

REFERENCE TITLE: tax exemption repeal; rate reduction

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## **HB 2633**

Introduced by  
Representative Downing, Senator Brotherton: Representatives Burton Cahill,  
Kirkpatrick, Lopes, Lujan, Prezelski, Sinema, Senator Garcia

AN ACT

AMENDING SECTIONS 42-5010, 42-5061 THROUGH 42-5067, 42-5069 THROUGH 42-5075,  
42-5077, 42-5102 AND 42-5159, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 42-5010, Arizona Revised Statutes, is amended to  
3 read:  
4 42-5010. Rates; distribution base  
5 A. The tax imposed by this article is levied and shall be collected at  
6 the following rates:  
7 1. ~~Five~~ THREE AND ONE-HALF per cent of the tax base as computed for  
8 the business of every person engaging or continuing in this state in the  
9 following business classifications described in article 2 of this chapter:  
10 (a) Transporting classification.  
11 (b) Utilities classification.  
12 (c) Telecommunications classification.  
13 (d) Pipeline classification.  
14 (e) Private car line classification.  
15 (f) Publication classification.  
16 (g) Job printing classification.  
17 (h) Prime contracting classification.  
18 (i) Owner builder sales classification.  
19 (j) Amusement classification.  
20 (k) Restaurant classification.  
21 (l) Personal property rental classification.  
22 (m) Retail classification.  
23 (n) Membership camping classification.  
24 2. ~~Five~~ THREE and one-half per cent of the tax base as computed for  
25 the business of every person engaging or continuing in this state in the  
26 transient lodging classification described in section 42-5070.  
27 3. Three and ~~one-eighth~~ ONE-HALF per cent of the tax base as computed  
28 for the business of every person engaging or continuing in this state in the  
29 mining classification described in section 42-5072.  
30 4. ~~Zero~~ THREE AND ONE-HALF per cent of the tax base as computed for  
31 the business of every person engaging or continuing in this state in the  
32 commercial lease classification described in section 42-5069.  
33 B. Twenty per cent of the tax revenues collected at the rate  
34 prescribed by subsection A, paragraph 1 of this section from persons on  
35 account of engaging in business under the business classifications listed in  
36 subsection A, paragraph 1, subdivisions (a) through (i) of this section is  
37 designated as distribution base for purposes of section 42-5029.  
38 C. Forty per cent of the tax revenues collected at the rate prescribed  
39 by subsection A, paragraph 1 of this section from persons on account of  
40 engaging in business under the business classifications listed in subsection  
41 A, paragraph 1, subdivisions (j) through (n) of this section is designated as  
42 distribution base for purposes of section 42-5029.

1 D. Thirty-two per cent of the tax revenues collected from persons on  
2 account of engaging in business under the business classification listed in  
3 subsection A, paragraph 3 of this section is designated as distribution base  
4 for purposes of section 42-5029.

5 E. Fifty-three and one-third per cent of the tax revenues collected  
6 from persons on account of engaging in business under the business  
7 classification listed in subsection A, paragraph 4 of this section is  
8 designated as distribution base for purposes of section 42-5029.

9 F. Fifty per cent of the tax revenues collected from persons on  
10 account of engaging in business under the business classification listed in  
11 subsection A, paragraph 2 of this section is designated as distribution base  
12 for purposes of section 42-5029.

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

27 H. Any increase in the rate of tax that is imposed by this chapter and  
28 that is enacted by the legislature or by a vote of the people does not apply  
29 with respect to contracts entered into by prime contractors or pursuant to  
30 written bids made by prime contractors on or before the effective date of the  
31 legislation or the date of the election enacting the increase. To qualify  
32 for the exemption under this subsection, the prime contractor must maintain  
33 sufficient documentation, in a manner and form prescribed by the department,  
34 to verify the date of the contract or written bid.

35 I. For taxpayers taxable under this chapter other than prime  
36 contractors taxable pursuant to section 42-5075:

37 1. Any increase in the rate of tax that is levied by this article or  
38 article 2 of this chapter enacted by the legislature or by a vote of the  
39 people does not apply for a period of one hundred twenty days from the date  
40 of the tax rate increase to the gross proceeds of sales or gross income from  
41 the business of the taxpayer with respect to written contracts entered into  
42 before the effective date of the tax rate increase unless the taxpayer has  
43 entered into a contract that contains a provision that entitles the taxpayer  
44 to recover from the purchaser the amount of the additional tax levied.

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

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

6           Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:  
7 42-5061. Retail classification

8           A. The retail classification is comprised of the business of selling  
9 tangible personal property at retail. The tax base for the retail  
10 classification is the gross proceeds of sales or gross income derived from  
11 the business. The tax imposed on the retail classification does not apply to  
12 the gross proceeds of sales or gross income from:

13           ~~1. Professional or personal service occupations or businesses which~~  
14 ~~involve sales or transfers of tangible personal property only as~~  
15 ~~inconsequential elements.~~

16           ~~2. Services rendered in addition to selling tangible personal property~~  
17 ~~at retail.~~

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

21           ~~4.~~ 1. Sales of tangible personal property by any nonprofit  
22 organization organized and operated exclusively for charitable purposes and  
23 recognized by the United States internal revenue service under section  
24 501(c)(3) of the internal revenue code.

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

28           ~~6.~~ 2. Business activity which is properly included in any other  
29 business classification which is taxable under article 1 of this chapter.

30           ~~7. The sale of stocks and bonds.~~

31           ~~8.~~ 3. Drugs and medical oxygen, including delivery hose, mask or  
32 tent, regulator and tank, on the prescription of a member of the medical,  
33 dental or veterinarian profession who is licensed by law to administer such  
34 substances.

35           ~~9.~~ 4. Prosthetic appliances as defined in section 23-501 prescribed  
36 or recommended by a health professional licensed pursuant to title 32,  
37 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

38           ~~10.~~ 5. Insulin, insulin syringes and glucose test strips.

39           ~~11.~~ 6. Prescription eyeglasses or contact lenses.

40           ~~12.~~ 7. Hearing aids as defined in section 36-1901.

41           ~~13.~~ 8. Durable medical equipment which has a centers for medicare and  
42 medicaid services common procedure code, is designated reimbursable by  
43 medicare, is prescribed by a person who is licensed under title 32, chapter  
44 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
45 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 the  
2 home.

3 ~~14. Sales to nonresidents of this state for use outside this state if~~  
4 ~~the vendor ships or delivers the tangible personal property out of this~~  
5 ~~state.~~

6 ~~15.~~ 9. Food, as provided in and subject to the conditions of article 3  
7 of this chapter and section 42-5074.

8 ~~16.~~ 10. Items purchased with United States department of agriculture  
9 food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91  
10 Stat. 958) or food instruments issued under section 17 of the child nutrition  
11 act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States  
12 Code section 1786).

13 ~~17. Textbooks by any bookstore that are required by any state~~  
14 ~~university or community college.~~

15 ~~18.~~ 11. Food and drink to a person who is engaged in business which is  
16 classified under the restaurant classification and which provides such food  
17 and drink without monetary charge to its employees for their own consumption  
18 on the premises during the employees' hours of employment.

19 ~~19.~~ 12. Articles of food, drink or condiment and accessory tangible  
20 personal property to a school district if such articles and accessory  
21 tangible personal property are to be prepared and served to persons for  
22 consumption on the premises of a public school within the district during  
23 school hours.

24 ~~20. Lottery tickets or shares pursuant to title 5, chapter 5,~~  
25 ~~article 1.~~

26 ~~21. The sale of precious metal bullion and monetized bullion to the~~  
27 ~~ultimate consumer, but the sale of coins or other forms of money for~~  
28 ~~manufacture into jewelry or works of art is subject to the tax. For the~~  
29 ~~purposes of this paragraph:~~

30 ~~(a) "Monetized bullion" means coins and other forms of money which are~~  
31 ~~manufactured from gold, silver or other metals and which have been or are~~  
32 ~~used as a medium of exchange in this or another state, the United States or a~~  
33 ~~foreign nation.~~

34 ~~(b) "Precious metal bullion" means precious metal, including gold,~~  
35 ~~silver, platinum, rhodium and palladium, which has been smelted or refined so~~  
36 ~~that its value depends on its contents and not on its form.~~

37 ~~22. Motor vehicle fuel and use fuel which are subject to a tax imposed~~  
38 ~~under title 28, chapter 16, article 1, sales of use fuel to a holder of a~~  
39 ~~valid single trip use fuel tax permit issued under section 28-5739, sales of~~  
40 ~~aviation fuel which are subject to the tax imposed under section 28-8344 and~~  
41 ~~sales of jet fuel which are subject to the tax imposed under article 8 of~~  
42 ~~this chapter.~~

43 ~~23. Tangible personal property sold to a person engaged in the business~~  
44 ~~of leasing or renting such property under the personal property rental~~  
45 ~~classification if such property is to be leased or rented by such person.~~

1       ~~24.~~ 13. Tangible personal property sold in interstate or foreign  
2 commerce if prohibited from being so taxed by the Constitution of the United  
3 States or the constitution of this state.

4       ~~25.~~ 14. Tangible personal property sold to:

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

6           (b) A qualifying health care organization as defined in section  
7 42-5001 if the tangible personal property is used by the organization solely  
8 to provide health and medical related educational and charitable services.

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

14           (d) A qualifying community health center as defined in section  
15 42-5001.

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

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

27       ~~26.~~ 15. Magazines or other periodicals or other publications by this  
28 state to encourage tourist travel.

29       ~~27.~~ 16. Tangible personal property sold to a person that is subject to  
30 tax under this article by reason of being engaged in business classified  
31 under the prime contracting classification under section 42-5075, or to a  
32 subcontractor working under the control of a prime contractor that is subject  
33 to tax under article 1 of this chapter, if the property so sold is any of the  
34 following:

35           (a) Incorporated or fabricated by the person into any real property,  
36 structure, project, development or improvement as part of the business.

37           (b) Used in environmental response or remediation activities under  
38 section 42-5075, subsection B, paragraph 6.

39           (c) Incorporated or fabricated by the person into any lake facility  
40 development in a commercial enhancement reuse district under conditions  
41 prescribed for the deduction allowed by section 42-5075, subsection B,  
42 paragraph 8.

43       ~~28.~~ 17. The sale of a motor vehicle to:

44           (a) A nonresident of this state if the purchaser's state of residence  
45 does not allow a corresponding use tax exemption to the tax imposed by

1 article 1 of this chapter and if the nonresident has secured a special ninety  
2 day nonresident registration permit for the vehicle as prescribed by sections  
3 28-2154 and 28-2154.01.

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

6 ~~29.~~ 18. Tangible personal property purchased in this state by a  
7 nonprofit charitable organization that has qualified under section 501(c)(3)  
8 of the United States internal revenue code and that engages in and uses such  
9 property exclusively in programs for mentally or physically handicapped  
10 persons if the programs are exclusively for training, job placement,  
11 rehabilitation or testing.

12 ~~30. Sales of tangible personal property by a nonprofit organization~~  
13 ~~that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)~~  
14 ~~of the internal revenue code if the organization is associated with a major~~  
15 ~~league baseball team or a national touring professional golfing association~~  
16 ~~and no part of the organization's net earnings inures to the benefit of any~~  
17 ~~private shareholder or individual.~~

18 ~~31.~~ 19. Sales of commodities, as defined by title 7 United States Code  
19 section 2, that are consigned for resale in a warehouse in this state in or  
20 from which the commodity is deliverable on a contract for future delivery  
21 subject to the rules of a commodity market regulated by the United States  
22 commodity futures trading commission.

23 ~~32. Sales of tangible personal property by a nonprofit organization~~  
24 ~~that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),~~  
25 ~~501(c)(7) or 501(c)(8) of the internal revenue code if the organization~~  
26 ~~sponsors or operates a rodeo featuring primarily farm and ranch animals and~~  
27 ~~no part of the organization's net earnings inures to the benefit of any~~  
28 ~~private shareholder or individual.~~

29 ~~33. Sales of seeds, seedlings, roots, bulbs, cuttings and other~~  
30 ~~propagative material to persons who use those items to commercially produce~~  
31 ~~agricultural, horticultural, viticultural or floricultural crops in this~~  
32 ~~state.~~

33 ~~34.~~ 20. Machinery, equipment, technology or related supplies that are  
34 only useful to assist a person who is physically disabled as defined in  
35 section 46-191, has a developmental disability as defined in section 36-551  
36 or has a head injury as defined in section 41-3201 to be more independent and  
37 functional.

38 ~~35. Sales of tangible personal property that is shipped or delivered~~  
39 ~~directly to a destination outside the United States for use in that foreign~~  
40 ~~country.~~

41 ~~36. Sales of natural gas or liquefied petroleum gas used to propel a~~  
42 ~~motor vehicle.~~

43 ~~37. Paper machine clothing, such as forming fabrics and dryer felts,~~  
44 ~~sold to a paper manufacturer and directly used or consumed in paper~~  
45 ~~manufacturing.~~

1           ~~38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity~~  
2 ~~sold to a qualified environmental technology manufacturer, producer or~~  
3 ~~processor as defined in section 41 1514.02 and directly used or consumed in~~  
4 ~~the generation or provision of on site power or energy solely for~~  
5 ~~environmental technology manufacturing, producing or processing or~~  
6 ~~environmental protection. This paragraph shall apply for fifteen full~~  
7 ~~consecutive calendar or fiscal years from the date the first paper~~  
8 ~~manufacturing machine is placed in service. In the case of an environmental~~  
9 ~~technology manufacturer, producer or processor who does not manufacture~~  
10 ~~paper, the time period shall begin with the date the first manufacturing,~~  
11 ~~processing or production equipment is placed in service.~~

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

25           ~~40. Through December 31, 1994, personal property liquidation~~  
26 ~~transactions, conducted by a personal property liquidator. From and after~~  
27 ~~December 31, 1994, personal property liquidation transactions shall be~~  
28 ~~taxable under this section provided that nothing in this subsection shall be~~  
29 ~~construed to authorize the taxation of casual activities or transactions~~  
30 ~~under this chapter. For the purposes of this paragraph:~~

31           ~~(a) "Personal property liquidation transaction" means a sale of~~  
32 ~~personal property made by a personal property liquidator acting solely on~~  
33 ~~behalf of the owner of the personal property sold at the dwelling of the~~  
34 ~~owner or upon the death of any owner, on behalf of the surviving spouse, if~~  
35 ~~any, any devisee or heir or the personal representative of the estate of the~~  
36 ~~deceased, if one has been appointed.~~

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

39           ~~41. Sales of food, drink and condiment for consumption within the~~  
40 ~~premises of any prison, jail or other institution under the jurisdiction of~~  
41 ~~the state department of corrections, the department of public safety, the~~  
42 ~~department of juvenile corrections or a county sheriff.~~

43           ~~42. A motor vehicle and any repair and replacement parts and tangible~~  
44 ~~personal property becoming a part of such motor vehicle sold to a motor~~

1 ~~carrier who is subject to a fee prescribed in title 28, chapter 16, article 4~~  
2 ~~and who is engaged in the business of leasing or renting such property.~~

3 ~~43. Livestock and poultry feed, salts, vitamins and other additives for~~  
4 ~~livestock or poultry consumption that are sold to persons who are engaged in~~  
5 ~~producing livestock, poultry, or livestock or poultry products or who are~~  
6 ~~engaged in feeding livestock or poultry commercially. For the purposes of~~  
7 ~~this paragraph, "poultry" includes ratites.~~

8 ~~44. Sales of implants used as growth promotants and injectable~~  
9 ~~medicines, not already exempt under paragraph 8 of this subsection, for~~  
10 ~~livestock or poultry owned by or in possession of persons who are engaged in~~  
11 ~~producing livestock, poultry, or livestock or poultry products or who are~~  
12 ~~engaged in feeding livestock or poultry commercially. For the purposes of~~  
13 ~~this paragraph, "poultry" includes ratites.~~

14 ~~45. Sales of motor vehicles at auction to nonresidents of this state~~  
15 ~~for use outside this state if the vehicles are shipped or delivered out of~~  
16 ~~this state, regardless of where title to the motor vehicles passes or its~~  
17 ~~free on board point.~~

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

24 ~~47. Sales of alternative fuel, as defined in section 1-215, to a used~~  
25 ~~oil fuel burner who has received a permit to burn used oil or used oil fuel~~  
26 ~~under section 49-426 or 49-480.~~

27 ~~48.~~ 21. Sales of materials that are purchased by or for publicly  
28 funded libraries including school district libraries, charter school  
29 libraries, community college libraries, state university libraries or  
30 federal, state, county or municipal libraries for use by the public as  
31 follows:

- 32 (a) Printed or photographic materials, beginning August 7, 1985.
- 33 (b) Electronic or digital media materials, beginning July 17, 1994.

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

42 ~~50. Sales of alternative fuel vehicles if the vehicle was manufactured~~  
43 ~~as a 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 section~~  
2 ~~1-215.~~

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

6 ~~52. Sales of tangible personal property to be incorporated or installed~~  
7 ~~as part of environmental response or remediation activities under section~~  
8 ~~42-5075, subsection B, paragraph 6.~~

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

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

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

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

31 ~~3. Tangible personal property sold to persons engaged in business~~  
32 ~~classified under the telecommunications classification and consisting of~~  
33 ~~central office switching equipment, switchboards, private branch exchange~~  
34 ~~equipment, microwave radio equipment and carrier equipment including optical~~  
35 ~~fiber, coaxial cable and other transmission media which are components of~~  
36 ~~carrier systems.~~

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

41 ~~5. Neat animals, horses, asses, sheep, ratites, swine or goats used or~~  
42 ~~to be used as breeding or production stock, including sales of breedings or~~  
43 ~~ownership shares in such animals used for breeding or production.~~

44 ~~6. Pipes or valves four inches in diameter or larger used to transport~~  
45 ~~oil, natural gas, artificial gas, water or coal slurry, including compressor~~

1 ~~units, regulators, machinery and equipment, fittings, seals and any other~~  
2 ~~part that is used in operating the pipes or valves.~~

3 ~~7. Aircraft, navigational and communication instruments and other~~  
4 ~~accessories and related equipment sold to:~~

5 ~~(a) A person holding a federal certificate of public convenience and~~  
6 ~~necessity, a supplemental air carrier certificate under federal aviation~~  
7 ~~regulations (14 Code of Federal Regulations part 121) or a foreign air~~  
8 ~~carrier permit for air transportation for use as or in conjunction with or~~  
9 ~~becoming a part of aircraft to be used to transport persons, property or~~  
10 ~~United States mail in intrastate, interstate or foreign commerce.~~

11 ~~(b) Any foreign government for use by such government outside of this~~  
12 ~~state.~~

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

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

24 ~~9. Railroad rolling stock, rails, ties and signal control equipment~~  
25 ~~used directly to transport persons or property.~~

26 ~~10. Machinery or equipment used directly to drill for oil or gas or~~  
27 ~~used directly in the process of extracting oil or gas from the earth for~~  
28 ~~commercial purposes.~~

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

36 ~~12. Groundwater measuring devices required under section 45-604.~~

37 ~~13. New machinery and equipment consisting of tractors, tractor-drawn~~  
38 ~~implements, self-powered implements, machinery and equipment necessary for~~  
39 ~~extracting milk, and machinery and equipment necessary for cooling milk and~~  
40 ~~livestock, and drip irrigation lines not already exempt under paragraph 6 of~~  
41 ~~this subsection and that are used for commercial production of agricultural,~~  
42 ~~horticultural, viticultural and floricultural crops and products in this~~  
43 ~~state. For the purposes of this paragraph:~~

1           ~~(a) "New machinery and equipment" means machinery and equipment which~~  
2 ~~have never been sold at retail except pursuant to leases or rentals which do~~  
3 ~~not total two years or more.~~

4           ~~(b) "Self powered implements" includes machinery and equipment that~~  
5 ~~are electric powered.~~

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

18           ~~15. Machinery and equipment that are purchased by or on behalf of the~~  
19 ~~owners of a soundstage complex and primarily used for motion picture,~~  
20 ~~multimedia or interactive video production in the complex. This paragraph~~  
21 ~~applies only if the initial construction of the soundstage complex begins~~  
22 ~~after June 30, 1996 and before January 1, 2002 and the machinery and~~  
23 ~~equipment are purchased before the expiration of five years after the start~~  
24 ~~of initial construction. For the purposes of this paragraph:~~

25           ~~(a) "Motion picture, multimedia or interactive video production"~~  
26 ~~includes products for theatrical and television release, educational~~  
27 ~~presentations, electronic retailing, documentaries, music videos, industrial~~  
28 ~~films, CD-ROM, video game production, commercial advertising and television~~  
29 ~~episode production and other genres that are introduced through developing~~  
30 ~~technology.~~

31           ~~(b) "Soundstage complex" means a facility of multiple stages including~~  
32 ~~production offices, construction shops and related areas, prop and costume~~  
33 ~~shops, storage areas, parking for production vehicles and areas that are~~  
34 ~~leased to businesses that complement the production needs and orientation of~~  
35 ~~the overall facility.~~

36           ~~16. Tangible personal property that is used by either of the following~~  
37 ~~to receive, store, convert, produce, generate, decode, encode, control or~~  
38 ~~transmit telecommunications information:~~

39           ~~(a) Any direct broadcast satellite television or data transmission~~  
40 ~~service that operates pursuant to 47 Code of Federal Regulations parts 25 and~~  
41 ~~100.~~

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

44           ~~(i) Over two-thirds of the transmissions, measured in megabytes,~~  
45 ~~transmitted by the facility during the test period were transmitted to or on~~

1 ~~behalf of one or more direct broadcast satellite television or data~~  
2 ~~transmission services that operate pursuant to 47 Code of Federal Regulations~~  
3 ~~parts 25 and 100.~~

4 ~~(ii) Over two thirds of the transmissions, measured in megabytes,~~  
5 ~~transmitted by or on behalf of those direct broadcast television or data~~  
6 ~~transmission services during the test period were transmitted by the facility~~  
7 ~~to or on behalf of those services.~~

8 ~~For the purposes of subdivision (b) of this paragraph, "test period" means~~  
9 ~~the three hundred sixty five day period beginning on the later of the date on~~  
10 ~~which the tangible personal property is purchased or the date on which the~~  
11 ~~direct broadcast satellite television or data transmission service first~~  
12 ~~transmits information to its customers.~~

13 ~~17. Clean rooms that are used for manufacturing, processing,~~  
14 ~~fabrication or research and development, as defined in paragraph 14 of this~~  
15 ~~subsection, of semiconductor products. For the purposes of this paragraph,~~  
16 ~~"clean room" means all property that comprises or creates an environment~~  
17 ~~where humidity, temperature, particulate matter and contamination are~~  
18 ~~precisely controlled within specified parameters, without regard to whether~~  
19 ~~the property is actually contained within that environment or whether any of~~  
20 ~~the property is affixed to or incorporated into real property. Clean room:~~

21 ~~(a) Includes the integrated systems, fixtures, piping, movable~~  
22 ~~partitions, lighting and all property that is necessary or adapted to reduce~~  
23 ~~contamination or to control airflow, temperature, humidity, chemical purity~~  
24 ~~or other environmental conditions or manufacturing tolerances, as well as the~~  
25 ~~production machinery and equipment operating in conjunction with the clean~~  
26 ~~room environment.~~

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

29 ~~18. Machinery and equipment used directly in the feeding of poultry,~~  
30 ~~the environmental control of housing for poultry, the movement of eggs within~~  
31 ~~a production and packaging facility or the sorting or cooling of eggs. This~~  
32 ~~exemption does not apply to vehicles used for transporting eggs.~~

33 ~~19. Machinery or equipment, including related structural components,~~  
34 ~~that is employed in connection with manufacturing, processing, fabricating,~~  
35 ~~job printing, refining, mining, natural gas pipelines, metallurgical~~  
36 ~~operations, telecommunications, producing or transmitting electricity or~~  
37 ~~research and development and that is used directly to meet or exceed rules or~~  
38 ~~regulations adopted by the federal energy regulatory commission, the United~~  
39 ~~States environmental protection agency, the United States nuclear regulatory~~  
40 ~~commission, the Arizona department of environmental quality or a political~~  
41 ~~subdivision of this state to prevent, monitor, control or reduce land, water~~  
42 ~~or air pollution.~~

43 ~~20. Machinery and equipment that are sold to a person engaged in the~~  
44 ~~commercial production of livestock, livestock products or agricultural,~~  
45 ~~horticultural, viticultural or floricultural crops or products in this state~~

1 ~~and that are used directly and primarily to prevent, monitor, control or~~  
2 ~~reduce air, water or land pollution.~~

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

10 ~~(a) Repair or replacement parts purchased for the machinery or~~  
11 ~~equipment described in this paragraph.~~

12 ~~(b) Machinery or equipment purchased to replace machinery or equipment~~  
13 ~~for which an exemption was previously claimed and taken under this paragraph.~~

14 ~~(c) Any machinery or equipment purchased after the television station~~  
15 ~~has ceased analog broadcasting, or purchased after November 1, 2009,~~  
16 ~~whichever occurs first.~~

17 ~~22. Qualifying equipment that is purchased from and after June 30, 2004~~  
18 ~~through June 30, 2014 by a qualified business under section 41-1516 for~~  
19 ~~harvesting or the initial processing of qualifying forest products removed~~  
20 ~~from qualifying projects as defined in section 41-1516. To qualify for this~~  
21 ~~deduction, the qualified business at the time of purchase must present its~~  
22 ~~certification approved by the department.~~

23 ~~23. Machinery, equipment and other tangible personal property used~~  
24 ~~directly in motion picture production by a motion picture production~~  
25 ~~company. To qualify for this deduction, at the time of purchase, the motion~~  
26 ~~picture production company must present to the retailer its certificate that~~  
27 ~~is issued pursuant to section 42-5009, subsection H and that establishes its~~  
28 ~~qualification for the deduction.~~

29 ~~C. The deductions provided by subsection B of this section do not~~  
30 ~~include sales of:~~

31 ~~1. Expendable materials. For the purposes of this paragraph,~~  
32 ~~expendable materials do not include any of the categories of tangible~~  
33 ~~personal property specified in subsection B of this section regardless of the~~  
34 ~~cost or useful life of that property.~~

35 ~~2. Janitorial equipment and hand tools.~~

36 ~~3. Office equipment, furniture and supplies.~~

37 ~~4. Tangible personal property used in selling or distributing~~  
38 ~~activities, other than the telecommunications transmissions described in~~  
39 ~~subsection B, paragraph 16 of this section.~~

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

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

1           ~~7. Motors and pumps used in drip irrigation systems.~~  
2           ~~D. In addition to the deductions from the tax base prescribed by~~  
3 ~~subsection A of this section, there shall be deducted from the tax base the~~  
4 ~~gross proceeds of sales or gross income derived from sales of machinery,~~  
5 ~~equipment, materials and other tangible personal property used directly and~~  
6 ~~predominantly to construct a qualified environmental technology~~  
7 ~~manufacturing, producing or processing facility as described in section~~  
8 ~~41-1514.02. This subsection applies for ten full consecutive calendar or~~  
9 ~~fiscal years after the start of initial construction.~~  
10          ~~E. In computing the tax base, gross proceeds of sales or gross income~~  
11 ~~from retail sales of heavy trucks and trailers does not include any amount~~  
12 ~~attributable to federal excise taxes imposed by 26 United States Code section~~  
13 ~~4051.~~  
14          ~~F. In computing the tax base, gross proceeds of sales or gross income~~  
15 ~~from the sale of use fuel, as defined in section 28-5601, does not include~~  
16 ~~any amount attributable to federal excise taxes imposed by 26 United States~~  
17 ~~Code section 4091.~~  
18          ~~G.~~ B. If a person is engaged in an occupation or business to which  
19 subsection A of this section applies, the person's books shall be kept so as  
20 to show separately the gross proceeds of sales of tangible personal property  
21 and the gross income from sales of services, and if not so kept the tax shall  
22 be imposed on the total of the person's gross proceeds of sales of tangible  
23 personal property and gross income from services.  
24          ~~H.~~ C. If a person is engaged in the business of selling tangible  
25 personal property at both wholesale and retail, the tax under this section  
26 applies only to the gross proceeds of the sales made other than at wholesale  
27 if the person's books are kept so as to show separately the gross proceeds of  
28 sales of each class, and if the books are not so kept, the tax under this  
29 section applies to the gross proceeds of every sale so made.  
30          ~~I.~~ D. A person who engages in manufacturing, baling, crating, boxing,  
31 barreling, canning, bottling, sacking, preserving, processing or otherwise  
32 preparing for sale or commercial use any livestock, agricultural or  
33 horticultural product or any other product, article, substance or commodity  
34 and who sells the product of such business at retail in this state is deemed,  
35 as to such sales, to be engaged in business classified under the retail  
36 classification. This subsection does not apply to businesses classified  
37 under the:  
38           1. Transporting classification.  
39           2. Utilities classification.  
40           3. Telecommunications classification.  
41           4. Pipeline classification.  
42           5. Private car line classification.  
43           6. Publication classification.  
44           7. Job printing classification.  
45           8. Prime contracting classification.

1           9. Owner builder sales classification.

2           10. Restaurant classification.

3           ~~J. E. The gross proceeds of sales or gross income derived from the~~  
4 ~~following shall be deducted from the tax base for the retail classification:~~

5           ~~1. Sales made directly to the United States government or its~~  
6 ~~departments or agencies by a manufacturer, modifier, assembler or repairer.~~

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

11           ~~3.~~ overhead materials or other tangible personal property that is used  
12 in performing a contract between the United States government and a  
13 manufacturer, modifier, assembler or repairer, including property used in  
14 performing a subcontract with a government contractor who is a manufacturer,  
15 modifier, assembler or repairer, to which title passes to the government  
16 under the terms of the contract or subcontract **SHALL BE DEDUCTED FROM THE TAX**  
17 **BASE FOR THE RETAIL CLASSIFICATION.**

18           ~~4. Sales of overhead materials or other tangible personal property to~~  
19 ~~a manufacturer, modifier, assembler or repairer if the gross proceeds of~~  
20 ~~sales or gross income derived from the property by the manufacturer,~~  
21 ~~modifier, assembler or repairer will be exempt under paragraph 3 of this~~  
22 ~~subsection.~~

23           ~~K. F.~~ There shall be deducted from the tax base fifty per cent of the  
24 gross proceeds or gross income from any sale of tangible personal property  
25 made directly to the United States government or its departments or agencies,  
26 which is not deducted under subsection ~~J. E~~ of this section.

27           ~~L. G.~~ The department shall require every person claiming a deduction  
28 provided by subsection ~~J or K E OR F~~ of this section to file on forms  
29 prescribed by the department at such times as the department directs a sworn  
30 statement disclosing the name of the purchaser and the exact amount of sales  
31 on which the exclusion or deduction is claimed.

32           ~~M. In computing the tax base, gross proceeds of sales or gross income~~  
33 ~~does not include:~~

34           ~~1. A manufacturer's cash rebate on the sales price of a motor vehicle~~  
35 ~~if the buyer assigns the buyer's right in the rebate to the retailer.~~

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

37           ~~N. There shall be deducted from the tax base the amount received from~~  
38 ~~sales of solar energy devices, but the deduction shall not exceed five~~  
39 ~~thousand dollars for each solar energy device. Before deducting any amount~~  
40 ~~under this subsection, the retailer shall register with the department as a~~  
41 ~~solar energy retailer. By registering, the retailer acknowledges that it~~  
42 ~~will make its books and records relating to sales of solar energy devices~~  
43 ~~available to the department for examination.~~

44           ~~O. In computing the tax base in the case of the sale or transfer of~~  
45 ~~wireless telecommunications equipment as an inducement to a customer to enter~~

1 ~~into or continue a contract for telecommunications services that are taxable~~  
2 ~~under section 42-5064, gross proceeds of sales or gross income does not~~  
3 ~~include any sales commissions or other compensation received by the retailer~~  
4 ~~as a result of the customer entering into or continuing a contract for the~~  
5 ~~telecommunications services.~~

6 ~~P. For the purposes of this section, a sale of wireless~~  
7 ~~telecommunications equipment to a person who holds the equipment for sale or~~  
8 ~~transfer to a customer as an inducement to enter into or continue a contract~~  
9 ~~for telecommunications services that are taxable under section 42-5064 is~~  
10 ~~considered to be a sale for resale in the regular course of business.~~

11 ~~Q. Retail sales of prepaid calling cards or prepaid authorization~~  
12 ~~numbers for telecommunications services, including sales of reauthorization~~  
13 ~~of a prepaid card or authorization number, are subject to tax under this~~  
14 ~~section.~~

15 ~~R. For the purposes of this section, the diversion of gas from a~~  
16 ~~pipeline by a person engaged in the business of operating a natural or~~  
17 ~~artificial gas pipeline, for the sole purpose of fueling compressor equipment~~  
18 ~~to pressurize the pipeline, is not a sale of the gas to the operator of the~~  
19 ~~pipeline.~~

20 ~~S. If a seller is entitled to a deduction pursuant to subsection B,~~  
21 ~~paragraph 16, subdivision (b) of this section, the department may require the~~  
22 ~~purchaser to establish that the requirements of subsection B, paragraph 16,~~  
23 ~~subdivision (b) of this section have been satisfied. If the purchaser cannot~~  
24 ~~establish that the requirements of subsection B, paragraph 16, subdivision~~  
25 ~~(b) of this section have been satisfied, the purchaser is liable in an amount~~  
26 ~~equal to any tax, penalty and interest which the seller would have been~~  
27 ~~required to pay under article 1 of this chapter if the seller had not made a~~  
28 ~~deduction pursuant to subsection B, paragraph 16, subdivision (b) of this~~  
29 ~~section. Payment of the amount under this subsection exempts the purchaser~~  
30 ~~from liability for any tax imposed under article 4 of this chapter and~~  
31 ~~related to the tangible personal property purchased. The amount shall be~~  
32 ~~treated as transaction privilege tax to the purchaser and as tax revenues~~  
33 ~~collected from the seller to designate the distribution base pursuant to~~  
34 ~~section 42-5029.~~

35 ~~T. H.~~ H. For the purposes of section 42-5032.01, the department shall  
36 separately account for revenues collected under the retail classification  
37 from businesses selling tangible personal property at retail:

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

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

43 ~~U. I.~~ I. In computing the tax base for the sale of a motor vehicle to a  
44 nonresident of this state, if the purchaser's state of residence allows a  
45 corresponding use tax exemption to the tax imposed by article 1 of this

1 chapter and the rate of the tax in the purchaser's state of residence is  
2 lower than the rate prescribed in article 1 of this chapter, and the  
3 nonresident has secured a special ninety day nonresident registration permit  
4 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall  
5 be deducted from the tax base a portion of the gross proceeds or gross income  
6 from the sale so that the amount of transaction privilege tax that is paid in  
7 this state is equal to the excise tax that is imposed by the purchaser's  
8 state of residence on the nonexempt sale or use of the motor vehicle.

9 ~~V. For the purposes of this section:~~

10 ~~1. "Aircraft" includes:~~

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

14 ~~(b) Tangible personal property that is permanently affixed or attached~~  
15 ~~as a component part of an aircraft that is owned or operated by a~~  
16 ~~certificated or licensed carrier of persons or property.~~

17 ~~2. "Other accessories and related equipment" includes aircraft~~  
18 ~~accessories and equipment such as ground service equipment that physically~~  
19 ~~contact aircraft at some point during the overall carrier operation.~~

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

25 ~~W. For the purposes of subsection J of this section:~~

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

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

33 ~~3. "Modifier" means a person who reworks, changes or adds to products,~~  
34 ~~wares or articles of manufacture.~~

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

42 ~~5. "Repairer" means a person who restores or renews products, wares or~~  
43 ~~articles of manufacture.~~

44 ~~6. "Subcontract" means an agreement between a contractor and any~~  
45 ~~person who is not an employee of the contractor for furnishing of supplies or~~

1 ~~services that, in whole or in part, are necessary to the performance of one~~  
2 ~~or more government contracts, or under which any portion of the contractor's~~  
3 ~~obligation under one or more government contracts is performed, undertaken or~~  
4 ~~assumed and that includes provisions causing title to overhead materials or~~  
5 ~~other tangible personal property used in the performance of the subcontract~~  
6 ~~to pass to the government or that includes provisions incorporating such~~  
7 ~~title passing clauses in a government contract into the subcontract.~~

8 Sec. 3. Section 42-5062, Arizona Revised Statutes, is amended to read:  
9 42-5062. Transporting classification

10 A. The transporting classification is comprised of the business of  
11 transporting for hire persons, freight or property by motor vehicle,  
12 railroads or aircraft from one point to another point in this state. ~~The~~  
13 ~~transporting classification does not include:~~

14 ~~1. Transporting for hire persons, freight or property by motor~~  
15 ~~carriers subject to a fee prescribed in title 28, chapter 16, article 4 or by~~  
16 ~~light motor vehicles subject to a fee under title 28, chapter 15, article 4.~~

17 ~~2. The business of transporting for hire persons traveling in air~~  
18 ~~commerce by aircraft if taxation of the business is preempted by federal law.~~

19 ~~3. Ambulances or ambulance services provided under title 48 or~~  
20 ~~certified pursuant to title 36, chapter 21.1 or provided by a city or town in~~  
21 ~~a county with a population of less than one hundred fifty thousand persons as~~  
22 ~~determined in the most recent United States decennial census.~~

23 ~~4. Public transportation program services for the dial-a-ride programs~~  
24 ~~and special needs transportation services.~~

25 ~~5. Transporting freight or property for hire by a railroad operating~~  
26 ~~exclusively in this state if the transportation comprises a portion of a~~  
27 ~~single shipment of freight or property, involving more than one railroad,~~  
28 ~~either from a point in this state to a point outside this state or from a~~  
29 ~~point outside this state to a point in this state. For the purposes of this~~  
30 ~~paragraph, "a single shipment" means the transportation that begins at the~~  
31 ~~point at which one of the railroads first takes possession of the freight or~~  
32 ~~property and continues until the point at which one of the railroads~~  
33 ~~relinquishes possession of the freight or property to a party other than one~~  
34 ~~of the railroads.~~

35 ~~6. Arranging transportation as a convenience or service to a person's~~  
36 ~~customers if that person is not otherwise engaged in the business of~~  
37 ~~transporting persons, freight or property for hire. This exception does not~~  
38 ~~apply to businesses that dispatch vehicles pursuant to customer orders and~~  
39 ~~send the billings and receive the payments associated with that activity,~~  
40 ~~including when the transportation is performed by third party independent~~  
41 ~~contractors. For the purposes of this paragraph, "arranging" includes~~  
42 ~~billing for or collecting transportation charges from a person's customers on~~  
43 ~~behalf of the persons providing the transportation.~~

1 B. The tax base for the transporting classification is the gross  
2 proceeds of sales or gross income derived from the business. ~~, except that~~  
3 ~~the following shall be deducted from the tax base:~~

4 ~~1. The gross proceeds of sales or gross income derived from~~  
5 ~~transporting for hire persons, freight or property by a railroad pursuant to~~  
6 ~~a contract with another railroad that is also considered to be engaged in the~~  
7 ~~businesses of transporting persons, freight or property for hire if the other~~  
8 ~~railroad is liable for the tax on gross proceeds of sales or gross income~~  
9 ~~attributable to the transportation.~~

10 ~~2. The gross proceeds of sales or gross income derived from business~~  
11 ~~activity that is properly included in any other business classification under~~  
12 ~~this article and that is taxable to the person engaged in that~~  
13 ~~classification, but the gross proceeds of sales or gross income to be~~  
14 ~~deducted shall not exceed the consideration paid to the person conducting the~~  
15 ~~activity.~~

16 ~~3. The gross proceeds of sales or gross income derived from a business~~  
17 ~~activity that is arranged by the person who is subject to tax under this~~  
18 ~~section and that is not taxable to the person conducting the activity due to~~  
19 ~~an exclusion, exemption or deduction under this section or section 42-5073,~~  
20 ~~but the gross proceeds of sales or gross income to be deducted shall not~~  
21 ~~exceed the consideration paid to the person conducting the activity.~~

22 ~~4. The gross proceeds of sales or gross income derived from business~~  
23 ~~activity that is arranged by a person who is subject to tax under this~~  
24 ~~section and that is taxable to another person under this section who conducts~~  
25 ~~the activity, but the gross proceeds of sales or gross income to be deducted~~  
26 ~~shall not exceed the consideration paid to the person conducting the~~  
27 ~~activity.~~

28 ~~5. The gross proceeds of sales or gross income derived from~~  
29 ~~transporting fertilizer by a railroad from a point in this state to another~~  
30 ~~point in this state.~~

31 Sec. 4. Section 42-5063, Arizona Revised Statutes, is amended to read:

32 42-5063. Utilities classification; definitions

33 A. The utilities classification is comprised of the business of:

34 1. Producing and furnishing or furnishing to consumers natural or  
35 artificial gas and water.

36 2. Providing to retail electric customers ancillary services, electric  
37 distribution services, electric generation services, electric transmission  
38 services and other services related to providing electricity.

39 ~~B. The utility classification does not include:~~

40 ~~1. Sales of ancillary services, electric distribution services,~~  
41 ~~electric generation services, electric transmission services and other~~  
42 ~~services related to providing electricity, gas or water to a person who~~  
43 ~~resells the services.~~

44 ~~2. Sales of natural gas or liquefied petroleum gas used to propel a~~  
45 ~~motor vehicle.~~

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

4           ~~4. Sales of ancillary services, electric distribution services,~~  
5 ~~electric generation services, electric transmission services and other~~  
6 ~~services that are related to providing electricity to a retail electric~~  
7 ~~customer who is located outside this state for use outside this state if the~~  
8 ~~electricity is delivered to a point of sale outside this state.~~

9           ~~C.~~ B. The tax base for the utilities classification is the gross  
10 proceeds of sales or gross income derived from the business, but the GROSS  
11 PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES TO THE following shall  
12 be deducted from the tax base:

13           ~~1. Revenues received by a municipally owned utility in the form of~~  
14 ~~fees charged to persons constructing residential, commercial or industrial~~  
15 ~~developments or connecting residential, commercial or industrial developments~~  
16 ~~to a municipal utility system or systems if the fees are segregated and used~~  
17 ~~only for capital expansion, system enlargement or debt service of the utility~~  
18 ~~system or systems.~~

19           ~~2. Revenues received by any person or persons owning a utility system~~  
20 ~~in the form of reimbursement or contribution compensation for property and~~  
21 ~~equipment installed to provide utility access to, on or across the land of an~~  
22 ~~actual utility consumer if the property and equipment become the property of~~  
23 ~~the utility. This deduction shall not exceed the value of such property and~~  
24 ~~equipment.~~

25           ~~3. Gross proceeds of sales or gross income derived from sales to:~~

26           ~~(a) 1. Qualifying hospitals as defined in section 42-5001.~~

27           ~~(b) 2. A qualifying health care organization as defined in section~~  
28 ~~42-5001 if the tangible personal property is used by the organization solely~~  
29 ~~to provide health and medical related educational and charitable services.~~

30           ~~4. The portion of gross proceeds of sales or gross income that is~~  
31 ~~derived from sales to an environmental technology manufacturer, producer or~~  
32 ~~processor as defined in section 41-1514.02 of a utility product and that is~~  
33 ~~used directly in environmental technology manufacturing, producing or~~  
34 ~~processing. This paragraph shall apply for fifteen full consecutive calendar~~  
35 ~~or fiscal years from the date the first paper manufacturing machine is placed~~  
36 ~~in service. In the case of an environmental technology manufacturer,~~  
37 ~~producer or processor who does not manufacture paper, the time period shall~~  
38 ~~begin with the date the first manufacturing, processing or production~~  
39 ~~equipment is placed in service.~~

40           ~~D.~~ C. For THE purposes of this section:

41           1. "Ancillary services" means those services so designated in federal  
42 energy regulatory commission order 888 adopted in 1996 that include the  
43 services necessary to support the transmission of electricity from resources  
44 to loads while maintaining reliable operation of the transmission system  
45 according to good utility practice.

1           2. "Electric distribution service" means distributing electricity to  
2 retail electric customers through the use of electric distribution  
3 facilities.

4           3. "Electric generation service" means providing electricity for sale  
5 to retail electric customers but excluding electric distribution or  
6 transmission services.

7           4. "Electric transmission service" means transmitting electricity to  
8 retail electric customers or to electric distribution facilities so  
9 classified by the federal energy regulatory commission or, to the extent  
10 permitted by law, so classified by the Arizona corporation commission.

11          5. "Other services" includes metering, meter reading services, billing  
12 and collecting services.

13          6. "Retail electric customer" means a person who purchases electricity  
14 for that person's own use, including use in that person's trade or business  
15 and not for resale, redistribution or retransmission.

16          Sec. 5. Section 42-5064, Arizona Revised Statutes, is amended to read:  
17 42-5064. Telecommunications classification; definitions

18          A. The telecommunications classification is comprised of the business  
19 of providing intrastate telecommunications services. ~~The telecommunications~~  
20 ~~classification does not include:~~

21           ~~1. Sales of intrastate telecommunications services by a cable~~  
22 ~~television system as defined in section 9-505 or by a microwave television~~  
23 ~~transmission system that transmits television programming to multiple~~  
24 ~~subscribers and that is operated pursuant to 47 Code of Federal Regulations~~  
25 ~~parts 21 and 74.~~

26           ~~2. Sales of internet access services to the person's subscribers and~~  
27 ~~customers.~~

28          B. The tax base for the telecommunications classification is the gross  
29 proceeds of sales or gross income derived from the business. ~~, including the~~  
30 ~~gross income derived from tolls, subscriptions and services on behalf of~~  
31 ~~subscribers or from the publication of a directory of the names of~~  
32 ~~subscribers. However, the gross proceeds of sales or gross income derived~~  
33 ~~from the following shall be deducted from the tax base:~~

34           ~~1. Sales of intrastate telecommunications services to:~~

35           ~~(a) Other persons engaged in businesses classified under the~~  
36 ~~telecommunications classification for use in such business.~~

37           ~~(b) A direct broadcast satellite television or data transmission~~  
38 ~~service that operates pursuant to 47 Code of Federal Regulations parts 25 and~~  
39 ~~100 for use in its direct broadcast satellite television or data transmission~~  
40 ~~operation by a facility described in section 42-5061, subsection B, paragraph~~  
41 ~~16, subdivision (b).~~

42           ~~2. End user common line charges established by federal communications~~  
43 ~~commission regulations (47 Code of Federal Regulations section 69.104(a)).~~

1           ~~3. Carrier access charges established by federal communications~~  
2 ~~commission regulations (47 Code of Federal Regulations sections 69.105(a)~~  
3 ~~through 69.118).~~

4           ~~4. Sales of direct broadcast satellite television services pursuant to~~  
5 ~~47 Code of Federal Regulations parts 25 and 100 by a direct broadcast~~  
6 ~~satellite television service that operates pursuant to 47 Code of Federal~~  
7 ~~Regulations parts 25 and 100.~~

8           ~~5. Telecommunications services purchased with a prepaid calling card,~~  
9 ~~or a prepaid authorization number for telecommunications services, that is~~  
10 ~~taxable under section 42-5061.~~

11           ~~C. A person that is engaged in a transient lodging business subject to~~  
12 ~~taxation under section 42-5070 and that provides telephone, fax or internet~~  
13 ~~access services to its customers at an additional charge, which is separately~~  
14 ~~stated on the customer invoice, is considered to be engaged in business~~  
15 ~~subject to taxation under this section for the purposes of taxing the gross~~  
16 ~~proceeds of sales or gross income derived from providing those services.~~

17           ~~D.~~ C. The gross proceeds of sales or gross income derived from a  
18 bundled transaction of services that are taxable pursuant to section 42-5023  
19 are subject to the following:

20           1. A telecommunications service provider who can reasonably identify  
21 the portion of the sales price of the bundled transaction derived from  
22 charges for nontaxable services is subject to tax only on the gross proceeds  
23 of sales or gross income derived from the taxable services. For the purposes  
24 of this section, the telecommunications service provider may elect to  
25 reasonably identify the portion of the sales price of the bundled transaction  
26 derived from charges for nontaxable services by using allocation percentages  
27 derived from the telecommunications service provider's entire service area,  
28 including territories outside of this state. On request, the department may  
29 require the telecommunications service provider to provide this allocation  
30 information. The reasonableness of the allocation is subject to audit by the  
31 department.

32           2. Notwithstanding sections 42-1118, 42-1120 and 42-1121, the  
33 telecommunications service provider shall waive the right to file a claim for  
34 a refund of taxes paid on the bundled transaction if the taxes paid are based  
35 on the allocation percentage the telecommunications service provider had  
36 determined to be reasonable at the beginning of the tax period at issue.

37           3. The burden of proof is on the telecommunications service provider  
38 to establish that the gross proceeds of sales or gross income is derived from  
39 charges for nontaxable services.

40           ~~E.~~ D. For the purposes of this section:

41           1. "Bundled transaction" means a sale of multiple services in which  
42 both of the following apply:

43           (a) The sale consists of both taxable and nontaxable services.

1 (b) The telecommunications service provider charges a customer one  
2 sales price for all services that are sold instead of separately charging for  
3 each individual service.

4 ~~2. "Internet" means the computer and telecommunications facilities~~  
5 ~~that comprise the interconnected worldwide network of networks that employ~~  
6 ~~the transmission control protocol or internet protocol, or any predecessor or~~  
7 ~~successor protocol, to communicate information of all kinds by wire or radio.~~

8 ~~3. "Internet access" means a service that enables users to access~~  
9 ~~content, information, electronic mail or other services over the internet.~~  
10 ~~Internet access does not include telecommunications services provided by a~~  
11 ~~common carrier.~~

12 ~~4.~~ 2. "Intrastate telecommunications services" means transmitting  
13 signs, signals, writings, images, sounds, messages, data or other information  
14 of any nature by wire, radio waves, light waves or other electromagnetic  
15 means if the information transmitted originates and terminates in this state.

16 Sec. 6. Section 42-5065, Arizona Revised Statutes, is amended to read:

17 42-5065. Publication classification; definition

18 A. The publication classification is comprised of the business of  
19 publishing newspapers, magazines or other periodicals and publications if  
20 published in this state. ~~The publication classification does not include:~~

21 ~~1. Manufacturing or publishing books.~~

22 ~~2. Sales of magazines or other periodicals or other publications by~~  
23 ~~this state to encourage tourist travel.~~

24 B. The tax base for the publication classification is the gross  
25 proceeds of sales or gross income derived from the business, including the  
26 gross income derived from notices and subscription income, but the following  
27 shall be deducted from the tax base:

28 1. Gross income derived from advertising.

29 2. Gross proceeds of sales or gross income derived from sales of  
30 personal property to:

31 (a) Qualifying hospitals as defined in section 42-5001.

32 (b) A qualifying health care organization as defined in section  
33 42-5001 if the tangible personal property is used by the organization solely  
34 to provide health and medical related educational and charitable services.

35 C. For THE purposes of this section, "subscription income" includes  
36 all circulation revenue, except amounts actually retained by or credited to  
37 carriers and other vendors as compensation for sale or delivery of  
38 publications and revenue from publications sold, directly or through  
39 wholesalers or jobbers, to retailers for resale.

40 Sec. 7. Section 42-5066, Arizona Revised Statutes, is amended to read:

41 42-5066. Job printing classification

42 A. The job printing classification is comprised of the business of job  
43 printing, engraving, embossing and copying.

44 B. The tax base for the job printing classification is the gross  
45 proceeds of sales or gross income derived from the business, but the gross

1 proceeds of sales or gross income derived from THE SALES OF PERSONAL PROPERTY  
2 TO the following shall be deducted from the tax base:

3 ~~1. Sales to a person in this state who has a transaction privilege tax~~  
4 ~~license issued in this state, and who does either of the following:~~

5 ~~(a) Resells the job printing, engraving, embossing or copying.~~

6 ~~(b) Distributes such printing, engraving, embossing or copying without~~  
7 ~~consideration in connection with the publication of a newspaper or magazine.~~

8 ~~2. Sales of job printing, engraving, embossing and copying for use~~  
9 ~~outside this state if the materials are shipped or delivered out of this~~  
10 ~~state regardless of where title to the materials passes or their free on~~  
11 ~~board point.~~

12 ~~3. Sales of personal property to:~~

13 ~~(a) 1. Qualifying hospitals as defined in section 42-5001.~~

14 ~~(b) 2. A qualifying health care organization as defined in section~~  
15 ~~42-5001 if the tangible personal property is used by the organization solely~~  
16 ~~to provide health and medical related educational and charitable services.~~

17 Sec. 8. Section 42-5067, Arizona Revised Statutes, is amended to read:

18 42-5067. Pipeline classification

19 A. The pipeline classification is comprised of the business of  
20 operating pipelines for transporting oil or natural or artificial gas through  
21 pipes or conduits from one point to another point in this state. ~~The~~  
22 ~~pipeline classification does not include sales of natural gas or liquefied~~  
23 ~~petroleum gas used to propel a motor vehicle.~~

24 B. The tax base for the pipeline classification is the gross proceeds  
25 of sales or gross income derived from the business. ~~, but the taxpayer shall~~  
26 ~~deduct from the tax base the gross proceeds of sales or gross income derived~~  
27 ~~from pipeline services to:~~

28 ~~1. Qualifying hospitals as defined in section 42-5001.~~

29 ~~2. A qualifying health care organization as defined in section 42-5001~~  
30 ~~if the oil or gas is used by the organization solely to provide health and~~  
31 ~~medical related educational and charitable services.~~

32 Sec. 9. Section 42-5069, Arizona Revised Statutes, is amended to read:

33 42-5069. Commercial lease classification; definitions

34 A. The commercial lease classification is comprised of the business of  
35 leasing for a consideration the use or occupancy of real property.

36 B. A person who, as a lessor, leases or rents for a consideration  
37 under one or more leases or rental agreements the use or occupancy of real  
38 property that is used by the lessee for commercial purposes is deemed to be  
39 engaged in business and subject to the tax imposed by article 1 of this  
40 chapter. ~~, but this subsection does not include leases or rentals of real~~  
41 ~~property used for residential or agricultural purposes.~~

42 ~~C. The commercial lease classification does not include:~~

43 ~~1. Any business activities which are classified under the transient~~  
44 ~~lodging classification.~~

1           ~~2. Activities engaged in by the Arizona exposition and state fair~~  
2 ~~board or county fair commissions in connection with events sponsored by those~~  
3 ~~entities.~~

4           ~~3. Leasing real property to a lessee who subleases the property if the~~  
5 ~~lessee is engaged in business classified under the commercial lease~~  
6 ~~classification or the transient lodging classification.~~

7           ~~4. Leasing real property pursuant to a written lease agreement entered~~  
8 ~~into before December 1, 1967. This exclusion does not apply to:~~

9           ~~(a) The businesses of hotels, guest houses, dude ranches and resorts,~~  
10 ~~rooming houses, apartment houses, office buildings, automobile storage~~  
11 ~~garages, parking lots or tourist camps, or to the extension or renewal of any~~  
12 ~~such written lease agreement.~~

13           ~~(b) Any such written lease agreement unless a rental occupancy tax is~~  
14 ~~paid pursuant to article 9 of this chapter.~~

15           ~~5. Leasing real property by a corporation to an affiliated~~  
16 ~~corporation. For purposes of this paragraph, "affiliated corporation" means~~  
17 ~~a corporation which owns or controls at least eighty per cent of the lessor,~~  
18 ~~is at least eighty per cent owned or controlled by the lessor or is at least~~  
19 ~~eighty per cent owned or controlled by a corporation which also owns or~~  
20 ~~controls at least eighty per cent of the lessor. Ownership and control are~~  
21 ~~determined by reference to the voting shares of a corporation.~~

22           ~~6. Leasing real property for sublease if the tenant in possession of~~  
23 ~~the property is subject to the rental occupancy tax pursuant to article 9 of~~  
24 ~~this chapter.~~

25           ~~7. Leasing real property for boarding horses.~~

26           ~~8. Leasing or renting real property or the right to use real property~~  
27 ~~at exhibition events in this state sponsored, operated or conducted by a~~  
28 ~~nonprofit organization that is exempt from taxation under section 501(c)(3),~~  
29 ~~501(c)(4) or 501(c)(6) of the internal revenue code if the organization is~~  
30 ~~associated with major league baseball teams or a national touring~~  
31 ~~professional golfing association and no part of the organization's net~~  
32 ~~earnings inures to the benefit of any private shareholder or individual.~~

33           ~~9. Leasing or renting real property or the right to use real property~~  
34 ~~for use as a rodeo featuring primarily farm and ranch animals in this state~~  
35 ~~sponsored, operated or conducted by a nonprofit organization that is exempt~~  
36 ~~from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or~~  
37 ~~501(c)(8) of the internal revenue code and no part of the organization's net~~  
38 ~~earnings inures to the benefit of any private shareholder or individual.~~

39           ~~10. Leasing or renting dwelling units, lodging facilities or trailer or~~  
40 ~~mobile home spaces if the units, facilities or spaces are intended to serve~~  
41 ~~as the principal or permanent place of residence for the lessee or renter or~~  
42 ~~if the unit, facility or space is leased or rented to a single tenant thirty~~  
43 ~~or more consecutive days.~~

44           ~~11. Leasing or renting real property and improvements for use primarily~~  
45 ~~for religious worship by a nonprofit organization that is exempt from~~

1 ~~taxation under section 501(c)(3) of the internal revenue code and no part of~~  
2 ~~the organization's net earnings inures to the benefit of any private~~  
3 ~~shareholder or individual.~~

4 ~~12. Leasing or renting real property used for agricultural purposes~~  
5 ~~under either of the following circumstances:~~

6 ~~(a) The lease or rental is between family members, trusts, estates,~~  
7 ~~corporations, partnerships, joint venturers or similar entities, or any~~  
8 ~~combination thereof, if the individuals or at least eighty per cent of the~~  
9 ~~beneficiaries, shareholders, partners or joint venturers share a family~~  
10 ~~relationship as parents or ancestors of parents, children or descendants of~~  
11 ~~children, siblings, cousins of the first degree, aunts, uncles, nieces or~~  
12 ~~nephews of the first degree, spouses of any of the listed relatives and~~  
13 ~~listed relatives by the half-blood or by adoption.~~

14 ~~(b) The lessor leases or rents real property used for agricultural~~  
15 ~~purposes under no more than three leases or rental agreements.~~

16 ~~13. Leasing, renting or granting the right to use real property to~~  
17 ~~vendors or exhibitors by a trade or industry association which is a~~  
18 ~~qualifying organization pursuant to section 513(d)(3)(C) of the internal~~  
19 ~~revenue code for a period not to exceed twenty one days in connection with an~~  
20 ~~event that meets all of the following conditions:~~

21 ~~(a) Where the majority of such vending or exhibition activities relate~~  
22 ~~to the nature of trade or business sponsoring the event.~~

23 ~~(b) The event is held in conjunction with a formal business meeting of~~  
24 ~~the trade or industry association.~~

25 ~~(c) The event is organized by the persons engaged in the particular~~  
26 ~~trade or industry.~~

27 ~~14. Leasing, renting or granting the right to use real property for a~~  
28 ~~period not to exceed twenty one days by a coliseum, civic center, civic~~  
29 ~~plaza, convention center, auditorium or arena owned by this state or any of~~  
30 ~~its political subdivisions.~~

31 ~~15. Leasing or subleasing real property used by a nursing care~~  
32 ~~institution as defined in section 36-401 that is licensed pursuant to title~~  
33 ~~36, chapter 4.~~

34 ~~16. Leasing or renting a transportation facility as provided in section~~  
35 ~~28-7705, subsections A and B.~~

36 ~~17. Granting or providing rights to real property that constitute a~~  
37 ~~profit à prendre for the severance of minerals, including all rights to use~~  
38 ~~the surface or subsurface of the property as is necessary or convenient to~~  
39 ~~the right to sever the minerals. This paragraph does not exclude from the~~  
40 ~~commercial lease classification leasehold rights to the real property that~~  
41 ~~are granted in addition to and not included within the right of profit à~~  
42 ~~prendre, but the tax base for the grant of such a leasehold right, if the~~  
43 ~~gross income derived from the grant is not separately stated from the gross~~  
44 ~~income derived from the grant of the profit à prendre, shall not exceed the~~  
45 ~~fair market value of the leasehold rights computed after excluding the value~~

1 ~~of all rights under the profit à prendre. As used in this paragraph, "profit~~  
2 ~~à prendre" means a right to use the land of another to mine minerals, and~~  
3 ~~carries with it the right of entry and the right to remove and take the~~  
4 ~~minerals from the land and also includes the right to use the surface of the~~  
5 ~~land as is necessary and convenient for exercise of the profit.~~

6 ~~D. C.~~ The tax base for the commercial lease classification is the  
7 gross proceeds of sales or gross income derived from the business. ~~, but~~  
8 ~~reimbursements to the lessor for utility service shall be deducted from the~~  
9 ~~tax base.~~

10 ~~E. D.~~ Notwithstanding section 42-1104, subsection B, paragraph 1,  
11 subdivision (b) and paragraph 2, the failure to file tax returns for the  
12 commercial lease classification that report gross income derived from any  
13 agreement that constitutes, in whole or in part, a grant of a right of profit  
14 à prendre for the severance of minerals does not constitute an exception to  
15 the general rule for the statute of limitations.

16 ~~F. E.~~ For THE purposes of this section:

17 1. "Leasing" includes renting.

18 2. "Real property" includes any improvements, rights or interest in  
19 such property.

20 Sec. 10. Section 42-5070, Arizona Revised Statutes, is amended to  
21 read:

22 42-5070. Transient lodging classification; definition

23 A. The transient lodging classification is comprised of the business  
24 of operating, for occupancy by transients, a hotel or motel, including an  
25 inn, tourist home or house, dude ranch, resort, campground, studio or  
26 bachelor hotel, lodging house, rooming house, apartment house, dormitory,  
27 public or private club, mobile home or house trailer at a fixed location or  
28 other similar structure, and also including a space, lot or slab which is  
29 occupied or intended or designed for occupancy by transients in a mobile home  
30 or house trailer furnished by them for such occupancy.

31 ~~B. The transient lodging classification does not include:~~

32 ~~1. Operating a convalescent home or facility, home for the aged,~~  
33 ~~hospital, jail, military installation or fraternity or sorority house or~~  
34 ~~operating any structure exclusively by an association, institution,~~  
35 ~~governmental agency or corporation for religious, charitable or educational~~  
36 ~~purposes, if no part of the net earnings of the association, corporation or~~  
37 ~~other entity inures to the benefit of any private shareholder or individual.~~

38 ~~2. A lease or rental of a mobile home or house trailer at a fixed~~  
39 ~~location or any other similar structure, and also including a space, lot or~~  
40 ~~slab which is occupied or intended or designed for occupancy by transients in~~  
41 ~~a mobile home or house trailer furnished by them for such occupancy for~~  
42 ~~thirty or more consecutive days.~~

43 ~~3. Leasing or renting four or fewer rooms of an owner-occupied~~  
44 ~~residential home, together with furnishing no more than a breakfast meal, to~~

1 ~~transient lodgers at no more than a fifty per cent average annual occupancy~~  
2 ~~rate.~~

3 ~~C.~~ B. The tax base for the transient lodging classification is the  
4 gross proceeds of sales or gross income derived from the business. ~~, except~~  
5 ~~that the tax base does not include:~~

6 ~~1. Gross proceeds of sales or gross income derived from business~~  
7 ~~activity that is properly included in another business classification under~~  
8 ~~this article and that is taxable to the person engaged in that business~~  
9 ~~classification, but the gross proceeds of sales or gross income to be~~  
10 ~~deducted shall not exceed the consideration paid to the person conducting the~~  
11 ~~activity.~~

12 ~~2. Gross proceeds of sales or gross income from leases or rentals of~~  
13 ~~lodging space to a motion picture production company if, at the time of lease~~  
14 ~~or rental, the motion picture production company presents to the business its~~  
15 ~~certificate of qualification that is issued pursuant to section 42-5009,~~  
16 ~~subsection H.~~

17 ~~D.~~ C. For the purposes of this section, the tax base for the  
18 transient lodging classification does not include gross proceeds of sales or  
19 gross income derived from:

20 1. Transactions or activities that are not limited to transients and  
21 that would not be taxable if engaged in by a person not subject to tax under  
22 this article.

23 2. Transactions or activities that are not limited to transients and  
24 that would not be taxable if engaged in by a person subject to taxation under  
25 section 42-5062 or 42-5073 due to an exclusion, exemption or deduction.

26 3. Commissions paid to a person that is engaged in transient lodging  
27 business subject to taxation under this section by a person providing  
28 services or property to the customers of the person engaging in the transient  
29 lodging business.

30 ~~E.~~ D. The department shall separately account for revenues collected  
31 under the transient lodging classification for purposes of section 42-5029,  
32 subsection D, paragraph 4, subdivision (b).

33 ~~F.~~ E. For the purposes of this section, "transient" means any person  
34 who either at the person's own expense or at the expense of another obtains  
35 lodging space or the use of lodging space on a daily or weekly basis, or on  
36 any other basis for less than thirty consecutive days.

37 Sec. 11. Section 42-5071, Arizona Revised Statutes, is amended to  
38 read:

39 42-5071. Personal property rental classification

40 A. The personal property rental classification is comprised of the  
41 business of leasing or renting tangible personal property for a  
42 consideration. ~~The tax does not apply to:~~

43 ~~1. Leasing or renting films, tapes or slides used by theaters or~~  
44 ~~movies, which are engaged in business under the amusement classification, or~~  
45 ~~used by television stations or radio stations.~~

1           ~~2. Activities engaged in by the Arizona exposition and state fair~~  
2 ~~board or county fair commissions in connection with events sponsored by such~~  
3 ~~entities.~~

4           ~~3. Leasing or renting tangible personal property by a parent~~  
5 ~~corporation to a subsidiary corporation or by a subsidiary corporation to~~  
6 ~~another subsidiary of the same parent corporation if taxes were paid under~~  
7 ~~this chapter on the gross proceeds or gross income accruing from the initial~~  
8 ~~sale of the tangible personal property. For the purposes of this paragraph,~~  
9 ~~"subsidiary" means a corporation of which at least eighty per cent of the~~  
10 ~~voting shares are owned by the parent corporation.~~

11           ~~4. Operating coin operated washing, drying and dry cleaning machines~~  
12 ~~or coin operated car washing machines at establishments for the use of such~~  
13 ~~machines.~~

14           ~~5. Leasing or renting tangible personal property for incorporation~~  
15 ~~into or comprising any part of a qualified environmental technology facility~~  
16 ~~as described in section 41-1514.02. This paragraph shall apply for ten full~~  
17 ~~consecutive calendar or fiscal years following the initial lease or rental by~~  
18 ~~each qualified environmental technology manufacturer, producer or processor.~~

19           ~~6. Leasing or renting aircraft, flight simulators or similar training~~  
20 ~~equipment to students or staff by nonprofit, accredited educational~~  
21 ~~institutions that offer associate or baccalaureate degrees in aviation or~~  
22 ~~aerospace related fields.~~

23           ~~7. Leasing or renting photographs, transparencies or other creative~~  
24 ~~works used by this state on internet web sites, in magazines or in other~~  
25 ~~publications that encourage tourism.~~

26           B. The tax base for the personal property rental classification is the  
27 gross proceeds of sales or gross income derived from the business. ~~, but the~~  
28 ~~gross proceeds of sales or gross income derived from the following shall be~~  
29 ~~deducted from the tax base:~~

30           ~~1. Reimbursements by the lessee to the lessor of a motor vehicle for~~  
31 ~~payments by the lessor of the applicable fees and taxes imposed by sections~~  
32 ~~28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,~~  
33 ~~article 2 and article IX, section 11, Constitution of Arizona, to the extent~~  
34 ~~such amounts are separately identified as such fees and taxes and are billed~~  
35 ~~to the lessee.~~

36           ~~2. Leases or rentals of tangible personal property which, if it had~~  
37 ~~been purchased instead of leased or rented by the lessee, would have been~~  
38 ~~exempt under:~~

39           ~~(a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29 or~~  
40 ~~50.~~

41           ~~(b) Section 42-5061, subsection B, except that a lease or rental of~~  
42 ~~new machinery or equipment is not exempt pursuant to:~~

43           ~~(i) Section 42-5061, subsection B, paragraph 13 if the lease is for~~  
44 ~~less than two years.~~

1 ~~(ii) Section 42-5061, subsection B, paragraph 22 if the lease is for~~  
2 ~~less than five years.~~

3 ~~(c) Section 42-5061, subsection J, paragraph 1.~~

4 ~~(d) Section 42-5061, subsection N.~~

5 ~~3. Motor vehicle fuel and use fuel that are subject to a tax imposed~~  
6 ~~under title 28, chapter 16, article 1, sales of use fuel to a holder of a~~  
7 ~~valid single trip use fuel tax permit issued under section 28-5739 and sales~~  
8 ~~of aviation fuel that are subject to the tax imposed under section 28-8344.~~

9 ~~4. Leasing or renting a motor vehicle subject to and upon which the~~  
10 ~~fee has been paid under title 28, chapter 16, article 4.~~

11 ~~5. Amounts received by a motor vehicle dealer for the first month of a~~  
12 ~~lease payment if the lease and the lease payment for the first month of the~~  
13 ~~lease are transferred to a third party leasing company.~~

14 C. Sales of tangible personal property to be leased or rented to a  
15 person engaged in a business classified under the personal property rental  
16 classification are deemed to be resale sales.

17 ~~D. In computing the tax base, the gross proceeds of sales or gross~~  
18 ~~income from the lease or rental of a motor vehicle does not include any~~  
19 ~~amount attributable to the car rental surcharge under section 28-5810 or~~  
20 ~~48-4234.~~

21 ~~E. D.~~ Until December 31, 1988, leasing or renting animals for  
22 recreational purposes is exempt from the tax imposed by this section.  
23 Beginning January 1, 1989, the gross proceeds or gross income from leasing or  
24 renting animals for recreational purposes is subject to taxation under this  
25 section. Tax liabilities, penalties and interest paid for taxable periods  
26 before January 1, 1989 shall not be refunded unless the taxpayer requesting  
27 the refund provides proof satisfactory to the department that the monies paid  
28 as taxes will be returned to the customer.

29 Sec. 12. Section 42-5072, Arizona Revised Statutes, is amended to  
30 read:

31 ~~42-5072.~~ Mining classification: definition

32 A. The mining classification is comprised of the business of mining,  
33 quarrying or producing for sale, profit or commercial use any  
34 nonmetalliferous mineral product.

35 B. The tax base for the mining classification is the gross proceeds of  
36 sales or gross income derived from the business. ~~The gross proceeds of sales~~  
37 ~~or gross income derived from sales described under section 42-5061,~~  
38 ~~subsection A, paragraph 27 and subsection J, paragraph 2 shall be deducted~~  
39 ~~from the tax base.~~

40 C. The tax base includes the value of the entire product mined,  
41 quarried or produced for sale, profit or commercial use in this state,  
42 regardless of the place of sale of the product or of the fact that deliveries  
43 may be made to points without this state. If, however, the sale price of the  
44 product includes freight, the sale price shall be reduced by the actual

1 freight paid by any person from the place of production to the place of  
2 delivery.

3 D. In the case of a person engaged in business classified under the  
4 mining classification all or part of whose income is derived from service or  
5 manufacturing charges instead of from sales of the products manufactured or  
6 handled, the tax base includes the gross income of the person derived from  
7 the service or manufacturing charge.

8 E. If a person engaging in business classified under the mining  
9 classification ships or transports all or part of a product out of this state  
10 without making sale of the product or ships his product outside of this state  
11 in an unfinished condition, the value of the product or article in the  
12 condition or form in which it existed when transported out of this state and  
13 before it enters interstate commerce is included in the tax base, and the  
14 department shall prescribe equitable and uniform rules for ascertaining that  
15 value. In determining the tax base, if the product or any part of the  
16 product has been processed in this state and the proceeds of such processing  
17 have been included in the tax base of the processor under this chapter, the  
18 person may deduct from the value of the product when transported out of this  
19 state the cost of such processing.

20 F. A person who conducts a business classified under the mining  
21 classification may be deemed also to be engaged in business classified under  
22 the retail classification to the extent the person's activities comprise  
23 business under the retail classification if the tax is paid at the rate  
24 imposed on the retail classification by section 42-5010. If the transaction  
25 is not subject to taxation under the retail classification, the transaction  
26 shall be included in the tax base under this section.

27 G. For THE purposes of this section "nonmetalliferous mineral product"  
28 means oil, natural gas, limestone, sand, gravel or any other nonmetalliferous  
29 mineral product, compound or combination of nonmetalliferous mineral  
30 products.

31 Sec. 13. Section 42-5073, Arizona Revised Statutes, is amended to  
32 read:

33 42-5073. Amusement classification

34 A. The amusement classification is comprised of the business of  
35 operating or conducting theaters, movies, operas, shows of any type or  
36 nature, exhibitions, concerts, carnivals, circuses, amusement parks,  
37 menageries, fairs, races, contests, games, billiard or pool parlors, bowling  
38 alleys, public dances, dance halls, boxing and wrestling matches, skating  
39 rinks, tennis courts, except as provided in subsection B of this section,  
40 video games, pinball machines, sports events or any other business charging  
41 admission or user fees for exhibition, amusement or entertainment, including  
42 the operation or sponsorship of events by a tourism and sports authority  
43 under title 5, chapter 8. For THE purposes of this section, admission or  
44 user fees include, but are not limited to, any revenues derived from any form

1 of contractual agreement for rights to or use of premium or special seating  
2 facilities or arrangements. ~~The amusement classification does not include:~~

3 ~~1. Activities or projects of bona fide religious or educational~~  
4 ~~institutions.~~

5 ~~2. Private or group instructional activities. For the purposes of~~  
6 ~~this paragraph, "private or group instructional activities" includes, but is~~  
7 ~~not limited to, performing arts, martial arts, gymnastics and aerobic~~  
8 ~~instruction.~~

9 ~~3. The operation or sponsorship of events by the Arizona exposition~~  
10 ~~and state fair board or county fair commissions.~~

11 ~~4. A musical, dramatic or dance group or a botanical garden, museum or~~  
12 ~~zoo that is qualified as a nonprofit charitable organization under section~~  
13 ~~501(c)(3) of the United States internal revenue code and if no part of its~~  
14 ~~net income inures to the benefit of any private shareholder or individual.~~

15 ~~5. Exhibition events in this state sponsored, conducted or operated by~~  
16 ~~a nonprofit organization that is exempt from taxation under section~~  
17 ~~501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the~~  
18 ~~organization is associated with major league baseball teams or a national~~  
19 ~~touring professional golfing association and no part of the organization's~~  
20 ~~net earnings inures to the benefit of any private shareholder or individual.~~

21 ~~6. Operating or sponsoring rodeos that feature primarily farm and~~  
22 ~~ranch animals in this state and that are sponsored, conducted or operated by~~  
23 ~~a nonprofit organization that is exempt from taxation under section~~  
24 ~~501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal~~  
25 ~~revenue code and no part of the organization's net earnings inures to the~~  
26 ~~benefit of any private shareholder or individual.~~

27 ~~7. Sales of admissions to intercollegiate football contests if the~~  
28 ~~contests are both:~~

29 ~~(a) Operated by a nonprofit organization that is exempt from taxation~~  
30 ~~under section 501(c)(3) of the internal revenue code and no part of the~~  
31 ~~organization's net earnings inures to the benefit of any private shareholder~~  
32 ~~or individual.~~

33 ~~(b) Not held in a multipurpose facility that is owned or operated by~~  
34 ~~the tourism and sports authority pursuant to title 5, chapter 8.~~

35 ~~8. Activities and events of, or fees and assessments received by, a~~  
36 ~~homeowners organization from persons who are members of the organization or~~  
37 ~~accompanied guests of members. For the purposes of this paragraph,~~  
38 ~~"homeowners organization" means a mandatory membership organization comprised~~  
39 ~~of owners of residential property within a specified residential real estate~~  
40 ~~subdivision development or similar area and established to own property for~~  
41 ~~the benefit of its members where both of the following apply:~~

42 ~~(a) No part of the organization's net earnings inures to the benefit~~  
43 ~~of any private shareholder or individual.~~

1           ~~(b) The primary purpose of the organization is to provide for the~~  
2 ~~acquisition, construction, management, maintenance or care of organization~~  
3 ~~property.~~

4           ~~9. Activities and events of, or fees received by, a nonprofit~~  
5 ~~organization that is exempt from taxation under section 501(c)(6) of the~~  
6 ~~internal revenue code if the organization produces, organizes or promotes~~  
7 ~~cultural or civic related festivals or events and no part of the~~  
8 ~~organization's net earnings inures to the benefit of any private shareholder~~  
9 ~~or individual.~~

10          ~~10. Arranging an amusement activity as a service to a person's~~  
11 ~~customers if that person is not otherwise engaged in the business of~~  
12 ~~operating or conducting an amusement themselves or through others. This~~  
13 ~~exception does not apply to businesses that operate or conduct amusements~~  
14 ~~pursuant to customer orders and send the billings and receive the payments~~  
15 ~~associated with that activity, including when the amusement is performed by~~  
16 ~~third party independent contractors. For the purposes of this paragraph,~~  
17 ~~"arranging" includes billing for or collecting amusement charges from a~~  
18 ~~person's customers on behalf of the persons providing the amusement.~~

19          B. The tax base for the amusement classification is the gross proceeds  
20 of sales or gross income derived from the business. ~~, except that the~~  
21 ~~following shall be deducted from the tax base:~~

22          ~~1. The gross proceeds of sales or gross income derived from~~  
23 ~~memberships, including initiation fees, which provide for the right to use a~~  
24 ~~health or fitness establishment or a private recreational establishment, or~~  
25 ~~any portion of an establishment, including tennis and other racquet courts at~~  
26 ~~that establishment, for participatory purposes for twenty eight days or more~~  
27 ~~and fees charged for use of the health or fitness establishment or private~~  
28 ~~recreational establishment by bona fide accompanied guests of members, except~~  
29 ~~that this paragraph does not include additional fees, other than initiation~~  
30 ~~fees, charged by a health or fitness establishment or a private recreational~~  
31 ~~establishment for purposes other than memberships which provide for the right~~  
32 ~~to use a health or fitness establishment or private recreational~~  
33 ~~establishment, or any portion of an establishment, for participatory purposes~~  
34 ~~for twenty eight days or more and accompanied guest use fees.~~

35          ~~2. Amounts that are exempt under section 5-111, subsection H.~~

36          ~~3. The gross proceeds of sales or gross income derived from membership~~  
37 ~~fees, including initiation fees, that provide for the right to use a~~  
38 ~~transient lodging recreational establishment, including golf courses and~~  
39 ~~tennis and other racquet courts at that establishment, for participatory~~  
40 ~~purposes for twenty eight days or more, except that this paragraph does not~~  
41 ~~include additional fees, other than initiation fees, that are charged by a~~  
42 ~~transient lodging recreational establishment for purposes other than~~  
43 ~~memberships and that provide for the right to use a transient lodging~~  
44 ~~recreational establishment or any portion of the establishment for~~  
45 ~~participatory purposes for twenty eight days or more.~~

1           ~~4. The gross proceeds of sales or gross income derived from sales to~~  
2 ~~persons engaged in the business of transient lodging classified under section~~  
3 ~~42-5070, if all of the following apply:~~

4           ~~(a) The persons who are engaged in the transient lodging business sell~~  
5 ~~the amusement to another person for consideration.~~

6           ~~(b) The consideration received by the transient lodging business is~~  
7 ~~equal to or greater than the amount to be deducted under this subsection.~~

8           ~~(c) The transient lodging business has provided an exemption~~  
9 ~~certificate to the person engaging in business under this section.~~

10          ~~5. The gross proceeds of sales or gross income derived from:~~

11          ~~(a) Business activity that is properly included in any other business~~  
12 ~~classification under this article and that is taxable to the person engaged~~  
13 ~~in that classification, but the gross proceeds of sales or gross income to be~~  
14 ~~deducted shall not exceed the consideration paid to the person conducting the~~  
15 ~~activity.~~

16          ~~(b) Business activity that is arranged by the person who is subject to~~  
17 ~~tax under this section and that is not taxable to the person conducting the~~  
18 ~~activity due to an exclusion, exemption or deduction under this section or~~  
19 ~~section 42-5062, but the gross proceeds of sales or gross income to be~~  
20 ~~deducted shall not exceed the consideration paid to the person conducting the~~  
21 ~~activity.~~

22          ~~(c) Business activity that is arranged by a person who is subject to~~  
23 ~~tax under this section and that is taxable to another person under this~~  
24 ~~section who conducts the activity, but the gross proceeds of sales or gross~~  
25 ~~income to be deducted shall not exceed the consideration paid to the person~~  
26 ~~conducting the activity.~~

27          ~~C. For the purposes of subsection B of this section:~~

28           ~~1. "Health or fitness establishment" means a facility whose primary~~  
29 ~~purpose is to provide facilities, equipment, instruction or education to~~  
30 ~~promote the health and fitness of its members and at least eighty per cent of~~  
31 ~~the monthly gross revenue of the facility is received through accounts of~~  
32 ~~memberships and accompanied guest use fees which provide for the right to use~~  
33 ~~the facility, or any portion of the facility, under the terms of the~~  
34 ~~membership agreement for participatory purposes for twenty-eight days or~~  
35 ~~more.~~

36           ~~2. "Private recreational establishment" means a facility whose primary~~  
37 ~~purpose is to provide recreational facilities, such as tennis, golf and~~  
38 ~~swimming, for its members and where at least eighty per cent of the monthly~~  
39 ~~gross revenue of the facility is received through accounts of memberships and~~  
40 ~~accompanied guest use fees which provide for the right to use the facility,~~  
41 ~~or any portion of the facility, for participatory purposes for twenty-eight~~  
42 ~~days or more.~~

1           ~~3. "Transient lodging recreational establishment" means a facility~~  
2 ~~whose primary purpose is to provide facilities for transient lodging, that is~~  
3 ~~subject to taxation under this chapter and that also provides recreational~~  
4 ~~facilities, such as tennis, golf and swimming, for members for a period of~~  
5 ~~twenty eight days or more.~~

6           ~~D.~~ C. Until December 31, 1988, the revenues from hayrides and other  
7 animal-drawn amusement rides, from horseback riding and riding instruction  
8 and from recreational tours using motor vehicles designed to operate on and  
9 off public highways are exempt from the tax imposed by this section.  
10 Beginning January 1, 1989, the gross proceeds or gross income from hayrides  
11 and other animal-drawn amusement rides, from horseback riding and from  
12 recreational tours using motor vehicles designed to operate on and off public  
13 highways are subject to taxation under this section. Tax liabilities,  
14 penalties and interest paid for taxable periods before January 1, 1989 shall  
15 not be refunded unless the taxpayer requesting the refund provides proof  
16 satisfactory to the department that the taxes will be returned to the  
17 customer.

18           ~~E.~~ D. If a person is engaged in the business of offering both  
19 exhibition, amusement or entertainment and private or group instructional  
20 activities, the person's books shall be kept to show separately the gross  
21 income from exhibition, amusement or entertainment and the gross income from  
22 instructional activities. If the books do not provide this separate  
23 accounting, the tax is imposed on the person's total gross income from the  
24 business.

25           ~~F.~~ E. The department shall separately account for revenues collected  
26 under the amusement classification for purposes of section 42-5029,  
27 subsection D, paragraph 4, subdivision (b).

28           ~~G.~~ F. For THE purposes of section 42-5032.01, the department shall  
29 separately account for revenues collected under the amusement classification  
30 from sales of admissions to:

31           1. Events that are held in a multipurpose facility that is owned or  
32 operated by the tourism and sports authority pursuant to title 5, chapter 8,  
33 including intercollegiate football contests that are operated by a nonprofit  
34 organization that is exempt from taxation under section 501(c)(3) of the  
35 internal revenue code.

36           2. Professional football contests that are held in a stadium located  
37 on the campus of an institution under the jurisdiction of the Arizona board  
38 of regents.

39           Sec. 14. Section 42-5074, Arizona Revised Statutes, is amended to  
40 read:

41           42-5074. Restaurant classification

42           A. The restaurant classification is comprised of the business of  
43 operating restaurants, dining cars, dining rooms, lunchrooms, lunch stands,  
44 soda fountains, catering services or similar establishments where articles of  
45 food or drink are sold for consumption on or off the premises.

1           B. The tax base for the restaurant classification is the gross  
2 proceeds of sales or gross income derived from the business. The gross  
3 proceeds of sales or gross income derived from the following shall be  
4 deducted from the tax base:

5           ~~1. Sales to a person engaged in business classified under the~~  
6 ~~restaurant classification if the items sold are to be resold in the regular~~  
7 ~~course of the business.~~

8           ~~2. Sales by a congressionally chartered veterans organization of food~~  
9 ~~or drink prepared for consumption on the premises leased, owned or maintained~~  
10 ~~by the organization.~~

11           ~~3. Sales by churches, fraternal benefit societies and other nonprofit~~  
12 ~~organizations, as these organizations are defined in the federal internal~~  
13 ~~revenue code (26 United States Code section 501), which do not regularly~~  
14 ~~engage or continue in the restaurant business for the purpose of~~  
15 ~~fund-raising.~~

16           ~~4. Sales by a nonprofit organization that is exempt from taxation~~  
17 ~~under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code~~  
18 ~~if the organization is associated with a major league baseball team or a~~  
19 ~~national touring professional golfing association and no part of the~~  
20 ~~organization's net earnings inures to the benefit of any private shareholder~~  
21 ~~or individual.~~

22           ~~5. Sales at a rodeo featuring primarily farm and ranch animals in this~~  
23 ~~state by a nonprofit organization that is exempt from taxation under section~~  
24 ~~501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal~~  
25 ~~revenue code and no part of the organization's net earnings inures to the~~  
26 ~~benefit of any private shareholder or individual.~~

27           ~~6.~~ 1. Sales by any nonprofit organization organized and operated  
28 exclusively for charitable purposes and recognized by the United States  
29 internal revenue service under section 501(c)(3) of the internal revenue  
30 code.

31           ~~7.~~ 2. Sales to qualifying hospitals as defined in section 42-5001.

32           ~~8. Sales to a qualifying health care organization as defined in~~  
33 ~~section 42-5001 if the tangible personal property is used by the organization~~  
34 ~~solely to provide health and medical related educational and charitable~~  
35 ~~services.~~

36           ~~9. Sales of food, drink and condiment for consumption within the~~  
37 ~~premises of any prison, jail or other institution under the jurisdiction of~~  
38 ~~the state department of corrections, the department of public safety, the~~  
39 ~~department of juvenile corrections or a county sheriff.~~

40           ~~10. Sales of catered food, drink and condiment to a motion picture~~  
41 ~~production company. To qualify for this deduction, at the time of purchase,~~  
42 ~~the motion picture production company must present to the business its~~  
43 ~~certificate of qualification that is issued pursuant to section 42-5009,~~  
44 ~~subsection H and that establishes its qualification for the deduction.~~

1 ~~C. The tax imposed on the restaurant classification pursuant to this~~  
2 ~~section does not apply to the gross proceeds of sales or gross income from~~  
3 ~~tangible personal property sold to a commercial airline consisting of food,~~  
4 ~~beverages and condiments and accessories used for serving the food and~~  
5 ~~beverages, if those items are to be provided without additional charge to~~  
6 ~~passengers for consumption in flight. For the purposes of this subsection,~~  
7 ~~"commercial airline" means a person holding a federal certificate of public~~  
8 ~~convenience and necessity or foreign air carrier permit for air~~  
9 ~~transportation to transport persons, property or United States mail in~~  
10 ~~intrastate, interstate or foreign commerce.~~

11 ~~D.~~ C. The department shall separately account for revenues collected  
12 under the restaurant classification for purposes of section 42-5029,  
13 subsection D, paragraph 4, subdivision (b).

14 ~~E.~~ D. For THE purposes of section 42-5032.01, the department shall  
15 separately account for revenues collected under the restaurant classification  
16 from businesses operating restaurants, dining rooms, lunchrooms, lunch  
17 stands, soda fountains, catering services or similar establishments:

18 1. On the premises of a multipurpose facility that is owned or  
19 operated by the tourism and sports authority pursuant to title 5, chapter 8  
20 for consumption on or off the premises.

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

24 Sec. 15. Section 42-5075, Arizona Revised Statutes, is amended to  
25 read:

26 42-5075. Prime contracting classification: definitions

27 A. The prime contracting classification is comprised of the business  
28 of prime contracting and dealership of manufactured buildings. The sale of a  
29 used manufactured building is not taxable under this chapter.

30 B. The tax base for the prime contracting classification is sixty-five  
31 per cent of the gross proceeds of sales or gross income derived from the  
32 business. ~~The following amounts shall be deducted from the gross proceeds of~~  
33 ~~sales or gross income before computing the tax base:~~

34 ~~1. The sales price of land, which shall not exceed the fair market~~  
35 ~~value.~~

36 ~~2. Sales and installation of groundwater measuring devices required~~  
37 ~~under section 45-604 and groundwater monitoring wells required by law,~~  
38 ~~including monitoring wells installed for acquiring information for a permit~~  
39 ~~required by law.~~

40 ~~3. The sales price of furniture, furnishings, fixtures, appliances,~~  
41 ~~and attachments that are not incorporated as component parts of or attached~~  
42 ~~to a manufactured building or the setup site. The sale of such items may be~~  
43 ~~subject to the taxes imposed by article 1 of this chapter separately and~~  
44 ~~distinctly from the sale of the manufactured building.~~

1           ~~4. The gross proceeds of sales or gross income received from a~~  
2 ~~contract entered into for the construction, alteration, repair, addition,~~  
3 ~~subtraction, improvement, movement, wrecking or demolition of any building,~~  
4 ~~highway, road, railroad, excavation, manufactured building or other~~  
5 ~~structure, project, development or improvement located in a military reuse~~  
6 ~~zone for providing aviation or aerospace services or for a manufacturer,~~  
7 ~~assembler or fabricator of aviation or aerospace products within an active~~  
8 ~~military reuse zone after the zone is initially established or renewed under~~  
9 ~~section 41-1531. To be eligible to qualify for this deduction, before~~  
10 ~~beginning work under the contract, the prime contractor must have applied for~~  
11 ~~a letter of qualification from the department of revenue.~~

12           ~~5. The gross proceeds of sales or gross income derived from a contract~~  
13 ~~to construct a qualified environmental technology manufacturing, producing or~~  
14 ~~processing facility, as described in section 41-1514.02, and from subsequent~~  
15 ~~construction and installation contracts that begin within ten years after the~~  
16 ~~start of initial construction. To qualify for this deduction, before~~  
17 ~~beginning work under the contract the prime contractor must obtain a letter~~  
18 ~~of qualification from the department of revenue. This paragraph shall apply~~  
19 ~~for ten full consecutive calendar or fiscal years after the start of initial~~  
20 ~~construction.~~

21           ~~6. The gross proceeds of sales or gross income from a contract to~~  
22 ~~provide for one or more of the following actions, or a contract for site~~  
23 ~~preparation, constructing, furnishing or installing machinery, equipment or~~  
24 ~~other tangible personal property, including structures necessary to protect~~  
25 ~~exempt incorporated materials or installed machinery or equipment, and~~  
26 ~~tangible personal property incorporated into the project, to perform one or~~  
27 ~~more of the following actions in response to a release or suspected release~~  
28 ~~of a hazardous substance, pollutant or contaminant from a facility to the~~  
29 ~~environment, unless the release was authorized by a permit issued by a~~  
30 ~~governmental authority:~~

31           ~~(a) Actions to monitor, assess and evaluate such a release or a~~  
32 ~~suspected release.~~

33           ~~(b) Excavation, removal and transportation of contaminated soil and~~  
34 ~~its treatment or disposal.~~

35           ~~(c) Treatment of contaminated soil by vapor extraction, chemical or~~  
36 ~~physical stabilization, soil washing or biological treatment to reduce the~~  
37 ~~concentration, toxicity or mobility of a contaminant.~~

38           ~~(d) Pumping and treatment or in situ treatment of contaminated~~  
39 ~~groundwater or surface water to reduce the concentration or toxicity of a~~  
40 ~~contaminant.~~

41           ~~(e) The installation of structures, such as cutoff walls or caps, to~~  
42 ~~contain contaminants present in groundwater or soil and prevent them from~~  
43 ~~reaching a location where they could threaten human health or welfare or the~~  
44 ~~environment.~~

1 ~~This paragraph does not include asbestos removal or the construction or use~~  
2 ~~of ancillary structures such as maintenance sheds, offices or storage~~  
3 ~~facilities for unattached equipment, pollution control equipment, facilities~~  
4 ~~or other control items required or to be used by a person to prevent or~~  
5 ~~control contamination before it reaches the environment.~~

6 ~~7. The gross proceeds of sales or gross income that is derived from a~~  
7 ~~contract entered into for the installation, assembly, repair or maintenance~~  
8 ~~of machinery, equipment or other tangible personal property that is deducted~~  
9 ~~from the tax base of the retail classification pursuant to section 42-5061,~~  
10 ~~subsection B, or that is exempt from use tax pursuant to section 42-5159,~~  
11 ~~subsection B, and that does not become a permanent attachment to a building,~~  
12 ~~highway, road, railroad, excavation or manufactured building or other~~  
13 ~~structure, project, development or improvement. If the ownership of the~~  
14 ~~realty is separate from the ownership of the machinery, equipment or tangible~~  
15 ~~personal property, the determination as to permanent attachment shall be made~~  
16 ~~as if the ownership were the same. The deduction provided in this paragraph~~  
17 ~~does not include gross proceeds of sales or gross income from that portion of~~  
18 ~~any contracting activity which consists of the development of, or~~  
19 ~~modification to, real property in order to facilitate the installation,~~  
20 ~~assembly, repair, maintenance or removal of machinery, equipment or other~~  
21 ~~tangible personal property that is deducted from the tax base of the retail~~  
22 ~~classification pursuant to section 42-5061, subsection B or that is exempt~~  
23 ~~from use tax pursuant to section 42-5159, subsection B. For the purposes of~~  
24 ~~this paragraph, "permanent attachment" means at least one of the following:~~

25 ~~(a) To be incorporated into real property.~~

26 ~~(b) To become so affixed to real property that it becomes a part of~~  
27 ~~the real property.~~

28 ~~(c) To be so attached to real property that removal would cause~~  
29 ~~substantial damage to the real property from which it is removed.~~

30 ~~8. The gross proceeds of sales or gross income received from a~~  
31 ~~contract for constructing any lake facility development in a commercial~~  
32 ~~enhancement reuse district that is designated pursuant to section 9-499.08 if~~  
33 ~~the prime contractor maintains the following records in a form satisfactory~~  
34 ~~to the department and to the city or town in which the property is located:~~

35 ~~(a) The certificate of qualification of the lake facility development~~  
36 ~~issued by the city or town pursuant to section 9-499.08, subsection D.~~

37 ~~(b) All state and local transaction privilege tax returns for the~~  
38 ~~period of time during which the prime contractor received gross proceeds of~~  
39 ~~sales or gross income from a contract to construct a lake facility~~  
40 ~~development in a designated commercial enhancement reuse district, showing~~  
41 ~~the amount exempted from state and local taxation.~~

42 ~~(c) Any other information that the department considers to be~~  
43 ~~necessary.~~

1           ~~9. The gross proceeds of sales or gross income attributable to the~~  
2 ~~purchase of machinery, equipment or other tangible personal property that is~~  
3 ~~exempt from or deductible from transaction privilege and use tax under:~~

4           ~~(a) Section 42-5061, subsection A, paragraph 25 or 29.~~

5           ~~(b) Section 42-5061, subsection B.~~

6           ~~(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),~~  
7 ~~(c), (d), (e), (f), (i), (j) or (l).~~

8           ~~(d) Section 42-5159, subsection B.~~

9           ~~10. The gross proceeds of sales or gross income received from a~~  
10 ~~contract for the construction of an environmentally controlled facility for~~  
11 ~~the raising of poultry for the production of eggs and the sorting, cooling~~  
12 ~~and packaging of eggs.~~

13           ~~11. The gross proceeds of sales or gross income that is derived from a~~  
14 ~~contract entered into with a person who is engaged in the commercial~~  
15 ~~production of livestock, livestock products or agricultural, horticultural,~~  
16 ~~viticultural or floricultural crops or products in this state for the~~  
17 ~~construction, alteration, repair, improvement, movement, wrecking or~~  
18 ~~demolition or addition to or subtraction from any building, highway, road,~~  
19 ~~excavation, manufactured building or other structure, project, development or~~  
20 ~~improvement used directly and primarily to prevent, monitor, control or~~  
21 ~~reduce air, water or land pollution.~~

22           ~~12. The gross proceeds of sales or gross income that is derived from~~  
23 ~~the installation, assembly, repair or maintenance of clean rooms that are~~  
24 ~~deducted from the tax base of the retail classification pursuant to section~~  
25 ~~42-5061, subsection B, paragraph 17.~~

26           ~~13. For taxable periods beginning from and after June 30, 2001, the~~  
27 ~~gross proceeds of sales or gross income derived from a contract entered into~~  
28 ~~for the construction of a residential apartment housing facility that~~  
29 ~~qualifies for a federal housing subsidy for low income persons over sixty two~~  
30 ~~years of age and that is owned by a nonprofit charitable organization that~~  
31 ~~has qualified under section 501(c)(3) of the internal revenue code.~~

32           ~~14. For taxable periods beginning from and after December 31, 1996 and~~  
33 ~~ending before January 1, 2011, the gross proceeds of sales or gross income~~  
34 ~~derived from a contract to provide and install a solar energy device. The~~  
35 ~~deduction shall not exceed five thousand dollars for each contract. Before~~  
36 ~~deducting any amount under this paragraph, the contractor shall register with~~  
37 ~~the department as a solar energy contractor. By registering, the contractor~~  
38 ~~acknowledges that it will make its books and records relating to sales of~~  
39 ~~solar energy devices available to the department for examination.~~

40           ~~15. The gross proceeds of sales or gross income derived from a contract~~  
41 ~~entered into for the construction of a launch site, as defined in 14 Code of~~  
42 ~~Federal Regulations section 401.5.~~

43           ~~16. The gross proceeds of sales or gross income derived from a contract~~  
44 ~~entered into for the construction of a domestic violence shelter that is~~

1 ~~owned and operated by a nonprofit charitable organization that has qualified~~  
2 ~~under section 501(c)(3) of the internal revenue code.~~

3 ~~17. The gross proceeds of sales or gross income derived from contracts~~  
4 ~~to perform postconstruction treatment of real property for termite and~~  
5 ~~general pest control, including wood destroying organisms.~~

6 ~~18. The gross proceeds of sales or gross income received from contracts~~  
7 ~~entered into before July 1, 2006 for constructing a state university research~~  
8 ~~infrastructure project if the project has been reviewed by the joint~~  
9 ~~committee on capital review before the university enters into the~~  
10 ~~construction contract for the project. For the purposes of this paragraph,~~  
11 ~~"research infrastructure" has the same meaning prescribed in section 15-1670.~~

12 ~~19. The gross proceeds of sales or gross income received from a~~  
13 ~~contract for the construction of any building, or other structure, project,~~  
14 ~~development or improvement owned by a qualified business under section~~  
15 ~~41-1516 for harvesting or the initial processing of qualifying forest~~  
16 ~~products removed from qualifying projects as defined in section 41-1516 if~~  
17 ~~actual construction begins before January 1, 2010. To qualify for this~~  
18 ~~deduction, the prime contractor must obtain a letter of qualification from~~  
19 ~~the department of commerce before beginning work under the contract.~~

20 ~~20. The gross proceeds of sales or gross income received from a~~  
21 ~~contract for the construction of any building or other structure associated~~  
22 ~~with motion picture production in this state. To qualify for the deduction,~~  
23 ~~at the time the contract is entered into the motion picture production~~  
24 ~~company must present to the prime contractor its certificate that is issued~~  
25 ~~pursuant to section 42-5009, subsection H and that establishes its~~  
26 ~~qualification for the deduction.~~

27 ~~C. Entitlement to the deduction pursuant to subsection B, paragraph 7~~  
28 ~~of this section is subject to the following provisions:~~

29 ~~1. A prime contractor may establish entitlement to the deduction by~~  
30 ~~both:~~

31 ~~(a) Marking the invoice for the transaction to indicate that the gross~~  
32 ~~proceeds of sales or gross income derived from the transaction was deducted~~  
33 ~~from the base.~~

34 ~~(b) Obtaining a certificate executed by the purchaser indicating the~~  
35 ~~name and address of the purchaser, the precise nature of the business of the~~  
36 ~~purchaser, the purpose for which the purchase was made, the necessary facts~~  
37 ~~to establish the deductibility of the property under section 42-5061,~~  
38 ~~subsection B, and a certification that the person executing the certificate~~  
39 ~~is authorized to do so on behalf of the purchaser. The certificate may be~~  
40 ~~disregarded if the prime contractor has reason to believe that the~~  
41 ~~information contained in the certificate is not accurate or complete.~~

42 ~~2. A person who does not comply with paragraph 1 of this subsection~~  
43 ~~may establish entitlement to the deduction by presenting facts necessary to~~  
44 ~~support the entitlement, but the burden of proof is on that person.~~

1           ~~3. The department may prescribe a form for the certificate described~~  
2 ~~in paragraph 1, subdivision (b) of this subsection. The department may also~~  
3 ~~adopt rules that describe the transactions with respect to which a person is~~  
4 ~~not entitled to rely solely on the information contained in the certificate~~  
5 ~~provided in paragraph 1, subdivision (b) of this subsection but must instead~~  
6 ~~obtain such additional information as required in order to be entitled to the~~  
7 ~~deduction.~~

8           ~~4. If a prime contractor is entitled to a deduction by complying with~~  
9 ~~paragraph 1 of this subsection, the department may require the purchaser who~~  
10 ~~caused the execution of the certificate to establish the accuracy and~~  
11 ~~completeness of the information required to be contained in the certificate~~  
12 ~~which would entitle the prime contractor to the deduction. If the purchaser~~  
13 ~~cannot establish the accuracy and completeness of the information, the~~  
14 ~~purchaser is liable in an amount equal to any tax, penalty and interest which~~  
15 ~~the prime contractor would have been required to pay under article 1 of this~~  
16 ~~chapter if the prime contractor had not complied with paragraph 1 of this~~  
17 ~~subsection. Payment of the amount under this paragraph exempts the purchaser~~  
18 ~~from liability for any tax imposed under article 4 of this chapter. The~~  
19 ~~amount shall be treated as a transaction privilege tax to the purchaser and~~  
20 ~~as tax revenues collected from the prime contractor in order to designate the~~  
21 ~~distribution base for purposes of section 42-5029.~~

22           ~~D. Subcontractors or others who perform services in respect to any~~  
23 ~~improvement, building, highway, road, railroad, excavation, manufactured~~  
24 ~~building or other structure, project, development or improvement are not~~  
25 ~~subject to tax if they can demonstrate that the job was within the control of~~  
26 ~~a prime contractor or contractors or a dealership of manufactured buildings~~  
27 ~~and that the prime contractor or dealership is liable for the tax on the~~  
28 ~~gross income, gross proceeds of sales or gross receipts attributable to the~~  
29 ~~job and from which the subcontractors or others were paid.~~

30           ~~E. Amounts received by a contractor for a project are excluded from~~  
31 ~~the contractor's gross proceeds of sales or gross income derived from the~~  
32 ~~business if the person who hired the contractor executes and provides a~~  
33 ~~certificate to the contractor stating that the person providing the~~  
34 ~~certificate is a prime contractor and is liable for the tax under article 1~~  
35 ~~of this chapter. The department shall prescribe the form of the certificate.~~  
36 ~~If the contractor has reason to believe that the information contained on the~~  
37 ~~certificate is erroneous or incomplete, the department may disregard the~~  
38 ~~certificate. If the person who provides the certificate is not liable for~~  
39 ~~the tax as a prime contractor, that person is nevertheless deemed to be the~~  
40 ~~prime contractor in lieu of the contractor and is subject to the tax under~~  
41 ~~this section on the gross receipts or gross proceeds received by the~~  
42 ~~contractor.~~

43           ~~F. C.~~ Every person engaging or continuing in this state in the  
44 business of prime contracting or dealership of manufactured buildings shall  
45 present to the purchaser of such prime contracting or manufactured building a

1 written receipt of the gross income or gross proceeds of sales from such  
2 activity and shall separately state the taxes to be paid pursuant to this  
3 section.

4 ~~G.~~ D. For the purposes of section 42-5032.01, the department shall  
5 separately account for revenues collected under the prime contracting  
6 classification from any prime contractor engaged in the preparation or  
7 construction of a multipurpose facility, and related infrastructure, that is  
8 owned, operated or leased by the tourism and sports authority pursuant to  
9 title 5, chapter 8.

10 ~~H. The gross proceeds of sales or gross income derived from a contract  
11 for lawn maintenance services are not subject to tax under this section if  
12 the contract does not include landscaping activities. Lawn maintenance  
13 service is a service pursuant to section 42-5061, subsection A, paragraph 1,  
14 and includes lawn mowing and edging, weeding, repairing sprinkler heads or  
15 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,  
16 lawn de-thatching, seeding winter lawns, leaf and debris collection and  
17 removal, tree or shrub pruning or clipping, garden and gravel raking and  
18 applying pesticides, as defined in section 3-361, and fertilizer materials,  
19 as defined in section 3-262.~~

20 ~~I. The gross proceeds of sales or gross income derived from  
21 landscaping activities are subject to tax under this section. Landscaping  
22 includes installing lawns, grading or leveling ground, installing gravel or  
23 boulders, planting trees and other plants, felling trees, removing or  
24 mulching tree stumps, removing other imbedded plants, building or modifying  
25 irrigation berms, repairing sprinkler or watering systems, installing  
26 railroad ties and installing underground sprinkler or watering systems.~~

27 ~~J. The portion of gross proceeds of sales or gross income attributable  
28 to the actual direct costs of providing architectural or engineering services  
29 that are incorporated in a contract is not subject to tax under this  
30 section. For the purposes of this subsection, "direct costs" means the  
31 portion of the actual costs that are directly expended in providing  
32 architectural or engineering services.~~

33 ~~K.~~ E. For the purposes of this section:

34 1. "Contracting" means engaging in business as a contractor.

35 2. "Contractor" is synonymous with the term "builder" and means any  
36 person, firm, partnership, corporation, association or other organization, or  
37 a combination of any of them, that undertakes to or offers to undertake to,  
38 or purports to have the capacity to undertake to, or submits a bid to, or  
39 does personally or by or through others, construct, alter, repair, add to,  
40 subtract from, improve, move, wreck or demolish any building, highway, road,  
41 railroad, excavation, manufactured building or other structure, project,  
42 development or improvement, or to do any part of such a project, including  
43 the erection of scaffolding or other structure or works in connection with  
44 such a project, and includes subcontractors and specialty contractors. For  
45 all purposes of taxation or deduction, this definition shall govern without

1 regard to whether or not such contractor is acting in fulfillment of a  
2 contract.

3 3. "Dealership of manufactured buildings" means a dealer who either:  
4 (a) Is licensed pursuant to title 41, chapter 16 and who sells at  
5 retail manufactured buildings.

6 (b) Supervises, performs or coordinates the excavation and completion  
7 of site improvements, setup or moving of a manufactured building including  
8 the contracting, if any, with any subcontractor or specialty contractor for  
9 the completion of the contract.

10 4. "Manufactured building" means a manufactured home, mobile home or  
11 factory-built building, as defined in section 41-2142.

12 5. "Prime contracting" means engaging in business as a prime  
13 contractor.

14 6. "Prime contractor" means a contractor who supervises, performs or  
15 coordinates the construction, alteration, repair, addition, subtraction,  
16 improvement, movement, wreckage or demolition of any building, highway, road,  
17 railroad, excavation, manufactured building or other structure, project,  
18 development or improvement including the contracting, if any, with any  
19 subcontractors or specialty contractors and who is responsible for the  
20 completion of the contract.

21 7. "Sale of a used manufactured building" does not include a lease of  
22 a used manufactured building.

23 Sec. 16. Section 42-5077, Arizona Revised Statutes, is amended to  
24 read:

25 42-5077. Membership camping classification

26 A. The membership camping classification is comprised of the business  
27 of marketing and operating private membership campgrounds, including  
28 operating camping or outdoor recreational facilities, amenities or camping  
29 sites that are intended for use by members who purchase the right or license  
30 to use them, or the facilities or amenities of an affiliated campground, for  
31 a period of at least one year. ~~Membership camping does not include operating  
32 camping or recreational trailer parks that are open to the general public and  
33 that contain camping sites that are rented for a fee per use or a mobile home  
34 park.~~

35 B. The tax base for the membership camping classification is the  
36 portion of the gross proceeds of sales or gross income of the business that  
37 is derived from periodic operating assessments, dues or charges or fees based  
38 on usage and collected from the owners of membership contracts purchased for  
39 membership campgrounds in this state. If a taxpayer operates private  
40 membership campgrounds located both in and out of this state, to the extent  
41 that the membership contracts entitle the members without additional charge  
42 to use the membership campgrounds both in and out of this state, the tax base  
43 is that portion of the gross proceeds of sales or gross income that is  
44 derived from the business that constitutes periodic operating assessments or

1 dues collected only from those owners of membership contracts whose primary  
2 residence is in this state.

3 Sec. 17. Section 42-5102, Arizona Revised Statutes, is amended to  
4 read:

5 42-5102. Tax exemption for sales of food; exception

6 ~~A.~~ Except for the gross proceeds of sales or gross income from the  
7 sale of food for consumption on the premises, the taxes imposed by this  
8 chapter do not apply to the gross proceeds of sales or gross income from  
9 sales of food by ~~any of the following:~~

10 ~~1.~~ a retailer who conducts an eligible grocery business.

11 ~~2.~~ ~~A retailer who conducts a business whose primary business is not~~  
12 ~~the sale of food but who sells food which is displayed, packaged and sold in~~  
13 ~~a similar manner as an eligible grocery business.~~

14 ~~3.~~ ~~A retailer who sells food and does not provide or make available~~  
15 ~~any facilities for the consumption of food on the premises.~~

16 ~~4.~~ ~~A retailer who conducts a delicatessen business either from a~~  
17 ~~counter which is separate from the place and cash register where taxable~~  
18 ~~sales are made or from a counter which has two cash registers which are used~~  
19 ~~to record taxable and tax exempt sales or a retailer who conducts a~~  
20 ~~delicatessen business and who uses a cash register which has at least two tax~~  
21 ~~computing keys which are used to record taxable and tax exempt sales.~~

22 ~~5.~~ ~~A retailer who is a street or sidewalk vendor and who uses a~~  
23 ~~pusheart, mobile facility, motor vehicle or other such conveyance.~~

24 ~~6.~~ ~~Vending machines and other types of automatic retailers.~~

25 ~~B.~~ ~~The taxes imposed by this chapter do not apply to the gross~~  
26 ~~proceeds of sales or gross income from sales of food by a state university or~~  
27 ~~community college or its designee on its campuses to students using a~~  
28 ~~validated meal ticket or to patients purchasing or consuming food at the~~  
29 ~~Arizona health sciences center.~~

30 ~~C.~~ ~~The taxes imposed by this chapter do not apply to the gross~~  
31 ~~proceeds of sales or gross income from sales of food by a retailer to:~~

32 ~~1.~~ ~~A regularly organized private or parochial school that offers an~~  
33 ~~educational program for grade twelve or under which may be attended in~~  
34 ~~substitution for a public school pursuant to section 15-802.~~

35 ~~2.~~ ~~A child care facility that is licensed under section 36-882 or a~~  
36 ~~child care group home certified under section 36-897.01.~~

37 ~~3.~~ ~~A facility which provides on a regular basis care and supervision~~  
38 ~~of persons who, because of age or a mental or physical condition, are~~  
39 ~~incapable of caring for themselves and where they are unaccompanied by their~~  
40 ~~custodians or guardians for periods of less than twenty-four hours a day.~~

41 ~~4.~~ ~~An organization which is tax exempt under section 501(c)(3) of the~~  
42 ~~internal revenue code and which provides the articles to persons with a~~  
43 ~~nominal charge or without a monetary charge.~~

44 ~~5.~~ ~~A prison, jail or other institution under the jurisdiction of the~~  
45 ~~state department of corrections, the department of public safety, the~~

1 ~~department of juvenile corrections or a county sheriff for consumption on the~~  
2 ~~premises.~~

3 Sec. 18. Section 42-5159, Arizona Revised Statutes, is amended to  
4 read:

5 42-5159. Exemptions

6 ~~A.~~ The tax levied by this article does not apply to the storage, use  
7 or consumption in this state of the following described tangible personal  
8 property:

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

12 ~~2. Tangible personal property the sale or use of which has already~~  
13 ~~been subjected to an excise tax at a rate equal to or exceeding the tax~~  
14 ~~imposed by this article under the laws of another state of the United States.~~  
15 ~~If the excise tax imposed by the other state is at a rate less than the tax~~  
16 ~~imposed by this article, the tax imposed by this article is reduced by the~~  
17 ~~amount of the tax already imposed by the other state.~~

18 ~~3. Tangible personal property, the storage, use or consumption of~~  
19 ~~which the constitution or laws of the United States prohibit this state from~~  
20 ~~taxing or to the extent that the rate or imposition of tax is~~  
21 ~~unconstitutional under the laws of the United States.~~

22 ~~4. Tangible personal property which directly enters into and becomes~~  
23 ~~an ingredient or component part of any manufactured, fabricated or processed~~  
24 ~~article, substance or commodity for sale in the regular course of business.~~

25 ~~5. Motor vehicle fuel and use fuel, the sales, distribution or use of~~  
26 ~~which in this state is subject to the tax imposed under title 28, chapter 16,~~  
27 ~~article 1, use fuel which is sold to or used by a person holding a valid~~  
28 ~~single trip use fuel tax permit issued under section 28 5739, aviation fuel,~~  
29 ~~the sales, distribution or use of which in this state is subject to the tax~~  
30 ~~imposed under section 28 8344, and jet fuel, the sales, distribution or use~~  
31 ~~of which in this state is subject to the tax imposed under article 8 of this~~  
32 ~~chapter.~~

33 ~~6. Tangible personal property brought into this state by an individual~~  
34 ~~who was a nonresident at the time the property was purchased for storage, use~~  
35 ~~or consumption by the individual if the first actual use or consumption of~~  
36 ~~the property was outside this state, unless the property is used in~~  
37 ~~conducting a business in this state.~~

38 ~~7. Purchases of implants used as growth promotants and injectable~~  
39 ~~medicines, not already exempt under paragraph 16 of this subsection, for~~  
40 ~~livestock and poultry owned by, or in possession of, persons who are engaged~~  
41 ~~in producing livestock, poultry, or livestock or poultry products, or who are~~  
42 ~~engaged in feeding livestock or poultry commercially. For the purposes of~~  
43 ~~this paragraph, "poultry" includes ratites.~~

44 ~~8. Livestock, poultry, supplies, feed, salts, vitamins and other~~  
45 ~~additives for use or consumption in the businesses of farming, ranching and~~

1 ~~feeding livestock or poultry, not including fertilizers, herbicides and~~  
2 ~~insecticides. For the purposes of this paragraph, "poultry" includes~~  
3 ~~ratites.~~

4 ~~9. Seeds, seedlings, roots, bulbs, cuttings and other propagative~~  
5 ~~material for use in commercially producing agricultural, horticultural,~~  
6 ~~viticultural or floricultural crops in this state.~~

7 ~~10. Tangible personal property not exceeding two hundred dollars in any~~  
8 ~~one month purchased by an individual at retail outside the continental limits~~  
9 ~~of the United States for the individual's own personal use and enjoyment.~~

10 ~~11. Advertising supplements which are intended for sale with newspapers~~  
11 ~~published in this state and which have already been subjected to an excise~~  
12 ~~tax under the laws of another state in the United States which equals or~~  
13 ~~exceeds the tax imposed by this article.~~

14 ~~12. Materials that are purchased by or for publicly funded libraries~~  
15 ~~including school district libraries, charter school libraries, community~~  
16 ~~college libraries, state university libraries or federal, state, county or~~  
17 ~~municipal libraries for use by the public as follows:~~

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

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

20 ~~13. Tangible personal property purchased by:~~

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

24 ~~(b) A hospital operated by this state or a political subdivision of~~  
25 ~~this state.~~

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

31 ~~(d) A qualifying health care organization, as defined in section~~  
32 ~~42-5001, if the tangible personal property is used by the organization solely~~  
33 ~~to provide health and medical related educational and charitable services.~~

34 ~~(e) A qualifying health care organization as defined in section~~  
35 ~~42-5001 if the organization is dedicated to providing educational,~~  
36 ~~therapeutic, rehabilitative and family medical education training for blind,~~  
37 ~~visually impaired and multihandicapped children from the time of birth to age~~  
38 ~~twenty-one.~~

39 ~~(f) A nonprofit charitable organization that has qualified under~~  
40 ~~section 501(c)(3) of the United States internal revenue code and that engages~~  
41 ~~in and uses such property exclusively in programs for mentally or physically~~  
42 ~~handicapped persons if the programs are exclusively for training, job~~  
43 ~~placement, rehabilitation or testing.~~

44 ~~(g) A person that is subject to tax under article 1 of this chapter by~~  
45 ~~reason of being engaged in business classified under the prime contracting~~

1 ~~classification under section 42-5075, or a subcontractor working under the~~  
2 ~~control of a prime contractor, if the tangible personal property is any of~~  
3 ~~the following:~~

4 ~~(i) Incorporated or fabricated by the contractor into a structure,~~  
5 ~~project, development or improvement in fulfillment of a contract.~~

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

8 ~~(iii) Incorporated or fabricated by the person into any lake facility~~  
9 ~~development in a commercial enhancement reuse district under conditions~~  
10 ~~prescribed for the deduction allowed by section 42-5075, subsection B,~~  
11 ~~paragraph 8.~~

12 ~~(h) A nonprofit charitable organization that has qualified under~~  
13 ~~section 501(c)(3) of the internal revenue code if the property is purchased~~  
14 ~~from the parent or an affiliate organization that is located outside this~~  
15 ~~state.~~

16 ~~(i) A qualifying community health center as defined in section~~  
17 ~~42-5001.~~

18 ~~(j) A nonprofit charitable organization that has qualified under~~  
19 ~~section 501(c)(3) of the internal revenue code and that regularly serves~~  
20 ~~meals to the needy and indigent on a continuing basis at no cost.~~

21 ~~(k) A person engaged in business under the transient lodging~~  
22 ~~classification if the property is a personal hygiene item or articles used by~~  
23 ~~human beings for food, drink or condiment, except alcoholic beverages, which~~  
24 ~~are furnished without additional charge to and intended to be consumed by the~~  
25 ~~transient during the transient's occupancy.~~

26 ~~(l) For taxable periods beginning from and after June 30, 2001, a~~  
27 ~~nonprofit charitable organization that has qualified under section 501(c)(3)~~  
28 ~~of the internal revenue code and that provides residential apartment housing~~  
29 ~~for low income persons over sixty two years of age in a facility that~~  
30 ~~qualifies for a federal housing subsidy, if the tangible personal property is~~  
31 ~~used by the organization solely to provide residential apartment housing for~~  
32 ~~low income persons over sixty two years of age in a facility that qualifies~~  
33 ~~for a federal housing subsidy.~~

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

39 ~~15. Tangible personal property sold by:~~

40 ~~(a) Any nonprofit organization organized and operated exclusively for~~  
41 ~~charitable purposes and recognized by the United States internal revenue~~  
42 ~~service under section 501(c)(3) of the internal revenue code.~~

43 ~~(b) A nonprofit organization that is exempt from taxation under~~  
44 ~~section 501(c)(3) or 501(c)(6) of the internal revenue code if the~~  
45 ~~organization is associated with a major league baseball team or a national~~

1 ~~touring professional golfing association and no part of the organization's~~  
2 ~~net earnings inures to the benefit of any private shareholder or individual.~~

3 ~~(c) A nonprofit organization that is exempt from taxation under~~  
4 ~~section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the~~  
5 ~~internal revenue code if the organization sponsors or operates a rodeo~~  
6 ~~featuring primarily farm and ranch animals and no part of the organization's~~  
7 ~~net earnings inures to the benefit of any private shareholder or individual.~~

8 ~~16.~~ 1. Drugs and medical oxygen, including delivery hose, mask or tent,  
9 regulator and tank, on the prescription of a member of the medical, dental or  
10 veterinarian profession who is licensed by law to administer such substances.

11 ~~17.~~ 2. Prosthetic appliances, as defined in section 23-501, prescribed  
12 or recommended by a person who is licensed, registered or otherwise  
13 professionally credentialed as a physician, dentist, podiatrist,  
14 chiropractor, naturopath, homeopath, nurse or optometrist.

15 ~~18.~~ 3. Prescription eyeglasses and contact lenses.

16 ~~19.~~ 4. Insulin, insulin syringes and glucose test strips.

17 ~~20.~~ 5. Hearing aids as defined in section 36-1901.

18 ~~21.~~ 6. Durable medical equipment which has a centers for medicare and  
19 medicaid services common procedure code, is designated reimbursable by  
20 medicare, is prescribed by a person who is licensed under title 32, chapter  
21 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
22 used to serve a medical purpose, is generally not useful to a person in the  
23 absence of illness or injury and is appropriate for use in the home.

24 ~~22.~~ 7. Food, as provided in and subject to the conditions of article 3  
25 of this chapter and section 42-5074.

26 ~~23.— Items purchased with United States department of agriculture food~~  
27 ~~stamp coupons issued under the food stamp act of 1977 (P.L. 95 113; 91 Stat.~~  
28 ~~958) or food instruments issued under section 17 of the child nutrition act~~  
29 ~~(P.L. 95 627; 92 Stat. 3603; P.L. 99 661, section 4302; 42 United States Code~~  
30 ~~section 1786).~~

31 ~~24.— Food and drink provided without monetary charge by a taxpayer which~~  
32 ~~is subject to section 42-5074 to its employees for their own consumption on~~  
33 ~~the premises during the employees' hours of employment.~~

34 ~~25.— Tangible personal property that is used or consumed in a business~~  
35 ~~subject to section 42-5074 for human food, drink or condiment, whether~~  
36 ~~simple, mixed or compounded.~~

37 ~~26.— Food, drink or condiment and accessory tangible personal property~~  
38 ~~if they are to be prepared and served to persons for consumption on the~~  
39 ~~premises of a public school in a school district during school hours.~~

40 ~~27.— Lottery tickets or shares purchased pursuant to title 5, chapter 5,~~  
41 ~~article 1.~~

42 ~~28.— Textbooks, sold by a bookstore, that are required by any state~~  
43 ~~university or community college.~~

44 ~~29.— Magazines, other periodicals or other publications produced by this~~  
45 ~~state to encourage tourist travel.~~

1           ~~30. Paper machine clothing, such as forming fabrics and dryer felts,~~  
2 ~~purchased by a paper manufacturer and directly used or consumed in paper~~  
3 ~~manufacturing.~~

4           ~~31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity~~  
5 ~~purchased by a qualified environmental technology manufacturer, producer or~~  
6 ~~processor as defined in section 41 1514.02 and directly used or consumed in~~  
7 ~~the generation or provision of on site power or energy solely for~~  
8 ~~environmental technology manufacturing, producing or processing or~~  
9 ~~environmental protection. This paragraph shall apply for fifteen full~~  
10 ~~consecutive calendar or fiscal years from the date the first paper~~  
11 ~~manufacturing machine is placed in service. In the case of an environmental~~  
12 ~~technology manufacturer, producer or processor who does not manufacture~~  
13 ~~paper, the time period shall begin with the date the first manufacturing,~~  
14 ~~processing or production equipment is placed in service.~~

15           ~~32. Motor vehicles that are removed from inventory by a motor vehicle~~  
16 ~~dealer as defined in section 28 4301 and that are provided to:~~

17           ~~(a) Charitable or educational institutions that are exempt from~~  
18 ~~taxation under section 501(c)(3) of the internal revenue code.~~

19           ~~(b) Public educational institutions.~~

20           ~~(c) State universities or affiliated organizations of a state~~  
21 ~~university if no part of the organization's net earnings inures to the~~  
22 ~~benefit of any private shareholder or individual.~~

23           ~~33. Natural gas or liquefied petroleum gas used to propel a motor~~  
24 ~~vehicle.~~

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

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

43           ~~36. Food, drink and condiment purchased for consumption within the~~  
44 ~~premises of any prison, jail or other institution under the jurisdiction of~~

1 ~~the state department of corrections, the department of public safety, the~~  
2 ~~department of juvenile corrections or a county sheriff.~~

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

7 ~~38. Tangible personal property which is or directly enters into and~~  
8 ~~becomes an ingredient or component part of cards used as prescription plan~~  
9 ~~identification cards.~~

10 ~~39. Overhead materials or other tangible personal property that is used~~  
11 ~~in performing a contract between the United States government and a~~  
12 ~~manufacturer, modifier, assembler or repairer, including property used in~~  
13 ~~performing a subcontract with a government contractor who is a manufacturer,~~  
14 ~~modifier, assembler or repairer, to which title passes to the government~~  
15 ~~under the terms of the contract or subcontract. For the purposes of this~~  
16 ~~paragraph:~~

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

24 ~~(b) "Subcontract" means an agreement between a contractor and any~~  
25 ~~person who is not an employee of the contractor for furnishing of supplies or~~  
26 ~~services that, in whole or in part, are necessary to the performance of one~~  
27 ~~or more government contracts, or under which any portion of the contractor's~~  
28 ~~obligation under one or more government contracts is performed, undertaken or~~  
29 ~~assumed, and that includes provisions causing title to overhead materials or~~  
30 ~~other tangible personal property used in the performance of the subcontract~~  
31 ~~to pass to the government or that includes provisions incorporating such~~  
32 ~~title passing clauses in a government contract into the subcontract.~~

33 ~~40. Through December 31, 1994, tangible personal property sold pursuant~~  
34 ~~to a personal property liquidation transaction, as defined in section~~  
35 ~~42-5061. From and after December 31, 1994, tangible personal property sold~~  
36 ~~pursuant to a personal property liquidation transaction, as defined in~~  
37 ~~section 42-5061, if the gross proceeds of the sales were included in the~~  
38 ~~measure of the tax imposed by article 1 of this chapter or if the personal~~  
39 ~~property liquidation was a casual activity or transaction.~~

40 ~~41. Wireless telecommunications equipment that is held for sale or~~  
41 ~~transfer to a customer as an inducement to enter into or continue a contract~~  
42 ~~for telecommunications services that are taxable under section 42-5064.~~

43 ~~42. Alternative fuel, as defined in section 1-215, purchased by a used~~  
44 ~~oil fuel burner who has received a permit to burn used oil or used oil fuel~~  
45 ~~under section 49-426 or 49-480.~~

1           ~~43. Tangible personal property purchased by a commercial airline and~~  
2 ~~consisting of food, beverages and condiments and accessories used for serving~~  
3 ~~the food and beverages, if those items are to be provided without additional~~  
4 ~~charge to passengers for consumption in flight. For the purposes of this~~  
5 ~~paragraph, "commercial airline" means a person holding a federal certificate~~  
6 ~~of public convenience and necessity or foreign air carrier permit for air~~  
7 ~~transportation to transport persons, property or United States mail in~~  
8 ~~intrastate, interstate or foreign commerce.~~

9           ~~44. Alternative fuel vehicles if the vehicle was manufactured as a~~  
10 ~~diesel fuel vehicle and converted to operate on alternative fuel and~~  
11 ~~equipment that is installed in a conventional diesel fuel motor vehicle to~~  
12 ~~convert the vehicle to operate on an alternative fuel, as defined in section~~  
13 ~~1-215.~~

14           ~~45. Gas diverted from a pipeline, by a person engaged in the business~~  
15 ~~of operating a natural or artificial gas pipeline, and used or consumed for~~  
16 ~~the sole purpose of fueling compressor equipment that pressurizes the~~  
17 ~~pipeline.~~

18           ~~46. Tangible personal property that is excluded, exempt or deductible~~  
19 ~~from transaction privilege tax pursuant to section 42-5063.~~

20           ~~47. Tangible personal property purchased to be incorporated or~~  
21 ~~installed as part of environmental response or remediation activities under~~  
22 ~~section 42-5075, subsection B, paragraph 6.~~

23           ~~48. Tangible personal property sold by a nonprofit organization that is~~  
24 ~~exempt from taxation under section 501(c)(6) of the internal revenue code if~~  
25 ~~the organization produces, organizes or promotes cultural or civic related~~  
26 ~~festivals or events and no part of the organization's net earnings inures to~~  
27 ~~the benefit of any private shareholder or individual.~~

28           ~~B. In addition to the exemptions allowed by subsection A of this~~  
29 ~~section, the following categories of tangible personal property are also~~  
30 ~~exempt:~~

31           ~~1. Machinery, or equipment, used directly in manufacturing,~~  
32 ~~processing, fabricating, job printing, refining or metallurgical operations.~~  
33 ~~The terms "manufacturing", "processing", "fabricating", "job printing",~~  
34 ~~"refining" and "metallurgical" as used in this paragraph refer to and include~~  
35 ~~those operations commonly understood within their ordinary meaning.~~  
36 ~~"Metallurgical operations" includes leaching, milling, precipitating,~~  
37 ~~smelting and refining.~~

38           ~~2. Machinery, or equipment, used directly in the process of extracting~~  
39 ~~ores or minerals from the earth for commercial purposes, including equipment~~  
40 ~~required to prepare the materials for extraction and handling, loading or~~  
41 ~~transporting such extracted material to the surface. "Mining" includes~~  
42 ~~underground, surface and open pit operations for extracting ores and~~  
43 ~~minerals.~~

44           ~~3. Tangible personal property sold to persons engaged in business~~  
45 ~~classified under the telecommunications classification under section 42-5064~~

1 ~~and consisting of central office switching equipment, switchboards, private~~  
2 ~~branch exchange equipment, microwave radio equipment and carrier equipment~~  
3 ~~including optical fiber, coaxial cable and other transmission media which are~~  
4 ~~components of carrier systems.~~

5 ~~4. Machinery, equipment or transmission lines used directly in~~  
6 ~~producing or transmitting electrical power, but not including distribution.~~  
7 ~~Transformers and control equipment used at transmission substation sites~~  
8 ~~constitute equipment used in producing or transmitting electrical power.~~

9 ~~5. Neat animals, horses, asses, sheep, ratites, swine or goats used or~~  
10 ~~to be used as breeding or production stock, including sales of breedings or~~  
11 ~~ownership shares in such animals used for breeding or production.~~

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

16 ~~7. Aircraft, navigational and communication instruments and other~~  
17 ~~accessories and related equipment sold to:~~

18 ~~(a) A person holding a federal certificate of public convenience and~~  
19 ~~necessity, a supplemental air carrier certificate under federal aviation~~  
20 ~~regulations (14 Code of Federal Regulations part 121) or a foreign air~~  
21 ~~carrier permit for air transportation for use as or in conjunction with or~~  
22 ~~becoming a part of aircraft to be used to transport persons, property or~~  
23 ~~United States mail in intrastate, interstate or foreign commerce.~~

24 ~~(b) Any foreign government for use by such government outside of this~~  
25 ~~state, or sold to persons who are not residents of this state and who will~~  
26 ~~not use such property in this state other than in removing such property from~~  
27 ~~this state.~~

28 ~~8. Machinery, tools, equipment and related supplies used or consumed~~  
29 ~~directly in repairing, remodeling or maintaining aircraft, aircraft engines~~  
30 ~~or aircraft component parts by or on behalf of a certificated or licensed~~  
31 ~~carrier of persons or property.~~

32 ~~9. Rolling stock, rails, ties and signal control equipment used~~  
33 ~~directly to transport persons or property.~~

34 ~~10. Machinery or equipment used directly to drill for oil or gas or~~  
35 ~~used directly in the process of extracting oil or gas from the earth for~~  
36 ~~commercial purposes.~~

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

44 ~~12. Groundwater measuring devices required under section 45-604.~~

1           ~~13. New machinery and equipment consisting of tractors, tractor drawn~~  
2 ~~implements, self powered implements, machinery and equipment necessary for~~  
3 ~~extracting milk, and machinery and equipment necessary for cooling milk and~~  
4 ~~livestock, and drip irrigation lines not already exempt under paragraph 6 of~~  
5 ~~this subsection and that are used for commercial production of agricultural,~~  
6 ~~horticultural, viticultural and floricultural crops and products in this~~  
7 ~~state. For the purposes of this paragraph:~~

8           ~~(a) "New machinery and equipment" means machinery or equipment which~~  
9 ~~has never been sold at retail except pursuant to leases or rentals which do~~  
10 ~~not total two years or more.~~

11           ~~(b) "Self-powered implements" includes machinery and equipment that~~  
12 ~~are electric-powered.~~

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

25           ~~15. Machinery and equipment that are purchased by or on behalf of the~~  
26 ~~owners of a soundstage complex and primarily used for motion picture,~~  
27 ~~multimedia or interactive video production in the complex. This paragraph~~  
28 ~~applies only if the initial construction of the soundstage complex begins~~  
29 ~~after June 30, 1996 and before January 1, 2002 and the machinery and~~  
30 ~~equipment are purchased before the expiration of five years after the start~~  
31 ~~of initial construction. For the purposes of this paragraph:~~

32           ~~(a) "Motion picture, multimedia or interactive video production"~~  
33 ~~includes products for theatrical and television release, educational~~  
34 ~~presentations, electronic retailing, documentaries, music videos, industrial~~  
35 ~~films, CD-ROM, video game production, commercial advertising and television~~  
36 ~~episode production and other genres that are introduced through developing~~  
37 ~~technology.~~

38           ~~(b) "Soundstage complex" means a facility of multiple stages including~~  
39 ~~production offices, construction shops and related areas, prop and costume~~  
40 ~~shops, storage areas, parking for production vehicles and areas that are~~  
41 ~~leased to businesses that complement the production needs and orientation of~~  
42 ~~the overall facility.~~

43           ~~16. Tangible personal property that is used by either of the following~~  
44 ~~to receive, store, convert, produce, generate, decode, encode, control or~~  
45 ~~transmit telecommunications information:~~

1           ~~(a) Any direct broadcast satellite television or data transmission~~  
2 ~~service that operates pursuant to 47 Code of Federal Regulations parts 25 and~~  
3 ~~100.~~

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

6           ~~(i) Over two thirds of the transmissions, measured in megabytes,~~  
7 ~~transmitted by the facility during the test period were transmitted to or on~~  
8 ~~behalf of one or more direct broadcast satellite television or data~~  
9 ~~transmission services that operate pursuant to 47 Code of Federal Regulations~~  
10 ~~parts 25 and 100.~~

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

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

20           ~~17. Clean rooms that are used for manufacturing, processing,~~  
21 ~~fabrication or research and development, as defined in paragraph 14 of this~~  
22 ~~subsection, of semiconductor products. For the purposes of this paragraph,~~  
23 ~~"clean room" means all property that comprises or creates an environment~~  
24 ~~where humidity, temperature, particulate matter and contamination are~~  
25 ~~precisely controlled within specified parameters, without regard to whether~~  
26 ~~the property is actually contained within that environment or whether any of~~  
27 ~~the property is affixed to or incorporated 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 reduce~~  
30 ~~contamination or to control airflow, temperature, humidity, chemical purity~~  
31 ~~or other environmental conditions or manufacturing tolerances, as well as the~~  
32 ~~production machinery and equipment operating in conjunction with the clean~~  
33 ~~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           ~~18. Machinery and equipment that are used directly in the feeding of~~  
37 ~~poultry, the environmental control of housing for poultry, the movement of~~  
38 ~~eggs within a production and packaging facility or the sorting or cooling of~~  
39 ~~eggs. This exemption does not apply to vehicles used for transporting eggs.~~

40           ~~19. Machinery or equipment, including related structural components,~~  
41 ~~that is employed in connection with manufacturing, processing, fabricating,~~  
42 ~~job printing, refining, mining, natural gas pipelines, metallurgical~~  
43 ~~operations, telecommunications, producing or transmitting electricity or~~  
44 ~~research and development and that is used directly to meet or exceed rules or~~  
45 ~~regulations adopted by the federal energy regulatory commission, the United~~

1 ~~States environmental protection agency, the United States nuclear regulatory~~  
2 ~~commission, the Arizona department of environmental quality or a political~~  
3 ~~subdivision of this state to prevent, monitor, control or reduce land, water~~  
4 ~~or air pollution.~~

5 ~~20. Machinery and equipment that are used in the commercial production~~  
6 ~~of livestock, livestock products or agricultural, horticultural, viticultural~~  
7 ~~or floricultural crops or products in this state and that are used directly~~  
8 ~~and primarily to prevent, monitor, control or reduce air, water or land~~  
9 ~~pollution.~~

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

17 ~~(a) Repair or replacement parts purchased for the machinery or~~  
18 ~~equipment described in this paragraph.~~

19 ~~(b) Machinery or equipment purchased to replace machinery or equipment~~  
20 ~~for which an exemption was previously claimed and taken under this paragraph.~~

21 ~~(c) Any machinery or equipment purchased after the television station~~  
22 ~~has ceased analog broadcasting, or purchased after November 1, 2009,~~  
23 ~~whichever occurs first.~~

24 ~~22. Qualifying equipment that is purchased from and after June 30, 2004~~  
25 ~~through June 30, 2014 by a qualified business under section 41-1516 for~~  
26 ~~harvesting or the initial processing of qualifying forest products removed~~  
27 ~~from qualifying projects as defined in section 41-1516. To qualify for this~~  
28 ~~exemption, the qualified business must obtain and present its certification~~  
29 ~~from the department of commerce at the time of purchase.~~

30 ~~23. Machinery, equipment and other tangible personal property used~~  
31 ~~directly in motion picture production by a motion picture production~~  
32 ~~company. To qualify for this deduction, at the time of purchase, the motion~~  
33 ~~picture production company must present to the retailer its certificate that~~  
34 ~~is issued pursuant to section 42-5009, subsection H and that establishes its~~  
35 ~~qualification for the deduction.~~

36 ~~C. The exemptions provided by subsection B of this section do not~~  
37 ~~include:~~

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

42 ~~2. Janitorial equipment and hand tools.~~

43 ~~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 16 of this section.~~

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

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

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

11           ~~D. The following shall be deducted in computing the purchase price of~~  
12 ~~electricity by a retail electric customer from a utility business:~~

13           ~~1. Revenues received from sales of ancillary services, electric~~  
14 ~~distribution services, electric generation services, electric transmission~~  
15 ~~services and other services related to providing electricity to a retail~~  
16 ~~electric customer who is located outside this state for use outside this~~  
17 ~~state if the electricity is delivered to a point of sale outside this state.~~

18           ~~2. Revenues received from providing electricity, including ancillary~~  
19 ~~services, electric distribution services, electric generation services,~~  
20 ~~electric transmission services and other services related to providing~~  
21 ~~electricity with respect to which the transaction privilege tax imposed under~~  
22 ~~section 42-5063 has been paid.~~

23           ~~E. The tax levied by this article does not apply to:~~

24           ~~1. The storage, use or consumption in Arizona of machinery, equipment,~~  
25 ~~materials or other tangible personal property if used directly and~~  
26 ~~predominantly to construct a qualified environmental technology~~  
27 ~~manufacturing, producing or processing facility, as described in section~~  
28 ~~41-1514.02. This paragraph applies for ten full consecutive calendar or~~  
29 ~~fiscal years after the start of initial construction.~~

30           ~~2. The purchase of electricity by a qualified environmental technology~~  
31 ~~manufacturer, producer or processor as defined in section 41-1514.02 that is~~  
32 ~~used directly in environmental technology manufacturing, producing or~~  
33 ~~processing. This paragraph shall apply for fifteen full consecutive calendar~~  
34 ~~or fiscal years from the date the first paper manufacturing machine is placed~~  
35 ~~in service. In the case of an environmental technology manufacturer,~~  
36 ~~producer or processor who does not manufacture paper, the time period shall~~  
37 ~~begin with the date the first manufacturing, processing or production~~  
38 ~~equipment is placed in service.~~

39           ~~F. The following shall be deducted in computing the purchase price of~~  
40 ~~electricity by a retail electric customer from a utility business:~~

41           ~~1. Fees charged by a municipally owned utility to persons constructing~~  
42 ~~residential, commercial or industrial developments or connecting residential,~~  
43 ~~commercial or industrial developments to a municipal utility system or~~  
44 ~~systems if the fees are segregated and used only for capital expansion,~~  
45 ~~system enlargement or debt service of the utility system or systems.~~

1           ~~2. Reimbursement or contribution compensation to any person or persons~~  
2 ~~owning a utility system for property and equipment installed to provide~~  
3 ~~utility access to, on or across the land of an actual utility consumer if the~~  
4 ~~property and equipment become the property of the utility. This deduction~~  
5 ~~shall not exceed the value of such property and equipment.~~

6           ~~G. For the purposes of subsection B of this section:~~

7           ~~1. "Aircraft" includes:~~

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

11           ~~(b) Tangible personal property that is permanently affixed or attached~~  
12 ~~as a component part of an aircraft that is owned or operated by a~~  
13 ~~certificated or licensed carrier of persons or property.~~

14           ~~2. "Other accessories and related equipment" includes aircraft~~  
15 ~~accessories and equipment such as ground service equipment that physically~~  
16 ~~contact aircraft at some point during the overall carrier operation.~~

17           ~~H. For the purposes of subsection D of this section, "ancillary~~  
18 ~~services", "electric distribution service", "electric generation service",~~  
19 ~~"electric transmission service" and "other services" have the same meanings~~  
20 ~~prescribed in section 42-5063.~~

21           Sec. 19. Requirements for enactment; two-thirds vote

22           Pursuant to article IX, section 22, Constitution of Arizona, this act  
23 is effective only on the affirmative vote of at least two-thirds of the  
24 members of each house of the legislature and is effective immediately on the  
25 signature of the governor or, if the governor vetoes this act, on the  
26 subsequent affirmative vote of at least three-fourths of the members of each  
27 house of the legislature.

28           Sec. 20. Conforming legislation

29           The legislative council staff shall prepare proposed legislation  
30 conforming the Arizona Revised Statutes to the provisions of this act for  
31 consideration in the forty-eighth legislature, first regular session.