
15 the three hundred sixty-five day period beginning on the later of the date
16 on which the tangible personal property is purchased or the date on which
17 the direct broadcast satellite television or data transmission service
18 first transmits information to its customers.

19 16. Clean rooms that are used for manufacturing, processing,
20 fabrication or research and development, as defined in paragraph 14 of
21 this subsection, of semiconductor products. For the purposes of this
22 paragraph, "clean room" means all property that comprises or creates an
23 environment where humidity, temperature, particulate matter and
24 contamination are precisely controlled within specified parameters,
25 without regard to whether the property is actually contained within that
26 environment or whether any of the property is affixed to or incorporated
27 into real property. Clean room:

28 (a) Includes the integrated systems, fixtures, piping, movable
29 partitions, lighting and all property that is necessary or adapted to
30 reduce contamination or to control airflow, temperature, humidity,
31 chemical purity or other environmental conditions or manufacturing
32 tolerances, as well as the production machinery and equipment operating in
33 conjunction with the clean room environment.

34 (b) Does not include the building or other permanent, nonremovable
35 component of the building that houses the clean room environment.

36 17. Machinery and equipment that are used directly in the feeding
37 of poultry, the environmental control of housing for poultry, the movement
38 of eggs within a production and packaging facility or the sorting or
39 cooling of eggs. This exemption does not apply to vehicles used for
40 transporting eggs.

41 18. Machinery or equipment, including related structural
42 components, that is employed in connection with manufacturing, processing,
43 fabricating, job printing, refining, mining, natural gas pipelines,
44 metallurgical operations, telecommunications, producing or transmitting
45 electricity or research and development and that is used directly to meet

1 or exceed rules or regulations adopted by the federal energy regulatory
2 commission, the United States environmental protection agency, the United
3 States nuclear regulatory commission, the Arizona department of
4 environmental quality or a political subdivision of this state to prevent,
5 monitor, control or reduce land, water or air pollution.

6 19. Machinery and equipment that are used in the commercial
7 production of livestock, livestock products or agricultural,
8 horticultural, viticultural or floricultural crops or products in this
9 state, ~~including production by a person representing or working on behalf~~
10 ~~of such a person in a manner described in section 42-5075, subsection 0,~~
11 if the machinery and equipment are used directly and primarily to prevent,
12 monitor, control or reduce air, water or land pollution.

13 20. Machinery or equipment that enables a television station to
14 originate and broadcast or to receive and broadcast digital television
15 signals and that was purchased to facilitate compliance with the
16 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
17 States Code section 336) and the federal communications commission order
18 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
19 paragraph does not exempt any of the following:

20 (a) Repair or replacement parts purchased for the machinery or
21 equipment described in this paragraph.

22 (b) Machinery or equipment purchased to replace machinery or
23 equipment for which an exemption was previously claimed and taken under
24 this paragraph.

25 (c) Any machinery or equipment purchased after the television
26 station has ceased analog broadcasting, or purchased after November 1,
27 2009, whichever occurs first.

28 21. Qualifying equipment that is purchased from and after June 30,
29 2004 through June 30, 2024 by a qualified business under section 41-1516
30 for harvesting or processing qualifying forest products removed from
31 qualifying projects as defined in section 41-1516. To qualify for this
32 exemption, the qualified business must obtain and present its
33 certification from the Arizona commerce authority at the time of purchase.

34 22. Machinery, equipment, materials and other tangible personal
35 property used directly and predominantly to construct a qualified
36 environmental technology manufacturing, producing or processing facility
37 as described in section 41-1514.02. This paragraph applies for ten full
38 consecutive calendar or fiscal years after the start of initial
39 construction.

40 C. The exemptions provided by subsection B of this section do not
41 include:

42 1. Expendable materials. For the purposes of this paragraph,
43 expendable materials do not include any of the categories of tangible
44 personal property specified in subsection B of this section regardless of
45 the cost or useful life of that property.

1 2. Janitorial equipment and hand tools.

2 3. Office equipment, furniture and supplies.

3 4. Tangible personal property used in selling or distributing
4 activities, other than the telecommunications transmissions described in
5 subsection B, paragraph 15 of this section.

6 5. Motor vehicles required to be licensed by this state, except
7 buses or other urban mass transit vehicles specifically exempted pursuant
8 to subsection B, paragraph 11 of this section, without regard to the use
9 of such motor vehicles.

10 6. Shops, buildings, docks, depots and all other materials of
11 whatever kind or character not specifically included as exempt.

12 7. Motors and pumps used in drip irrigation systems.

13 8. Machinery and equipment or tangible personal property used by a
14 contractor in the performance of a contract.

15 9. MACHINERY AND EQUIPMENT OR TANGIBLE PERSONAL PROPERTY USED BY A
16 CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.

17 D. The following shall be deducted in computing the purchase price
18 of electricity by a retail electric customer from a utility business:

19 1. Revenues received from sales of ancillary services, electric
20 distribution services, electric generation services, electric transmission
21 services and other services related to providing electricity to a retail
22 electric customer who is located outside this state for use outside this
23 state if the electricity is delivered to a point of sale outside this
24 state.

25 2. Revenues received from providing electricity, including
26 ancillary services, electric distribution services, electric generation
27 services, electric transmission services and other services related to
28 providing electricity with respect to which the transaction privilege tax
29 imposed under section 42-5063 has been paid.

30 E. The tax levied by this article does not apply to the purchase of
31 solar energy devices from a retailer that is registered with the
32 department as a solar energy retailer or a solar energy contractor.

33 F. The following shall be deducted in computing the purchase price
34 of electricity by a retail electric customer from a utility business:

35 1. Fees charged by a municipally owned utility to persons
36 constructing residential, commercial or industrial developments or
37 connecting residential, commercial or industrial developments to a
38 municipal utility system or systems if the fees are segregated and used
39 only for capital expansion, system enlargement or debt service of the
40 utility system or systems.

41 2. Reimbursement or contribution compensation to any person or
42 persons owning a utility system for property and equipment installed to
43 provide utility access to, on or across the land of an actual utility
44 consumer if the property and equipment become the property of the utility.
45 This deduction shall not exceed the value of such property and equipment.

1 G. The tax levied by this article does not apply to the purchase
2 price of electricity, natural gas or liquefied petroleum gas by:

3 1. A qualified manufacturing or smelting business. A utility that
4 claims this deduction shall report each month, on a form prescribed by the
5 department, the name and address of each qualified manufacturing or
6 smelting business for which this deduction is taken. This paragraph
7 applies to gas transportation services. For the purposes of this
8 paragraph:

9 (a) "Gas transportation services" means the services of
10 transporting natural gas to a natural gas customer or to a natural gas
11 distribution facility if the natural gas was purchased from a supplier
12 other than the utility.

13 (b) "Manufacturing" means the performance as a business of an
14 integrated series of operations that places tangible personal property in
15 a form, composition or character different from that in which it was
16 acquired and transforms it into a different product with a distinctive
17 name, character or use. Manufacturing does not include job printing,
18 publishing, packaging, mining, generating electricity or operating a
19 restaurant.

20 (c) "Qualified manufacturing or smelting business" means one of the
21 following:

22 (i) A business that manufactures or smelts tangible products in
23 this state, of which at least fifty-one percent of the manufactured or
24 smelted products will be exported out of state for incorporation into
25 another product or sold out of state for a final sale.

26 (ii) A business that derives at least fifty-one percent of its
27 gross income from the sale of manufactured or smelted products
28 manufactured or smelted by the business.

29 (iii) A business that uses at least fifty-one percent of its square
30 footage in this state for manufacturing or smelting and business
31 activities directly related to manufacturing or smelting.

32 (iv) A business that employs at least fifty-one percent of its
33 workforce in this state in manufacturing or smelting and business
34 activities directly related to manufacturing or smelting.

35 (v) A business that uses at least fifty-one percent of the value of
36 its capitalized assets in this state, as reflected on the business's books
37 and records, for manufacturing or smelting and business activities
38 directly related to manufacturing or smelting.

39 (d) "Smelting" means to melt or fuse a metalliferous mineral, often
40 with an accompanying chemical change, usually to separate the metal.

41 2. A business that operates an international operations center in
42 this state and that is certified by the Arizona commerce authority
43 pursuant to section 41-1520.

1 H. For the purposes of subsection B of this section:

2 1. "Agricultural aircraft" means an aircraft that is built for
3 agricultural use for the aerial application of pesticides or fertilizer or
4 for aerial seeding.

5 2. "Aircraft" includes:

6 (a) An airplane flight simulator that is approved by the federal
7 aviation administration for use as a phase II or higher flight simulator
8 under appendix H, 14 Code of Federal Regulations part 121.

9 (b) Tangible personal property that is permanently affixed or
10 attached as a component part of an aircraft that is owned or operated by a
11 certificated or licensed carrier of persons or property.

12 3. "Other accessories and related equipment" includes aircraft
13 accessories and equipment such as ground service equipment that physically
14 contact aircraft at some point during the overall carrier operation.

15 I. For the purposes of subsection D of this section, "ancillary
16 services", "electric distribution service", "electric generation service",
17 "electric transmission service" and "other services" have the same
18 meanings prescribed in section 42-5063.

19 Sec. 21. Section 42-5160, Arizona Revised Statutes, is amended to
20 read:

21 42-5160. Liability for tax

22 Any person who uses, stores or consumes any tangible personal
23 property ~~upon~~ ON which a tax is imposed by this article and ~~upon~~ ON which
24 the tax has not been collected by a registered retailer or utility
25 business shall pay the tax as provided by this article, but every retailer
26 and utility business maintaining a place of business in this state and
27 making sales of tangible personal property for storage, use or other
28 consumption in this state shall collect the tax from the purchaser or user
29 unless the property is exempt under this article or the purchaser or user
30 pays the tax directly to the department as provided by section 42-5167.
31 In the case of a manufactured building that is purchased from a dealer
32 outside this state and brought into this state, any person who is hired to
33 set up the manufactured building and who is licensed pursuant to title 41,
34 chapter 37, article 4 shall collect the tax from the owner and remit the
35 tax with any tax that is due under the ~~prime contracting~~ MANUFACTURED
36 BUILDING DEALER classification PURSUANT TO SECTION 42-5077.

37 Sec. 22. Title 42, chapter 6, article 1, Arizona Revised Statutes,
38 is amended by adding section 42-6001.01, to read:

39 42-6001.01. Municipal revenue sharing pool; allocation of
40 monies; reports

41 A. BEGINNING FROM AND AFTER DECEMBER 31, 2019, THE DEPARTMENT SHALL
42 ESTABLISH AND MAINTAIN A MUNICIPAL REVENUE SHARING POOL AS PROVIDED BY
43 THIS SECTION CONSISTING OF A PORTION OF MUNICIPAL TRANSACTION PRIVILEGE
44 TAX REVENUES LEVIED ON AND COLLECTED EACH MONTH FROM MUNICIPAL TAXPAYERS

1 ENGAGED IN RETAIL BUSINESS. THE AMOUNT DEPOSITED IN THE POOL EACH MONTH
2 SHALL BE DETERMINED AS FOLLOWS:

3 1. EACH MONTH DURING CALENDAR YEAR 2020, THE DEPARTMENT SHALL
4 DEPOSIT FOUR PERCENT OF THE MONTHLY RETAIL TRANSACTION PRIVILEGE TAX
5 REVENUES FROM EACH CITY AND TOWN COLLECTED PURSUANT TO SECTION 42-6001.

6 2. THE DEPARTMENT SHALL DETERMINE THE MOST RECENT AMOUNT REPORTED
7 AS OF JANUARY 1, 2020, JULY 1, 2020, AND SEMIANNUALLY THEREAFTER, BY THE
8 UNITED STATES DEPARTMENT OF LABOR FOR CONSTRUCTION AS A PERCENTAGE OF
9 ARIZONA STATE GROSS DOMESTIC PRODUCT.

10 3. BEGINNING JANUARY 1, 2021 AND ANNUALLY THEREAFTER, THE
11 DEPARTMENT SHALL ADJUST THE MONTHLY PERCENTAGE AMOUNT DEPOSITED IN THE
12 POOL PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION TO THE AVERAGE OF THE TWO
13 PERCENTAGES DETERMINED IN THE PRECEDING CALENDAR YEAR PURSUANT TO
14 PARAGRAPH 2 OF THIS SUBSECTION.

15 B. EACH MONTH EACH CITY AND TOWN SHALL REPORT TO, AND IN A FORM
16 PRESCRIBED BY, THE DEPARTMENT:

17 1. THE VALUE OF BUILDING PERMITS ISSUED BY THE CITY OR TOWN DURING
18 THE PRECEDING MONTH.

19 2. THE VALUE OF BUILDING PERMITS CANCELED BY THE CITY OR TOWN
20 DURING THE PRECEDING MONTH.

21 C. EACH MONTH THE DEPARTMENT SHALL:

22 1. COMPILE THE NET VALUE OF THE BUILDING PERMITS FOR EACH CITY AND
23 TOWN, AVERAGED OVER THE PRECEDING THIRTY-SIX MONTHS.

24 2. ALLOCATE AND PAY THE MONIES IN THE REVENUE SHARING POOL AMONG
25 THE CITIES AND TOWNS IN PROPORTION TO EACH CITY'S AND TOWN'S
26 THIRTY-SIX-MONTH AVERAGE NET VALUE OF BUILDING PERMITS.

27 Sec. 23. Section 42-6004, Arizona Revised Statutes, as amended by
28 Laws 2018, chapter 17, section 1, chapter 249, section 6 and chapter 341,
29 section 2, is amended to read:

30 42-6004. Exemption from municipal tax; definitions

31 A. A city, town or special taxing district shall not levy a
32 transaction privilege, sales, use or other similar tax on:

33 1. Exhibition events in this state sponsored, conducted or operated
34 by a nonprofit organization that is exempt from taxation under section
35 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
36 organization is associated with a major league baseball team or a national
37 touring professional golfing association and no part of the organization's
38 net earnings inures to the benefit of any private shareholder or
39 individual. This paragraph does not apply to an organization that is
40 owned, managed or controlled, in whole or in part, by a major league
41 baseball team, or its owners, officers, employees or agents, or by a major
42 league baseball association or professional golfing association, or its
43 owners, officers, employees or agents, unless the organization conducted
44 or operated exhibition events in this state before January 1, 2018 that
45 were exempt from state transaction privilege tax under section 42-5073.

- 1 2. Interstate telecommunications services, which include that
2 portion of telecommunications services, such as subscriber line service,
3 allocable by federal law to interstate telecommunications service.
- 4 3. Sales of warranty or service contracts.
- 5 4. Sales of motor vehicles to nonresidents of this state for use
6 outside this state if the motor vehicle dealer ships or delivers the motor
7 vehicle to a destination outside this state.
- 8 5. Interest on finance contracts.
- 9 6. Dealer documentation fees on the sales of motor vehicles.
- 10 7. Orthodontic devices dispensed by a dental professional who is
11 licensed under title 32, chapter 11 to a patient as part of the practice
12 of dentistry.
- 13 8. Sales of internet access services to the person's subscribers
14 and customers. For the purposes of this paragraph:
- 15 (a) "Internet" means the computer and telecommunications facilities
16 that comprise the interconnected worldwide network of networks that employ
17 the transmission control protocol or internet protocol, or any predecessor
18 or successor protocol, to communicate information of all kinds by wire or
19 radio.
- 20 (b) "Internet access" means a service that enables users to access
21 content, information, electronic mail or other services over the internet.
22 Internet access does not include telecommunication services provided by a
23 common carrier.
- 24 9. The gross proceeds of sales or gross income retained by the
25 Arizona exposition and state fair board from ride ticket sales at the
26 annual Arizona state fair.
- 27 10. Leasing real property between affiliated companies, businesses,
28 persons or reciprocal insurers. For the purposes of this paragraph:
- 29 (a) "Affiliated companies, businesses, persons or reciprocal
30 insurers" means the lessor holds a controlling interest in the lessee, the
31 lessee holds a controlling interest in the lessor, affiliated persons hold
32 a controlling interest in both the lessor and the lessee, or an unrelated
33 person holds a controlling interest in both the lessor and lessee.
- 34 (b) "Affiliated persons" means members of the individual's family
35 or persons who have ownership or control of a business entity.
- 36 (c) "Controlling interest" means direct or indirect ownership of at
37 least eighty percent of the voting shares of a corporation or of the
38 interests in a company, business or person other than a corporation.
- 39 (d) "Members of the individual's family" means the individual's
40 spouse and brothers and sisters, whether by whole or half blood, including
41 adopted persons, ancestors and lineal descendants.
- 42 (e) "Reciprocal insurer" has the same meaning prescribed in section
43 20-762.
- 44 11. The gross proceeds of sales or gross income derived from a
45 contract for the installation, assembly, repair or maintenance of

1 machinery, equipment or other tangible personal property that is described
2 in section 42-5061, subsection B and that has independent functional
3 utility, pursuant to the following provisions:

4 (a) The deduction provided in this paragraph includes the gross
5 proceeds of sales or gross income derived from all of the following:

6 (i) Any activity performed on machinery, equipment or other
7 tangible personal property with independent functional utility.

8 (ii) Any activity performed on any tangible personal property
9 relating to machinery, equipment or other tangible personal property with
10 independent functional utility in furtherance of any of the purposes
11 provided for under subdivision (d) of this paragraph.

12 (iii) Any activity that is related to the activities described in
13 items (i) and (ii) of this subdivision, including inspecting the
14 installation of or testing the machinery, equipment or other tangible
15 personal property.

16 (b) The deduction provided in this paragraph does not include gross
17 proceeds of sales or gross income from the portion of any contracting
18 activity that consists of the development of, or modification to, real
19 property in order to facilitate the installation, assembly, repair,
20 maintenance or removal of machinery, equipment or other tangible personal
21 property described in section 42-5061, subsection B.

22 (c) The deduction provided in this paragraph shall be determined
23 without regard to the size or useful life of the machinery, equipment or
24 other tangible personal property.

25 (d) For the purposes of this paragraph, "independent functional
26 utility" means that the machinery, equipment or other tangible personal
27 property can independently perform its function without attachment to real
28 property, other than attachment for any of the following purposes:

29 (i) Assembling the machinery, equipment or other tangible personal
30 property.

31 (ii) Connecting items of machinery, equipment or other tangible
32 personal property to each other.

33 (iii) Connecting the machinery, equipment or other tangible
34 personal property, whether as an individual item or as a system of items,
35 to water, power, gas, communication or other services.

36 (iv) Stabilizing or protecting the machinery, equipment or other
37 tangible personal property during operation by bolting, burying or
38 performing other dissimilar nonpermanent connections to either real
39 property or real property improvements.

40 12. The leasing or renting of certified ignition interlock devices
41 installed pursuant to the requirements prescribed by section 28-1461. For
42 the purposes of this paragraph, "certified ignition interlock device" has
43 the same meaning prescribed in section 28-1301.

44 13. Computer data center equipment sold to the owner, operator or
45 qualified colocation tenant of a computer data center that is certified by

1 the Arizona commerce authority under section 41-1519 or an authorized
2 agent of the owner, operator or qualified colocation tenant during the
3 qualification period for use in the qualified computer data center. For
4 the purposes of this paragraph, "computer data center", "computer data
5 center equipment", "qualification period" and "qualified colocation
6 tenant" have the same meanings prescribed in section 41-1519.

7 ~~14. The gross proceeds of sales or gross income derived from a~~
8 ~~contract with the owner of real property or improvements to real property~~
9 ~~for the maintenance, repair, replacement or alteration of existing~~
10 ~~property, except as specified in this paragraph. The gross proceeds of~~
11 ~~sales or gross income derived from a de minimis amount of modification~~
12 ~~activity does not subject the contract or any part of the contract to tax.~~
13 ~~For the purposes of this paragraph:~~

14 ~~(a) Each contract is independent of another contract, except that~~
15 ~~any change order that directly relates to the scope of work of the~~
16 ~~original contract shall be treated the same as the original contract under~~
17 ~~this paragraph, regardless of the amount of modification activities~~
18 ~~included in the change order. If a change order does not directly relate~~
19 ~~to the scope of work of the original contract, the change order shall be~~
20 ~~treated as a new contract, with the tax treatment of any subsequent change~~
21 ~~order to follow the tax treatment of the contract to which the scope of~~
22 ~~work of the subsequent change order directly relates.~~

23 ~~(b) Any term not defined in this paragraph that is defined in~~
24 ~~section 42-5075 has the same meaning prescribed in section 42-5075.~~

25 ~~(c) This paragraph does not apply to a contract that primarily~~
26 ~~involves surface or subsurface improvements to land and that is subject to~~
27 ~~title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the~~
28 ~~contract also includes vertical improvements. If a city or town imposes a~~
29 ~~tax on contracts that are subject to procurement processes under those~~
30 ~~provisions, the city or town shall include in the request for proposals a~~
31 ~~notice to bidders when those projects are subject to the tax. This~~
32 ~~subdivision does not apply to contracts with:~~

33 ~~(i) Community facilities districts, fire districts, county~~
34 ~~television improvement districts, community park maintenance districts,~~
35 ~~cotton pest control districts, hospital districts, pest abatement~~
36 ~~districts, health service districts, agricultural improvement districts,~~
37 ~~county free library districts, county jail districts, county stadium~~
38 ~~districts, special health care districts, public health services~~
39 ~~districts, theme park districts or revitalization districts.~~

40 ~~(ii) Any special taxing district not specified in item (i) of this~~
41 ~~subdivision if the district does not substantially engage in the~~
42 ~~modification, maintenance, repair, replacement or alteration of surface or~~
43 ~~subsurface improvements to land.~~

44 ~~15.~~ 14. Monitoring services relating to an alarm system as defined
45 in section 32-101.

1 ~~16.~~ 15. Tangible personal property, job printing or publications
2 sold to or purchased by, or tangible personal property leased, rented or
3 licensed for use to or by, a qualifying health sciences educational
4 institution as defined in section 42-5001.

5 ~~17.~~ 16. The transfer of title or possession of coal back and forth
6 between an owner or operator of a power plant and a person who is
7 responsible for refining coal if both of the following apply:

8 (a) The transfer of title or possession of the coal is for the
9 purpose of refining the coal.

10 (b) The title or possession of the coal is transferred back to the
11 owner or operator of the power plant after completion of the coal refining
12 process. For the purposes of this subdivision, "coal refining process"
13 means the application of a coal additive system that aids the reduction of
14 power plant emissions during the combustion of coal and the treatment of
15 flue gas.

16 ~~18. Tangible personal property incorporated or fabricated into a
17 project described in paragraph 14 of this subsection, that is located
18 within the exterior boundaries of an Indian reservation for which the
19 owner, as defined in section 42-5075, of the project is an Indian tribe or
20 an affiliated Indian. For the purposes of this paragraph:~~

21 ~~(a) "Affiliated Indian" means an individual native American Indian
22 who is duly registered on the tribal rolls of the Indian tribe for whose
23 benefit the Indian reservation was established.~~

24 ~~(b) "Indian reservation" means all lands that are within the limits
25 of areas set aside by the United States for the exclusive use and
26 occupancy of an Indian tribe by treaty, law or executive order and that
27 are recognized as Indian reservations by the United States department of
28 the interior.~~

29 ~~(c) "Indian tribe" means any organized nation, tribe, band or
30 community that is recognized as an Indian tribe by the United States
31 department of the interior and includes any entity formed under the laws
32 of that Indian tribe.~~

33 ~~19.~~ 17. The charges for the leasing or renting of space to make
34 attachments to utility poles as follows:

35 (a) By a person that is engaged in the business of providing or
36 furnishing electrical services or telecommunication services or that is a
37 cable operator.

38 (b) To a person that is engaged in the business of providing or
39 furnishing electrical services or telecommunication services or that is a
40 cable operator.

41 ~~20.~~ 18. Until March 1, 2017, the gross proceeds of sales or gross
42 income derived from entry fees paid by participants for events that
43 consist of a run, walk, swim or bicycle ride or a similar event, or any
44 combination of these events.

1 ~~21.~~ 19. The gross proceeds of sales or gross income derived from
2 entry fees paid by participants for events that are operated or conducted
3 by nonprofit organizations that are exempt from taxation under section
4 501(c)(3) of the internal revenue code and of which no part of the
5 organization's net earnings inures to the benefit of any private
6 shareholder or individual, if the event consists of a run, walk, swim or
7 bicycle ride or a similar event, or any combination of these events.

8 B. A city, town or other taxing jurisdiction shall not levy a
9 transaction privilege, sales, use, franchise or other similar tax or fee,
10 however denominated, on natural gas or liquefied petroleum gas used to
11 propel a motor vehicle.

12 C. A city, town or other taxing jurisdiction shall not levy a
13 transaction privilege, sales, gross receipts, use, franchise or other
14 similar tax or fee, however denominated, on gross proceeds of sales or
15 gross income derived from any of the following:

16 1. A motor carrier's use on the public highways in this state if
17 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
18 article 4.

19 2. Leasing, renting or licensing a motor vehicle subject to and on
20 which the fee has been paid under title 28, chapter 16, article 4.

21 3. The sale of a motor vehicle and any repair and replacement parts
22 and tangible personal property becoming a part of such motor vehicle to a
23 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
24 article 4 and who is engaged in the business of leasing, renting or
25 licensing such property.

26 4. Incarcerating or detaining in a privately operated prison, jail
27 or detention facility prisoners who are under the jurisdiction of the
28 United States, this state or any other state or a political subdivision of
29 this state or of any other state.

30 5. Transporting for hire persons, freight or property by light
31 motor vehicles subject to a fee under title 28, chapter 15, article 4.

32 ~~6. Any amount attributable to development fees that are incurred in
33 relation to the construction, development or improvement of real property
34 and paid by the taxpayer as defined in the model city tax code or by a
35 contractor providing services to the taxpayer. For the purposes of this
36 paragraph:~~

37 ~~(a) The attributable amount shall not exceed the value of the
38 development fees actually imposed.~~

39 ~~(b) The attributable amount is equal to the total amount of
40 development fees paid by the taxpayer or by a contractor providing
41 services to the taxpayer and the total development fees credited in
42 exchange for the construction of, contribution to or dedication of real
43 property for providing public infrastructure, public safety or other
44 public services necessary to the development. The real property must be
45 the subject of the development fees.~~

1 ~~(c) "Development fees" means fees imposed to offset capital costs~~
2 ~~of providing public infrastructure, public safety or other public services~~
3 ~~to a development and authorized pursuant to section 9-463.05, section~~
4 ~~11-1102 or title 48 regardless of the jurisdiction to which the fees are~~
5 ~~paid.~~

6 6. SALES OF TANGIBLE PERSONAL PROPERTY TO A PERSON THAT IS SUBJECT
7 TO TAX BY REASON OF BEING ENGAGED IN BUSINESS CLASSIFIED UNDER THE
8 HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION UNDER SECTION
9 42-5075, OR TO A SUBCONTRACTOR WORKING UNDER THE CONTROL OF A HIGHWAY,
10 STREET OR BRIDGE CONTRACTOR THAT IS SUBJECT TO TAX UNDER SECTION 42-5075,
11 IF THE PROPERTY SOLD IS TO BE INCORPORATED BY THE PERSON INTO A HIGHWAY,
12 STREET OR BRIDGE.

13 7. Any amount attributable to fees collected by transportation
14 network companies issued a permit pursuant to section 28-9552.

15 8. Transporting for hire persons by transportation network company
16 drivers on transactions involving transportation network services as
17 defined in section 28-9551.

18 9. Transporting for hire persons by vehicle for hire companies that
19 are issued permits pursuant to section 28-9503.

20 10. Transporting for hire persons by vehicle for hire drivers on
21 transactions involving vehicle for hire services as defined in section
22 28-9501.

23 D. A city, town or other taxing jurisdiction shall not levy a
24 transaction privilege, sales, use, franchise or other similar tax or fee,
25 however denominated, in excess of one-tenth of one percent of the value of
26 the entire product mined, smelted, extracted, refined, produced or
27 prepared for sale, profit or commercial use, on persons engaged in the
28 business of mineral processing, except to the extent that the tax is
29 computed on the gross proceeds or gross income from sales at retail.

30 E. A CITY, TOWN OR OTHER TAXING JURISDICTION SHALL NOT LEVY A
31 TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE,
32 HOWEVER DENOMINATED, ON THE GROSS PROCEEDS OR GROSS INCOME DERIVED FROM
33 THE BUSINESS OF A PERSON THAT IS SUBJECT TO TAX BY REASON OF BEING ENGAGED
34 IN BUSINESS CLASSIFIED UNDER THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION
35 CLASSIFICATION UNDER SECTION 42-5075, OR TO A SUBCONTRACTOR WORKING UNDER
36 THE CONTROL OF A HIGHWAY, STREET OR BRIDGE CONTRACTOR THAT IS SUBJECT TO
37 TAX UNDER SECTION 42-5075. IF A CITY OR TOWN IMPOSES A TAX ON CONTRACTS
38 THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER TITLE 28, CHAPTER 19, 20
39 OR 22 OR TITLE 34, CHAPTER 2 OR 6, THE CITY OR TOWN SHALL INCLUDE IN THE
40 REQUEST FOR PROPOSALS A NOTICE TO BIDDERS WHEN THOSE PROJECTS ARE SUBJECT
41 TO THE TAX.

42 ~~E.~~ F. In computing the tax base, any city, town or other taxing
43 jurisdiction shall not include in the gross proceeds of sales or gross
44 income:

1 1. A manufacturer's cash rebate on the sales price of a motor
2 vehicle if the buyer assigns the buyer's right in the rebate to the
3 retailer.

4 2. The waste tire disposal fee imposed pursuant to section 44-1302.

5 ~~F.~~ G. A city or town shall not levy a use tax on the storage, use
6 or consumption of tangible personal property in the city or town by a
7 school district or charter school.

8 ~~G.~~ H. For the purposes of this section:

9 1. "Cable operator" has the same meaning prescribed in section
10 9-505.

11 2. "Electrical services" means transmitting or distributing
12 electricity, electric lights, current or power over lines, wires or
13 cables.

14 3. "Telecommunication services" means transmitting or relaying
15 sound, visual image, data, information, images or material over lines,
16 wires or cables by radio signal, light beam, telephone, telegraph or other
17 electromagnetic means.

18 4. "Utility pole" means any wooden, metal or other pole used for
19 utility purposes and the pole's appurtenances that are attached or
20 authorized for attachment by the person controlling the pole.

21 Sec. 24. Section 42-6004, Arizona Revised Statutes, as amended by
22 Laws 2018, chapter 17, section 1, chapter 249, section 6, chapter 263,
23 section 3 and chapter 341, section 2, is amended to read:

24 42-6004. Exemption from municipal tax; definitions

25 A. A city, town or special taxing district shall not levy a
26 transaction privilege, sales, use or other similar tax on:

27 1. Exhibition events in this state sponsored, conducted or operated
28 by a nonprofit organization that is exempt from taxation under section
29 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
30 organization is associated with a major league baseball team or a national
31 touring professional golfing association and no part of the organization's
32 net earnings inures to the benefit of any private shareholder or
33 individual. This paragraph does not apply to an organization that is
34 owned, managed or controlled, in whole or in part, by a major league
35 baseball team, or its owners, officers, employees or agents, or by a major
36 league baseball association or professional golfing association, or its
37 owners, officers, employees or agents, unless the organization conducted
38 or operated exhibition events in this state before January 1, 2018 that
39 were exempt from state transaction privilege tax under section 42-5073.

40 2. Interstate telecommunications services, which include that
41 portion of telecommunications services, such as subscriber line service,
42 allocable by federal law to interstate telecommunications service.

43 3. Sales of warranty or service contracts.

- 1 4. Sales of motor vehicles to nonresidents of this state for use
2 outside this state if the motor vehicle dealer ships or delivers the motor
3 vehicle to a destination outside this state.
- 4 5. Interest on finance contracts.
- 5 6. Dealer documentation fees on the sales of motor vehicles.
- 6 7. Orthodontic devices dispensed by a dental professional who is
7 licensed under title 32, chapter 11 to a patient as part of the practice
8 of dentistry.
- 9 8. Sales of internet access services to the person's subscribers
10 and customers. For the purposes of this paragraph:
- 11 (a) "Internet" means the computer and telecommunications facilities
12 that comprise the interconnected worldwide network of networks that employ
13 the transmission control protocol or internet protocol, or any predecessor
14 or successor protocol, to communicate information of all kinds by wire or
15 radio.
- 16 (b) "Internet access" means a service that enables users to access
17 content, information, electronic mail or other services over the internet.
18 Internet access does not include telecommunication services provided by a
19 common carrier.
- 20 9. The gross proceeds of sales or gross income retained by the
21 Arizona exposition and state fair board from ride ticket sales at the
22 annual Arizona state fair.
- 23 10. Leasing real property between affiliated companies, businesses,
24 persons or reciprocal insurers. For the purposes of this paragraph:
- 25 (a) "Affiliated companies, businesses, persons or reciprocal
26 insurers" means the lessor holds a controlling interest in the lessee, the
27 lessee holds a controlling interest in the lessor, affiliated persons hold
28 a controlling interest in both the lessor and the lessee, or an unrelated
29 person holds a controlling interest in both the lessor and lessee.
- 30 (b) "Affiliated persons" means members of the individual's family
31 or persons who have ownership or control of a business entity.
- 32 (c) "Controlling interest" means direct or indirect ownership of at
33 least eighty percent of the voting shares of a corporation or of the
34 interests in a company, business or person other than a corporation.
- 35 (d) "Members of the individual's family" means the individual's
36 spouse and brothers and sisters, whether by whole or half blood, including
37 adopted persons, ancestors and lineal descendants.
- 38 (e) "Reciprocal insurer" has the same meaning prescribed in section
39 20-762.
- 40 11. The gross proceeds of sales or gross income derived from a
41 contract for the installation, assembly, repair or maintenance of
42 machinery, equipment or other tangible personal property that is described
43 in section 42-5061, subsection B and that has independent functional
44 utility, pursuant to the following provisions:

1 (a) The deduction provided in this paragraph includes the gross
2 proceeds of sales or gross income derived from all of the following:

3 (i) Any activity performed on machinery, equipment or other
4 tangible personal property with independent functional utility.

5 (ii) Any activity performed on any tangible personal property
6 relating to machinery, equipment or other tangible personal property with
7 independent functional utility in furtherance of any of the purposes
8 provided for under subdivision (d) of this paragraph.

9 (iii) Any activity that is related to the activities described in
10 items (i) and (ii) of this subdivision, including inspecting the
11 installation of or testing the machinery, equipment or other tangible
12 personal property.

13 (b) The deduction provided in this paragraph does not include gross
14 proceeds of sales or gross income from the portion of any contracting
15 activity that consists of the development of, or modification to, real
16 property in order to facilitate the installation, assembly, repair,
17 maintenance or removal of machinery, equipment or other tangible personal
18 property described in section 42-5061, subsection B.

19 (c) The deduction provided in this paragraph shall be determined
20 without regard to the size or useful life of the machinery, equipment or
21 other tangible personal property.

22 (d) For the purposes of this paragraph, "independent functional
23 utility" means that the machinery, equipment or other tangible personal
24 property can independently perform its function without attachment to real
25 property, other than attachment for any of the following purposes:

26 (i) Assembling the machinery, equipment or other tangible personal
27 property.

28 (ii) Connecting items of machinery, equipment or other tangible
29 personal property to each other.

30 (iii) Connecting the machinery, equipment or other tangible
31 personal property, whether as an individual item or as a system of items,
32 to water, power, gas, communication or other services.

33 (iv) Stabilizing or protecting the machinery, equipment or other
34 tangible personal property during operation by bolting, burying or
35 performing other dissimilar nonpermanent connections to either real
36 property or real property improvements.

37 12. The leasing or renting of certified ignition interlock devices
38 installed pursuant to the requirements prescribed by section 28-1461. For
39 the purposes of this paragraph, "certified ignition interlock device" has
40 the same meaning prescribed in section 28-1301.

41 13. Computer data center equipment sold to the owner, operator or
42 qualified colocation tenant of a computer data center that is certified by
43 the Arizona commerce authority under section 41-1519 or an authorized
44 agent of the owner, operator or qualified colocation tenant during the
45 qualification period for use in the qualified computer data center. For

1 the purposes of this paragraph, "computer data center", "computer data
2 center equipment", "qualification period" and "qualified colocation
3 tenant" have the same meanings prescribed in section 41-1519.

4 ~~14. The gross proceeds of sales or gross income derived from a
5 contract with the owner of real property or improvements to real property
6 for the maintenance, repair, replacement or alteration of existing
7 property, except as specified in this paragraph. The gross proceeds of
8 sales or gross income derived from a de minimis amount of modification
9 activity does not subject the contract or any part of the contract to tax.
10 For the purposes of this paragraph:~~

11 ~~(a) Each contract is independent of another contract, except that
12 any change order that directly relates to the scope of work of the
13 original contract shall be treated the same as the original contract under
14 this paragraph, regardless of the amount of modification activities
15 included in the change order. If a change order does not directly relate
16 to the scope of work of the original contract, the change order shall be
17 treated as a new contract, with the tax treatment of any subsequent change
18 order to follow the tax treatment of the contract to which the scope of
19 work of the subsequent change order directly relates.~~

20 ~~(b) Any term not defined in this paragraph that is defined in
21 section 42-5075 has the same meaning prescribed in section 42-5075.~~

22 ~~(c) This paragraph does not apply to a contract that primarily
23 involves surface or subsurface improvements to land and that is subject to
24 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
25 contract also includes vertical improvements. If a city or town imposes a
26 tax on contracts that are subject to procurement processes under those
27 provisions, the city or town shall include in the request for proposals a
28 notice to bidders when those projects are subject to the tax. This
29 subdivision does not apply to contracts with:~~

30 ~~(i) Community facilities districts, fire districts, county
31 television improvement districts, community park maintenance districts,
32 cotton pest control districts, hospital districts, pest abatement
33 districts, health service districts, agricultural improvement districts,
34 county free library districts, county jail districts, county stadium
35 districts, special health care districts, public health services
36 districts, theme park districts or revitalization districts.~~

37 ~~(ii) Any special taxing district not specified in item (i) of this
38 subdivision if the district does not substantially engage in the
39 modification, maintenance, repair, replacement or alteration of surface or
40 subsurface improvements to land.~~

41 ~~15.~~ 14. Monitoring services relating to an alarm system as defined
42 in section 32-101.

43 ~~16.~~ 15. Tangible personal property, job printing or publications
44 sold to or purchased by, or tangible personal property leased, rented or

1 licensed for use to or by, a qualifying health sciences educational
2 institution as defined in section 42-5001.

3 ~~17.~~ 16. The sale of coal.

4 ~~18. Tangible personal property incorporated or fabricated into a~~
5 ~~project described in paragraph 14 of this subsection, that is located~~
6 ~~within the exterior boundaries of an Indian reservation for which the~~
7 ~~owner, as defined in section 42-5075, of the project is an Indian tribe or~~
8 ~~an affiliated Indian. For the purposes of this paragraph:~~

9 ~~(a) "Affiliated Indian" means an individual native American Indian~~
10 ~~who is duly registered on the tribal rolls of the Indian tribe for whose~~
11 ~~benefit the Indian reservation was established.~~

12 ~~(b) "Indian reservation" means all lands that are within the limits~~
13 ~~of areas set aside by the United States for the exclusive use and~~
14 ~~occupancy of an Indian tribe by treaty, law or executive order and that~~
15 ~~are recognized as Indian reservations by the United States department of~~
16 ~~the interior.~~

17 ~~(c) "Indian tribe" means any organized nation, tribe, band or~~
18 ~~community that is recognized as an Indian tribe by the United States~~
19 ~~department of the interior and includes any entity formed under the laws~~
20 ~~of that Indian tribe.~~

21 ~~19.~~ 17. The charges for the leasing or renting of space to make
22 attachments to utility poles as follows:

23 (a) By a person that is engaged in the business of providing or
24 furnishing electrical services or telecommunication services or that is a
25 cable operator.

26 (b) To a person that is engaged in the business of providing or
27 furnishing electrical services or telecommunication services or that is a
28 cable operator.

29 ~~20.~~ 18. Until March 1, 2017, the gross proceeds of sales or gross
30 income derived from entry fees paid by participants for events that
31 consist of a run, walk, swim or bicycle ride or a similar event, or any
32 combination of these events.

33 ~~21.~~ 19. The gross proceeds of sales or gross income derived from
34 entry fees paid by participants for events that are operated or conducted
35 by nonprofit organizations that are exempt from taxation under section
36 501(c)(3) of the internal revenue code and of which no part of the
37 organization's net earnings inures to the benefit of any private
38 shareholder or individual, if the event consists of a run, walk, swim or
39 bicycle ride or a similar event, or any combination of these events.

40 B. A city, town or other taxing jurisdiction shall not levy a
41 transaction privilege, sales, use, franchise or other similar tax or fee,
42 however denominated, on natural gas or liquefied petroleum gas used to
43 propel a motor vehicle.

44 C. A city, town or other taxing jurisdiction shall not levy a
45 transaction privilege, sales, gross receipts, use, franchise or other

1 similar tax or fee, however denominated, on gross proceeds of sales or
2 gross income derived from any of the following:

3 1. A motor carrier's use on the public highways in this state if
4 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
5 article 4.

6 2. Leasing, renting or licensing a motor vehicle subject to and on
7 which the fee has been paid under title 28, chapter 16, article 4.

8 3. The sale of a motor vehicle and any repair and replacement parts
9 and tangible personal property becoming a part of such motor vehicle to a
10 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
11 article 4 and who is engaged in the business of leasing, renting or
12 licensing such property.

13 4. Incarcerating or detaining in a privately operated prison, jail
14 or detention facility prisoners who are under the jurisdiction of the
15 United States, this state or any other state or a political subdivision of
16 this state or of any other state.

17 5. Transporting for hire persons, freight or property by light
18 motor vehicles subject to a fee under title 28, chapter 15, article 4.

19 ~~6. Any amount attributable to development fees that are incurred in
20 relation to the construction, development or improvement of real property
21 and paid by the taxpayer as defined in the model city tax code or by a
22 contractor providing services to the taxpayer. For the purposes of this
23 paragraph:~~

24 ~~(a) The attributable amount shall not exceed the value of the
25 development fees actually imposed.~~

26 ~~(b) The attributable amount is equal to the total amount of
27 development fees paid by the taxpayer or by a contractor providing
28 services to the taxpayer and the total development fees credited in
29 exchange for the construction of, contribution to or dedication of real
30 property for providing public infrastructure, public safety or other
31 public services necessary to the development. The real property must be
32 the subject of the development fees.~~

33 ~~(c) "Development fees" means fees imposed to offset capital costs
34 of providing public infrastructure, public safety or other public services
35 to a development and authorized pursuant to section 9-463.05, section
36 11-1102 or title 48 regardless of the jurisdiction to which the fees are
37 paid.~~

38 6. SALES OF TANGIBLE PERSONAL PROPERTY TO A PERSON THAT IS SUBJECT
39 TO TAX BY REASON OF BEING ENGAGED IN BUSINESS CLASSIFIED UNDER THE
40 HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION UNDER SECTION
41 42-5075, OR TO A SUBCONTRACTOR WORKING UNDER THE CONTROL OF A HIGHWAY,
42 STREET OR BRIDGE CONTRACTOR THAT IS SUBJECT TO TAX UNDER SECTION 42-5075,
43 IF THE PROPERTY SOLD IS TO BE INCORPORATED BY THE PERSON INTO A HIGHWAY,
44 STREET OR BRIDGE.

1 7. Any amount attributable to fees collected by transportation
2 network companies issued a permit pursuant to section 28-9552.

3 8. Transporting for hire persons by transportation network company
4 drivers on transactions involving transportation network services as
5 defined in section 28-9551.

6 9. Transporting for hire persons by vehicle for hire companies that
7 are issued permits pursuant to section 28-9503.

8 10. Transporting for hire persons by vehicle for hire drivers on
9 transactions involving vehicle for hire services as defined in section
10 28-9501.

11 D. A city, town or other taxing jurisdiction shall not levy a
12 transaction privilege, sales, use, franchise or other similar tax or fee,
13 however denominated, in excess of one-tenth of one percent of the value of
14 the entire product mined, smelted, extracted, refined, produced or
15 prepared for sale, profit or commercial use, on persons engaged in the
16 business of mineral processing, except to the extent that the tax is
17 computed on the gross proceeds or gross income from sales at retail.

18 E. A CITY, TOWN OR OTHER TAXING JURISDICTION SHALL NOT LEVY A
19 TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE,
20 HOWEVER DENOMINATED, ON THE GROSS PROCEEDS OR GROSS INCOME DERIVED FROM
21 THE BUSINESS OF A PERSON THAT IS SUBJECT TO TAX BY REASON OF BEING ENGAGED
22 IN BUSINESS CLASSIFIED UNDER THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION
23 CLASSIFICATION UNDER SECTION 42-5075, OR TO A SUBCONTRACTOR WORKING UNDER
24 THE CONTROL OF A HIGHWAY, STREET OR BRIDGE CONTRACTOR THAT IS SUBJECT TO
25 TAX UNDER SECTION 42-5075. IF A CITY OR TOWN IMPOSES A TAX ON CONTRACTS
26 THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER TITLE 28, CHAPTER 19, 20
27 OR 22 OR TITLE 34, CHAPTER 2 OR 6, THE CITY OR TOWN SHALL INCLUDE IN THE
28 REQUEST FOR PROPOSALS A NOTICE TO BIDDERS WHEN THOSE PROJECTS ARE SUBJECT
29 TO THE TAX.

30 ~~F.~~ F. In computing the tax base, any city, town or other taxing
31 jurisdiction shall not include in the gross proceeds of sales or gross
32 income:

33 1. A manufacturer's cash rebate on the sales price of a motor
34 vehicle if the buyer assigns the buyer's right in the rebate to the
35 retailer.

36 2. The waste tire disposal fee imposed pursuant to section 44-1302.

37 ~~F.~~ G. A city or town shall not levy a use tax on the storage, use
38 or consumption of tangible personal property in the city or town by a
39 school district or charter school.

40 ~~G.~~ H. For the purposes of this section:

41 1. "Cable operator" has the same meaning prescribed in section
42 9-505.

43 2. "Electrical services" means transmitting or distributing
44 electricity, electric lights, current or power over lines, wires or
45 cables.

1 3. "Telecommunication services" means transmitting or relaying
2 sound, visual image, data, information, images or material over lines,
3 wires or cables by radio signal, light beam, telephone, telegraph or other
4 electromagnetic means.

5 4. "Utility pole" means any wooden, metal or other pole used for
6 utility purposes and the pole's appurtenances that are attached or
7 authorized for attachment by the person controlling the pole.

8 Sec. 25. Section 42-6102, Arizona Revised Statutes, is amended to
9 read:

10 42-6102. Administration; exception

11 A. Unless the context otherwise requires, chapter 5, article 1 of
12 this title governs the administration of the taxes imposed by this
13 article, except that:

14 1. A separate license is not required for the taxes imposed by this
15 article, and the taxes due under this article shall be included, reported
16 and paid with the transaction privilege tax.

17 2. A separate bond is not required of employees of the department
18 in administering this article.

19 3. The taxes imposed by this article may be included without
20 segregation in any notice and lien filed for unpaid transaction privilege
21 taxes.

22 B. The taxes imposed pursuant to this article do not apply to the
23 gross proceeds of sales or gross income derived pursuant to contracts
24 entered into before the date of the election to authorize the tax by ~~prime~~
25 ~~contractors and owner builders~~ HIGHWAY, STREET AND BRIDGE CONSTRUCTION
26 CONTRACTORS who are classified under ~~sections~~ SECTION 42-5075 ~~and 42-5076~~
27 unless the contract contains a provision ~~which~~ THAT entitles the
28 contractor to recover the amount of the tax from a purchaser. In order to
29 qualify for this exemption, the contractor shall provide sufficient
30 documentation, in a manner and form prescribed by the department, to
31 verify that a contract was entered into before the date of the election to
32 authorize the tax.

33 Sec. 26. Subject to the requirements of article IV, part 1, section
34 1, Constitution of Arizona, section 43-1072.01, Arizona Revised Statutes,
35 is amended to read:

36 43-1072.01. Credit for increased excise taxes paid

37 A. Subject to the conditions prescribed by this section and if
38 approved by the qualified electors voting at a statewide general election,
39 for taxable years beginning from and after December 31, 2000, a credit is
40 allowed against the taxes imposed by this chapter for a taxable year for a
41 taxpayer who is not claimed as a dependent by any other taxpayer and whose
42 federal adjusted gross income is:

43 1. ~~Twenty-five thousand dollars~~ \$25,000 or less for a married
44 couple or a single person who is a head of a household.

1 dependent by any other taxpayer and whose federal adjusted gross income
2 is:

3 1. ~~Twenty-five thousand dollars~~ \$25,000 or less for a married
4 couple or a single person who is a head of a household.

5 2. ~~Twelve thousand five hundred dollars~~ \$12,500 or less for a
6 single person or a married person filing separately.

7 B. The credit is considered to be in mitigation of increased tax
8 rates pursuant to section 42-5010.01 and section 42-5155, subsection ~~E~~ F.

9 C. The amount of the credit may not exceed ~~twenty-five dollars~~ \$25
10 for each person who is a resident of this state and for whom a personal or
11 dependent exemption is allowed with respect to the taxpayer pursuant to
12 section 43-1023, subsection B, paragraph 1 and section 43-1043, but not
13 more than ~~one hundred dollars~~ \$100 for all persons in the taxpayer's
14 household, as defined in section 43-1072.

15 D. If the allowable amount of the credit exceeds the income taxes
16 otherwise due on the claimant's income, the amount of the claim not used
17 as an offset against income taxes shall be paid in the same manner as a
18 refund granted under section 42-1118. Refunds made pursuant to this
19 subsection are subject to setoff under section 42-1122.

20 E. A person who is sentenced for at least sixty days of the taxable
21 year to the custody of the federal bureau of prisons, the state department
22 of corrections or a county jail is not eligible to claim a credit pursuant
23 to this section.

24 F. The department shall make available suitable forms with
25 instructions for claimants. Claimants who certify on the prescribed form
26 that they have no income tax liability for the taxable year and who do not
27 meet the filing requirements of section 43-301 are not required to file an
28 individual income tax return. The claim shall be in a form prescribed by
29 the department.

30 G. A tax return or form prescribed by subsection F of this section
31 must have:

32 1. A social security number that is valid for employment for the
33 claimant.

34 2. Either a valid social security number or an individual taxpayer
35 identification number issued by the internal revenue service for the
36 claimant's spouse and any qualifying children of the claimant.

37 Sec. 28. Section 44-1263, Arizona Revised Statutes, is amended to
38 read:

39 44-1263. Inability to conform motor vehicle to express
40 warranty; replacement of vehicle or refund of
41 monies; affirmative defenses; tax refund

42 A. If the manufacturer, its agents or its authorized dealers are
43 unable to conform the motor vehicle to any applicable express warranty by
44 repairing or correcting any defect or condition ~~which~~ THAT substantially
45 impairs the use and value of the motor vehicle to the consumer after a

1 reasonable number of attempts, the manufacturer shall replace the motor
2 vehicle with a new motor vehicle or accept return of the motor vehicle
3 from the consumer and refund to the consumer the full purchase price,
4 including all collateral charges, ~~less~~ MINUS a reasonable allowance for
5 the consumer's use of the vehicle. The manufacturer shall make refunds to
6 the consumer and lienholder, if any, as their interests appear. A
7 reasonable allowance for use is that amount directly attributable to use
8 by the consumer before ~~his~~ THE CONSUMER'S first written report of the
9 nonconformity to the manufacturer, agent or dealer and during any
10 subsequent period when the vehicle is not out of service by reason of
11 repair.

12 B. It is an affirmative defense to any claim under this article
13 that either:

14 1. An alleged nonconformity does not substantially impair the use
15 and market value of the motor vehicle.

16 2. A nonconformity is the result of abuse, neglect or unauthorized
17 modifications or alterations of the motor vehicle.

18 C. In the case of taxes paid pursuant to title 42, chapter 5, if
19 the manufacturer:

20 1. Accepts return of a motor vehicle from a consumer without
21 replacing the motor vehicle, the manufacturer shall refund the amount of
22 tax attributed to the sale of the vehicle to that consumer.

23 2. Replaces a motor vehicle with a new motor vehicle of lesser
24 value, the manufacturer shall refund the difference between the original
25 amount of tax attributed to the sale of that vehicle and the amount of tax
26 attributed to the sale of the replacement vehicle, excluding the value of
27 the motor vehicle being replaced.

28 3. Replaces a motor vehicle with a new motor vehicle of greater
29 value, the manufacturer shall calculate the gross proceeds of sales
30 pursuant to section 42-5001, paragraph ~~6~~ 8.

31 D. Pursuant to section 42-1118, subsection F, the manufacturer may
32 apply to the department of revenue for a refund for the amount of tax that
33 the manufacturer properly refunds to the consumer.

34 Sec. 29. Section 49-290, Arizona Revised Statutes, is amended to
35 read:

36 49-290. Exemption from permit requirements; definition

37 A. Notwithstanding any other statute, a person who performs a
38 remedial action or a portion of a remedial action that has been approved
39 by the department if that action or portion is conducted in compliance
40 with this article is not subject to any requirement to obtain any permit
41 or approval that may otherwise be required by the department.

42 B. Except as prescribed in subsection D of this section, a person
43 who conducts a portion of a remedial action, where that portion is
44 entirely on site and is conducted in compliance with this article, may be
45 exempted from a requirement to obtain any other state or local permit or

1 approval, other than any requirement of title 45, at the written request
2 of the person conducting the remedial action. The written request shall
3 identify the specific permit to be exempted and the reasons the exemption
4 is requested. The permit may be exempted if the director finds both of
5 the following:

6 1. The requirement does not arise out of any permit or regulatory
7 program that is required pursuant to the laws of the United States.

8 2. The requirement presents a substantial impediment to effective
9 performance of the remedial action selected by the department.

10 C. The director may waive any regulatory requirement adopted
11 pursuant to this title with respect to a site or portion of a site as part
12 of a record of decision adopted pursuant to section 49-287.04 for that
13 site or portion of a site if the regulatory requirement conflicts with the
14 implementation of the selected remedy, provided that the waiver does not
15 result in adverse impacts to public health or the environment. No waiver
16 may be granted under this subsection if it is prohibited by federal law or
17 if the waiver would jeopardize the continued delegation to the state of
18 authority to implement a federal environmental program.

19 D. Discharge of wastewater to off-site publicly owned treatment
20 works and sewer systems does not constitute an activity conducted entirely
21 on site for purposes of subsection B of this section.

22 E. The director shall give written notice of any request for
23 exemption made pursuant to subsection B of this section to the remedial
24 action coordinator designated pursuant to subsection G of this section by
25 the governmental entity whose permit requirements are the subject of the
26 request. Before making any finding pursuant to subsection B of this
27 section, the director or the director's designee shall meet and confer
28 with the remedial action coordinator and the person conducting the
29 remedial action to identify alternatives to exemption.

30 F. Any finding made by the director pursuant to subsection B of
31 this section shall be in writing. The governmental entity whose permit
32 requirement is preempted as a result of such finding is not liable for
33 property damage, personal injury damage or violations of state or local
34 law resulting from the exemption. The director shall notify the affected
35 governmental entity of any finding made pursuant to subsection B of this
36 section. A finding of the director made pursuant to subsection B of this
37 section is a final administrative decision as defined in section 41-1092
38 and is subject to judicial review pursuant to title 12, chapter 7,
39 article 6.

40 G. Each city, town and county shall designate a remedial action
41 coordinator who shall have responsibility for monitoring and facilitating
42 any remedial actions conducted within its jurisdiction. The designated
43 remedial action coordinator shall:

1 1. Regularly consult, as needed, with the department and the person
2 conducting a remedial action throughout the duration of the remedial
3 action.

4 2. Expedite the processing and issuance of permits, approvals or
5 other authorizations required by the governmental entity represented by
6 the remedial action coordinator, to facilitate the prompt conduct of a
7 remedial action.

8 3. Provide information to the department and the person conducting
9 the remedial action regarding applicable requirements of the governmental
10 entity represented by the remedial action coordinator and the potential
11 for waiver of such requirements.

12 ~~H. In order to encourage remediation activities under this article
13 and to conserve the fund, neither this state nor any county that imposes
14 an excise or similar tax that is levied at a rate applied as a percentage
15 of the rates on each business class subject to the tax imposed by title
16 42, chapter 5, article 1 may impose a tax on the sale or purchase of
17 tangible personal property incorporated or fabricated into any real
18 property, structure, project, development or improvement under a contract
19 specified in section 42-5075, subsection B, paragraph 6.~~

20 ~~H.~~ H. For purposes of this section, "on site" means the areal
21 extent of contamination and all suitable areas in close proximity to the
22 contamination that are reasonably necessary for implementation of the
23 remedial action.

24 Sec. 30. Exemption from rulemaking

25 For the purposes of this act, the department of revenue is exempt
26 from the rulemaking requirements of title 41, chapter 6, Arizona Revised
27 Statutes, through December 31, 2019.

28 Sec. 31. Transition; applicability of taxes to preexisting
29 and subsequent contracts

30 A. This act does not apply to or affect the tax and other
31 contractual liabilities with respect to contracts that were entered into
32 before January 1, 2020 by a person who engaged in business under the prime
33 contracting classification pursuant to section 42-5075, Arizona Revised
34 Statutes, before that date. The tax imposed by title 42, chapter 5,
35 article 1, Arizona Revised Statutes, is levied and shall be collected with
36 respect to those contracts at the same rate applied to the same tax base
37 and subject to the same distribution of revenues, as determined pursuant
38 to sections 42-5010 and 42-5075, Arizona Revised Statutes, as in effect on
39 December 31, 2019.

40 B. From and after December 31, 2019, the sale of tangible personal
41 property to a contractor for incorporation or fabrication, pursuant to a
42 contract entered into before January 1, 2020, into any project that was
43 subject to a deduction under section 42-5075, subsection B, Arizona
44 Revised Statutes, as in effect on December 31, 2019, is not subject to tax
45 under section 42-5061, Arizona Revised Statutes, as amended by this act.

1 C. Tangible personal property that was purchased before January 1,
2 2020 by a person who engaged in business under the prime contracting
3 classification, or who performed contracting services within the control
4 of a prime contractor pursuant to section 42-5075, Arizona Revised
5 Statutes, in effect before January 1, 2020, and that was not incorporated
6 into a project for which the contract was entered into before January 1,
7 2020, is subject to use taxation pursuant to section 42-5155, Arizona
8 Revised Statutes, as amended by this act.

9 D. This act applies with respect to any contract entered into by a
10 highway, street or bridge construction contractor, or any contract entered
11 into pursuant to a written bid made by a highway, street or bridge
12 construction contractor, from and after December 31, 2019 as provided by
13 section 42-5075, Arizona Revised Statutes, as added by this act.

14 E. To verify the applicability of this section to any contract, a
15 contractor must maintain, and provide to the department of revenue on
16 request, sufficient documentation of the date of the contract or the
17 written bid.

18 Sec. 32. Effective date; compilation of building permit data

19 A. Except as provided in section 33 of this act and except for
20 section 42-6001.01, Arizona Revised Statutes, as added by this act, this
21 act is effective from and after December 31, 2019.

22 B. In preparation for allocation and payments of monies from the
23 municipal revenue sharing pool pursuant to section 42-6001.01, Arizona
24 Revised Statutes, as added by this act, before January 1, 2020 the
25 department of revenue shall compile and compute the net value of building
26 permits for each city and town for each month from January 2017 through
27 December 2019. The department shall use these values for the purposes
28 stated in section 42-6001.01, subsection C, Arizona Revised Statutes, as
29 added by this act.

30 Sec. 33. Conditional enactment

31 Section 42-5061, Arizona Revised Statutes, as amended by Laws 2018,
32 chapter 104, section 15, chapter 249, section 1 and chapter 263, section 1
33 and this act, and section 42-6004, Arizona Revised Statutes, as amended by
34 Laws 2018, chapter 17, section 1, chapter 249, section 6, chapter 263,
35 section 3 and chapter 341, section 2 and this act, become effective on the
36 date prescribed by Laws 2018, chapter 263, section 5 but only on the
37 occurrence of the condition prescribed by Laws 2018, chapter 263,
38 section 5.

39 Sec. 34. Requirements for enactment; three-fourths vote

40 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
41 sections 42-5029, 42-5155 and 43-1072.01, Arizona Revised Statutes, as
42 amended by this act, are effective only on the affirmative vote of at
43 least three-fourths of the members of each house of the legislature.