

REFERENCE TITLE: sales and use tax holiday.

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2177

Introduced by
Representatives Miranda: Rios P, Tom

AN ACT

AMENDING SECTIONS 42-1253, 42-1254, 42-5001, 42-5029, 42-5061, 42-5151, 42-5159 AND 42-6004, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-5015, 42-5032.02 AND 42-5032.03; RELATING TO TRANSACTION PRIVILEGE AND USE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-1253, Arizona Revised Statutes, is amended to
3 read:
4 42-1253. Appeal to state board of tax appeals; definition
5 A. Except as provided in section 42-1254, subsection C, a person
6 aggrieved by a final decision or order of the department under section
7 42-1251, article 3 of this chapter or section 42-2065, 42-2068, 42-2069,
8 42-2074, 42-2201, ~~or~~ 42-2202, 42-5032.02 OR 42-5032.03 may appeal to the
9 state board of tax appeals by filing a notice of appeal in writing within
10 thirty days after the decision or order from which the appeal is taken has
11 become final.
12 B. The board shall take testimony and examine documentary evidence as
13 necessary to determine the appeal, all pursuant to administrative rules to
14 govern such appeals.
15 C. On determining the appeal the board shall issue a decision
16 consistent with its determination. The board's decision is final on the
17 expiration of thirty days from the date when notice of its action is received
18 by the taxpayer, unless either the department or the taxpayer brings an
19 action in tax court as provided in section 42-1254.
20 D. If the amount in any single dispute before the board is less than
21 twenty-five thousand dollars, a taxpayer may be represented in that dispute
22 before the board by:
23 1. A certified public accountant.
24 2. A person who is enrolled to practice before the United States
25 internal revenue service and WHO is recognized as an enrolled agent.
26 3. Any other person who is authorized by the taxpayer under a properly
27 executed power of attorney and who was previously or is currently retained by
28 the taxpayer for purposes other than representation in a hearing before the
29 board.
30 E. If a practitioner who represents a CITY, TOWN OR taxpayer before
31 the board pursuant to subsection D of this section fails to comply with an
32 order or rule of the board, the board may impose sanctions including one or
33 both of the following:
34 1. Order that the stipulation of the facts proposed by the department
35 of revenue be accepted.
36 2. Suspend the practitioner from further practice before the board
37 either for a specific period of time or until the board removes the
38 suspension.
39 F. For the purposes of this section, "practitioner" means a person,
40 other than a party, who files documents with or appears before the board in
41 connection with a matter before the board.
42 Sec. 2. Section 42-1254, Arizona Revised Statutes, is amended to read:
43 42-1254. Appeal to tax court
44 A. The department or a CITY, TOWN OR taxpayer aggrieved by a decision
45 of the state board of tax appeals may bring an action in tax court.

1 B. If the department is aggrieved by a decision of the board and the
2 amount in dispute is less than five thousand dollars, the department may not
3 bring an action in tax court unless the department determines that the
4 decision of the board involves an issue of substantial significance to the
5 state. A taxpayer aggrieved by a determination of the department that an
6 issue is of substantial significance to the state may file a motion with the
7 tax court to dismiss the action brought by the department on the grounds that
8 the determination constitutes an abuse of discretion.

9 C. Except in the case of individual income tax cases in which the
10 amount in dispute is less than five thousand dollars, a person who is
11 aggrieved by a final decision or order of the department under section
12 42-1251, 42-5032.02 OR 42-5032.03 or article 3 of this chapter ~~may~~, in lieu
13 of appealing to the state board of tax appeals under section 42-1253, MAY
14 bring an action in tax court by filing a notice of appeal in writing within
15 thirty days after the decision or order from which the appeal is taken has
16 become final.

17 D. Any appeal that is taken to tax court pursuant to this section is
18 subject to the following provisions:

19 1. No injunction, writ of mandamus or other legal or equitable process
20 may issue in an action in any court in this state against an officer of this
21 state to prevent or enjoin the collection of any tax, penalty or interest.

22 2. The action shall not begin more than thirty days after the order or
23 decision of the board or department becomes final. Failure to bring the
24 action within thirty days after the order or decision of the board or
25 department becomes final constitutes a waiver of the protest and a waiver of
26 all claims against this state arising from or based on the illegality in the
27 tax, penalties and interest at issue, except that within the time limits set
28 forth in section 42-1106, a taxpayer who fails to bring an action within
29 thirty days may pay the tax under protest stating the grounds of objection to
30 the legality of the tax and then file a claim for refund of the taxes
31 paid. The refund claim shall then be governed by section 42-1119 and this
32 section.

33 3. The tax court shall hear and determine the appeal as a trial de
34 novo.

35 4. Either party to such action may appeal to the court of appeals or
36 supreme court as provided by law.

37 5. If a final judgment is rendered in favor of the taxpayer in the
38 action, the amount or such portion of the judgment as may be necessary shall
39 first be credited to any taxes, penalties and interest due from the plaintiff
40 taxpayer, and the amount of the balance remaining due the taxpayer shall be
41 certified by the department of revenue to the department of administration,
42 with a certified copy of the final judgment and a claim for refund
43 authenticated by the department of revenue. On receipt, the department of
44 administration shall draw a warrant payable to the taxpayer in an amount
45 equal to the amount of the tax found by the judgment to be illegal, less the

1 amount of any taxes, penalties and interest due from the taxpayer. The
2 department of administration shall draw a separate warrant payable to the
3 taxpayer in an amount equal to the interest and other costs recovered against
4 the department of revenue by the judgment, which shall be paid from the
5 appropriate tax account.

6 Sec. 3. Section 42-5001, Arizona Revised Statutes, is amended to read:
7 42-5001. Definitions

8 In this article and article 2 of this chapter, unless the context
9 otherwise requires:

10 1. "Business" includes all activities or acts, personal or corporate,
11 engaged in or caused to be engaged in with the object of gain, benefit or
12 advantage, either directly or indirectly, but not casual activities or sales.

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

17 3. "Engaging", when used with reference to engaging or continuing in
18 business, includes the exercise of corporate or franchise powers.

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

23 5. "Gross proceeds of sales" means the value proceeding or accruing
24 from the sale of tangible personal property without any deduction on account
25 of the cost of property sold, expense of any kind or losses, but cash
26 discounts allowed and taken on sales are not included as gross income.

27 6. "Gross income" and "gross proceeds of sales" do not include goods,
28 wares or merchandise, or value thereof, returned by customers if the sale
29 price is refunded either in cash or by credit, nor the value of merchandise
30 traded in on the purchase of new merchandise when the trade-in allowance is
31 deducted from the sales price of the new merchandise before completion of the
32 sale.

33 7. "Gross receipts" means the total amount of the sale, lease or
34 rental price, as the case may be, of the retail sales of retailers, including
35 any services that are a part of the sales, valued in money, whether received
36 in money or otherwise, including all receipts, cash, credits and property of
37 every kind or nature, and any amount for which credit is allowed by the
38 seller to the purchaser without any deduction from the amount on account of
39 the cost of the property sold, materials used, labor or service performed,
40 interest paid, losses or any other expense. Gross receipts do not include
41 cash discounts allowed and taken nor the sale price of property returned by
42 customers if the full sale price is refunded either in cash or by credit.

43 8. "Person" or "company" includes an individual, firm, partnership,
44 joint venture, association, corporation, estate or trust, this state, any
45 county, city, town, district, other than a school district, or other

1 political subdivision and any other group or combination acting as a unit,
2 and the plural as well as the singular number.

3 9. "Qualifying community health center":

4 (a) Means an entity that is recognized as nonprofit under section
5 501(c)(3) of the United States internal revenue code, that is a
6 community-based, primary care clinic that has a community-based board of
7 directors and that is either:

8 (i) The sole provider of primary care in the community.

9 (ii) A nonhospital affiliated clinic that is located in a federally
10 designated medically underserved area in this state.

11 (b) Includes clinics that are being constructed as qualifying
12 community health centers.

13 10. "Qualifying health care organization" means an entity that is
14 recognized as nonprofit under section 501(c) of the United States internal
15 revenue code and that uses, saves or invests at least eighty per cent of all
16 monies that it receives from all sources each year only for health and
17 medical related educational and charitable services, as documented by annual
18 financial audits prepared by an independent certified public accountant,
19 performed according to generally accepted accounting standards and filed
20 annually with the department. Monies that are used, saved or invested to
21 lease, purchase or construct a facility for health and medical related
22 education and charitable services are included in the eighty per cent
23 requirement.

24 11. "Qualifying hospital" means any of the following:

25 (a) A licensed hospital which is organized and operated exclusively
26 for charitable purposes, no part of the net earnings of which inures to the
27 benefit of any private shareholder or individual.

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

33 (c) A hospital, nursing care institution or residential care
34 institution which is operated by the federal government, this state or a
35 political subdivision of this state.

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

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

1 making sales on their own behalf or on behalf of the dealers, distributors,
2 supervisors or employers.

3 13. "Sale" means any transfer of title or possession, or both,
4 exchange, barter, lease or rental, conditional or otherwise, in any manner or
5 by any means whatever, including consignment transactions and auctions, of
6 tangible personal property or other activities taxable under this chapter,
7 for a consideration, and includes:

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

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

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

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

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

29 16. "Tangible personal property" means personal property which may be
30 seen, weighed, measured, felt or touched or is in any other manner
31 perceptible to the senses.

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

35 18. "Taxpayer" means any person who is liable for any tax which is
36 imposed by this article.

37 19. "TRANSACTION PRIVILEGE AND USE TAX HOLIDAY" MEANS THE PERIOD
38 BEGINNING AT 12:01 A.M. ON THE FIRST FRIDAY IN AUGUST AND ENDING AT MIDNIGHT
39 ON THE FOLLOWING SUNDAY EACH YEAR.

40 ~~19.~~ 20. "Wholesaler" or "jobber" means any person who sells tangible
41 personal property for resale and not for consumption by the purchaser.

1 Sec. 4. Section 42-5029, Arizona Revised Statutes, is amended to read:
2 42-5029. Remission and distribution of monies; definition
3 A. The department shall deposit, pursuant to sections 35-146 and
4 35-147, all revenues collected under this article and articles 4, 5 and 8 of
5 this chapter pursuant to section 42-1116, separately accounting for:
6 1. Payments of estimated tax under section 42-5014, subsection D.
7 2. Revenues collected pursuant to section 42-5070.
8 3. Revenues collected under this article and article 5 of this chapter
9 from and after June 30, 2000 from sources located on Indian reservations in
10 this state.
11 4. Revenues collected pursuant to section 42-5010, subsection G and
12 section 42-5155, subsection D.
13 B. The department shall credit payments of estimated tax to an
14 estimated tax clearing account and each month shall transfer all monies in
15 the estimated tax clearing account to a fund designated as the transaction
16 privilege and severance tax clearing account. The department shall credit
17 all other payments to the transaction privilege and severance tax clearing
18 account, separately accounting for the monies designated as distribution base
19 under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the
20 department shall report to the state treasurer the amount of monies collected
21 pursuant to this article and articles 4, 5 and 8 of this chapter.
22 C. On notification by the department, the state treasurer shall
23 distribute the monies deposited in the transaction privilege and severance
24 tax clearing account in the manner prescribed by this section and by sections
25 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the
26 account pursuant to sections 42-1118 and 42-1254.
27 D. Of the monies designated as distribution base the department shall:
28 1. Pay twenty-five per cent to the various incorporated municipalities
29 in this state in proportion to their population to be used by the
30 municipalities for any municipal purpose.
31 2. Pay 38.08 per cent to the counties in this state by averaging the
32 following proportions:
33 (a) The proportion that the population of each county bears to the
34 total state population.
35 (b) The proportion that the distribution base monies collected during
36 the calendar month in each county under this article, section 42-5164,
37 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
38 total distribution base monies collected under this article, section 42-5164,
39 subsection B, section 42-5205, subsection B and section 42-5353 throughout
40 the state for the calendar month.
41 3. Pay an additional 2.43 per cent to the counties in this state as
42 follows:
43 (a) Average the following proportions:
44 (i) The proportion that the assessed valuation used to determine
45 secondary property taxes of each county, after deducting that part of the

1 assessed valuation that is exempt from taxation at the beginning of the month
2 for which the amount is to be paid, bears to the total assessed valuations
3 used to determine secondary property taxes of all the counties after
4 deducting that portion of the assessed valuations that is exempt from
5 taxation at the beginning of the month for which the amount is to be paid.
6 Property of a city or town that is not within or contiguous to the municipal
7 corporate boundaries and from which water is or may be withdrawn or diverted
8 and transported for use on other property is considered to be taxable
9 property in the county for purposes of determining assessed valuation in the
10 county under this item.

11 (ii) The proportion that the distribution base monies collected during
12 the calendar month in each county under this article, section 42-5164,
13 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
14 total distribution base monies collected under this article, section 42-5164,
15 subsection B, section 42-5205, subsection B and section 42-5353 throughout
16 the state for the calendar month.

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

27 4. After any distributions required by sections 42-5030, 42-5030.01,
28 42-5031, 42-5032, ~~and~~ 42-5032.01, 42-5032.02 AND 42-5032.03, and after
29 making any transfer to the water quality assurance revolving fund as required
30 by section 49-282, subsection B, credit the remainder of the monies
31 designated as distribution base to the state general fund. From this amount:

32 (a) The legislature shall annually appropriate to:

33 (i) The department of revenue sufficient monies to administer and
34 enforce this article and articles 5 and 8 of this chapter.

35 (ii) The department of economic security monies to be used for the
36 purposes stated in title 46, chapter 1.

37 (iii) The firearms safety and ranges fund established by section
38 17-273, fifty thousand dollars derived from the taxes collected from the
39 retail classification pursuant to section 42-5061 for the current fiscal
40 year.

41 (b) The state treasurer shall transfer to the tourism fund an amount
42 equal to the sum of the following:

43 (i) Three and one-half per cent of the gross revenues derived from the
44 transient lodging classification pursuant to section 42-5070 during the
45 preceding fiscal year.

1 (ii) Three per cent of the gross revenues derived from the amusement
2 classification pursuant to section 42-5073 during the preceding fiscal year.

3 (iii) Two per cent of the gross revenues derived from the restaurant
4 classification pursuant to section 42-5074 during the preceding fiscal year.

5 E. If approved by the qualified electors voting at a statewide general
6 election, all monies collected pursuant to section 42-5010, subsection G and
7 section 42-5155, subsection D shall be distributed each fiscal year pursuant
8 to this subsection. The monies distributed pursuant to this subsection are
9 in addition to any other appropriation, transfer or other allocation of
10 public or private monies from any other source and shall not supplant,
11 replace or cause a reduction in other school district, charter school,
12 university or community college funding sources. The monies shall be
13 distributed as follows:

14 1. If there are outstanding state school facilities revenue bonds
15 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
16 amount that is necessary to pay the fiscal year's debt service on outstanding
17 state school improvement revenue bonds for the current fiscal year shall be
18 transferred each month to the school improvement revenue bond debt service
19 fund established by section 15-2084. The total amount of bonds for which
20 these monies may be allocated for the payment of debt service shall not
21 exceed a principal amount of eight hundred million dollars exclusive of
22 refunding bonds and other refinancing obligations.

23 2. After any transfer of monies pursuant to paragraph 1 of this
24 subsection, twelve per cent of the remaining monies collected during the
25 preceding month shall be transferred to the technology and research
26 initiative fund established by section 15-1648 to be distributed among the
27 universities for the purpose of investment in technology and research-based
28 initiatives.

29 3. After the transfer of monies pursuant to paragraph 1 of this
30 subsection, three per cent of the remaining monies collected during the
31 preceding month shall be transferred to the workforce development account
32 established in each community college district pursuant to section 15-1472
33 for the purpose of investment in workforce development programs.

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

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

- 6 (a) In fiscal year 2001-2002, \$15,305,900.
- 7 (b) In fiscal year 2002-2003, \$31,530,100.
- 8 (c) In fiscal year 2003-2004, \$48,727,700.
- 9 (d) In fiscal year 2004-2005, \$66,957,200.
- 10 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
11 \$86,280,500.

12 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
13 subsection, seven million eight hundred thousand dollars is appropriated each
14 fiscal year, to be paid in monthly installments, to the department of
15 education to be used for school safety as provided in section 15-154 and two
16 hundred thousand dollars is appropriated each fiscal year, to be paid in
17 monthly installments to the department of education to be used for the
18 character education matching grant program as provided in section 15-154.01.

19 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
20 subsection, no more than seven million dollars may be appropriated by the
21 legislature each fiscal year to the department of education to be used for
22 accountability purposes as described in section 15-241 and title 15, chapter
23 9, article 8.

24 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
25 subsection, one million five hundred thousand dollars is appropriated each
26 fiscal year, to be paid in monthly installments, to the failing schools
27 tutoring fund established by section 15-241.

28 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
29 subsection, twenty-five million dollars shall be transferred each fiscal year
30 to the state general fund to reimburse the general fund for the cost of the
31 income tax credit allowed by section 43-1072.01.

32 10. After the payment of monies pursuant to paragraphs 1 through 9 of
33 this subsection, the remaining monies collected during the preceding month
34 shall be transferred to the classroom site fund established by section
35 15-977. The monies shall be allocated as follows in the manner prescribed by
36 section 15-977:

- 37 (a) Forty per cent shall be allocated for teacher compensation based
38 on performance.
- 39 (b) Twenty per cent shall be allocated for increases in teacher base
40 compensation and employee related expenses.
- 41 (c) Forty per cent shall be allocated for maintenance and operation
42 purposes.

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

1 G. Notwithstanding subsection D of this section, if a court of
 2 competent jurisdiction finally determines that tax monies distributed under
 3 this section were illegally collected under this article or articles 5 and 8
 4 of this chapter and orders the monies to be refunded to the taxpayer, the
 5 department shall compute the amount of such monies that was distributed to
 6 each city, town and county under this section. The department shall notify
 7 the state treasurer of that amount plus the proportionate share of additional
 8 allocated costs required to be paid to the taxpayer. Each city's, town's and
 9 county's proportionate share of the costs shall be based on the amount of the
 10 original tax payment each municipality and county received. Each month the
 11 state treasurer shall reduce the amount otherwise distributable to the city,
 12 town and county under this section by one thirty-sixth of the total amount to
 13 be recovered from the city, town or county until the total amount has been
 14 recovered, but the monthly reduction for any city, town or county shall not
 15 exceed ten per cent of the full monthly distribution to that entity. The
 16 reduction shall begin for the first calendar month after the final
 17 disposition of the case and shall continue until the total amount, including
 18 interest and costs, has been recovered.

19 H. On receiving a certificate of default from the greater Arizona
 20 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the
 21 extent not otherwise expressly prohibited by law, the state treasurer shall
 22 withhold from the next succeeding distribution of monies pursuant to this
 23 section due to the defaulting political subdivision the amount specified in
 24 the certificate of default and immediately deposit the amount withheld in the
 25 greater Arizona development authority revolving fund. The state treasurer
 26 shall continue to withhold and deposit the monies until the greater Arizona
 27 development authority certifies to the state treasurer that the default has
 28 been cured. In no event may the state treasurer withhold any amount that the
 29 defaulting political subdivision certifies to the state treasurer and the
 30 authority as being necessary to make any required deposits then due for the
 31 payment of principal and interest on bonds of the political subdivision that
 32 were issued before the date of the loan repayment agreement or bonds and that
 33 have been secured by a pledge of distributions made pursuant to this section.

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

39 J. For the purposes of this section, "community college district"
 40 means a community college district that is established pursuant to sections
 41 15-1402 and 15-1403 and that is a political subdivision of this state.

1 Sec. 5. Title 42, chapter 5, article 1, Arizona Revised Statutes, is
2 amended by adding sections 42-5015, 42-5032.02 and 42-5032.03, to read:

3 42-5015. Retailers required to participate in transaction
4 privilege and use tax holiday; records requirements

5 A. NOTWITHSTANDING ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, DURING
6 A TRANSACTION PRIVILEGE AND USE TAX HOLIDAY, A RETAILER IN THIS STATE OR A
7 RETAILER OUTSIDE THIS STATE MAKING SALES INTO THIS STATE SHALL NOT ADD TO THE
8 SALES PRICE OR COLLECT FROM ANY PURCHASER AN AMOUNT TO COVER OR DESIGNATED AS
9 EXCISE TAX OR USE TAX ON SALES AT RETAIL OF THE TYPES OF TANGIBLE PERSONAL
10 PROPERTY AS DESCRIBED IN SECTION 42-5061, SUBSECTION A, PARAGRAPH 54 AND
11 SECTION 42-5159, SUBSECTION A, PARAGRAPH 50. ANY AMOUNTS ERRONEOUSLY OR
12 IMPROPERLY COLLECTED AS TRANSACTION PRIVILEGE TAX OR USE TAX DURING A
13 TRANSACTION PRIVILEGE AND USE TAX HOLIDAY MUST BE REMITTED TO THE DEPARTMENT.

14 B. THE REPORTING REQUIREMENTS FOR RETAILERS OF TANGIBLE PERSONAL
15 PROPERTY BY LAW OR BY ADMINISTRATIVE RULE, INCLUDING THE REQUIREMENTS FOR
16 FILING RETURNS PURSUANT TO SECTIONS 42-5014 AND 42-5162, REMAIN IN EFFECT
17 WITH RESPECT TO SALES DURING TRANSACTION PRIVILEGE AND USE TAX HOLIDAYS.
18 RETAILERS MUST MAINTAIN ACCURATE, VERIFIABLE AND COMPLETE RECORDS OF ALL
19 PURCHASES AND SALES OF TANGIBLE PERSONAL PROPERTY IN ORDER TO VERIFY
20 EXEMPTIONS FROM TAXES IMPOSED BY THIS CHAPTER. A RETAILER MAY USE ANY METHOD
21 OF RECORDING THAT PROPERLY REFLECTS ALL PURCHASES AND SALES OF ITEMS THAT
22 QUALIFY FOR DEDUCTIONS AND EXEMPTIONS FROM THE COMPUTATION OF TAXES IMPOSED
23 BY THIS CHAPTER, AS WELL AS PURCHASES AND SALES OF ITEMS SUBJECT TO TAXES
24 IMPOSED BY THIS CHAPTER, IF THE RECORDS ARE MAINTAINED ACCORDING TO RULES
25 ADOPTED BY THE DEPARTMENT.

26 42-5032.02. Distribution of transaction privilege and use tax
27 holiday revenue to program cities and towns

28 A. ON OR BEFORE DECEMBER 31 OF EACH YEAR IN WHICH A TRANSACTION
29 PRIVILEGE AND USE TAX HOLIDAY OCCURS, THE STATE TREASURER SHALL PAY FROM THE
30 AMOUNT DESIGNATED AS DISTRIBUTION BASE PURSUANT TO SECTION 42-5029,
31 SUBSECTION D THE AMOUNT DETERMINED UNDER SUBSECTION B OF THIS SECTION TO THE
32 CITIES AND TOWNS THAT HAVE ENTERED INTO AN AGREEMENT PURSUANT TO SECTION
33 42-6001.

34 B. THE DEPARTMENT SHALL DETERMINE THE AMOUNTS PAYABLE UNDER THIS
35 SECTION AND NOTIFY EACH CITY OR TOWN BY CERTIFIED MAIL OF THE AMOUNT
36 PAYABLE. THE AMOUNT TO BE PAID IS THE AMOUNT OF MUNICIPAL PRIVILEGE AND USE
37 TAXES THAT OTHERWISE WOULD HAVE BEEN COLLECTED, EXCEPT FOR THE TRANSACTION
38 PRIVILEGE AND USE TAX HOLIDAY PURSUANT TO SECTION 42-6004, SUBSECTION A,
39 PARAGRAPH 11 DURING THE CURRENT CALENDAR YEAR, BY EACH CITY AND TOWN THAT HAS
40 ENTERED INTO AN AGREEMENT PURSUANT TO SECTION 42-6001. THE CITY OR TOWN MUST
41 SUPPLY ALL INFORMATION REQUESTED BY THE DEPARTMENT THAT IS NECESSARY TO
42 ADMINISTER THIS SECTION.

43 C. IF WITHIN FOUR YEARS AFTER A TRANSACTION PRIVILEGE AND USE TAX
44 HOLIDAY THE DEPARTMENT DETERMINES THE AMOUNT DETERMINED AND PAID UNDER
45 SUBSECTION B OF THIS SECTION WITH RESPECT TO THAT PERIOD WAS INCORRECT:

1 CERTIFIED MAIL, INCLUDING THE REASONS FOR DENIAL AND SETTING FORTH THE
2 ACCEPTED AMOUNT OF THE CLAIM.

3 E. IF THE DEPARTMENT ACCEPTS ALL OR PART OF A CLAIM BEFORE AN AUDIT,
4 THE DEPARTMENT MAY LATER AUDIT THE CITY OR TOWN WITHIN FOUR YEARS AFTER THE
5 TRANSACTION PRIVILEGE AND USE TAX HOLIDAY. IF THE DEPARTMENT CONDUCTS AN
6 AUDIT, THE DEPARTMENT MUST ISSUE AND MAIL TO THE CITY OR TOWN BY CERTIFIED
7 MAIL A DETERMINATION OF THE AUDIT. THE DETERMINATION MAY FIND THAT THE CLAIM
8 WAS APPROPRIATE, THAT AN ADDITIONAL AMOUNT IS OWED TO THE CITY OR TOWN OR
9 THAT THE CITY'S OR TOWN'S CLAIM SHOULD BE REDUCED.

10 F. IF WITHIN FOUR YEARS AFTER A TRANSACTION PRIVILEGE AND USE TAX
11 HOLIDAY THE DEPARTMENT DETERMINES THE AMOUNT DETERMINED AND PAID UNDER THIS
12 SECTION WITH RESPECT TO THAT PERIOD WAS INCORRECT:

13 1. DISTRIBUTIONS THAT ARE OTHERWISE PAYABLE TO THE CITY OR TOWN UNDER
14 SECTION 42-5029, SUBSECTION C SHALL BE REDUCED BY AN AMOUNT EQUAL TO ANY
15 EXCESS AMOUNT PAID TO THE CITY OR TOWN.

16 2. THE STATE TREASURER SHALL PAY AN ADDITIONAL AMOUNT TO THE CITY OR
17 TOWN EQUAL TO ANY DEFICIENCY.

18 G. A CITY OR TOWN MAY PROTEST A DENIAL OF A CLAIM UNDER SUBSECTION D
19 OF THIS SECTION OR THE AMOUNT DETERMINED UNDER SUBSECTION E OR F OF THIS
20 SECTION BY FILING A PETITION WITH THE DEPARTMENT STATING THE REASONS WHY A
21 HEARING, CORRECTION OR REDETERMINATION SHOULD BE GRANTED AND THE AMOUNT THE
22 CITY OR TOWN BELIEVES SHOULD BE PAID. IF THE CITY OR TOWN FAILS TO FILE A
23 PETITION FOR HEARING, CORRECTION OR REDETERMINATION WITHIN FORTY-FIVE DAYS
24 AFTER RECEIVING THE NOTICE OF DENIAL OR DETERMINATION OF AN AUDIT, THE
25 DETERMINATION OR DENIAL BECOMES FINAL. THE DEPARTMENT SHALL CONSIDER EACH
26 PETITION AND GRANT A HEARING, IF REQUESTED. AN ORDER OR DECISION OF THE
27 DEPARTMENT AFTER CONSIDERING A PETITION FOR A HEARING, CORRECTION OR
28 REDETERMINATION BECOMES FINAL THIRTY DAYS AFTER THE DEPARTMENT NOTIFIES THE
29 PETITIONER, UNLESS THE PETITIONER APPEALS THE ORDER OR DECISION TO THE STATE
30 BOARD OF TAX APPEALS.

31 H. IN THE CASE OF A PROTEST OR AN AUDIT AND THE ISSUANCE OF A
32 DETERMINATION BY THE DEPARTMENT, THE STATE TREASURER SHALL NOT PAY THE CITY'S
33 OR TOWN'S CLAIM UNTIL THIRTY DAYS AFTER THE MATTER IS FINALIZED PURSUANT TO
34 THIS SECTION OR PURSUANT TO APPEAL UNDER CHAPTER 1, ARTICLE 6 OF THIS TITLE.

35 Sec. 6. Section 42-5061, Arizona Revised Statutes, is amended to read:
36 42-5061. Retail classification; definitions

37 A. The retail classification is comprised of the business of selling
38 tangible personal property at retail. The tax base for the retail
39 classification is the gross proceeds of sales or gross income derived from
40 the business. The tax imposed on the retail classification does not apply to
41 the gross proceeds of sales or gross income from:

42 1. Professional or personal service occupations or businesses which
43 involve sales or transfers of tangible personal property only as
44 inconsequential elements.

- 1 2. Services rendered in addition to selling tangible personal property
2 at retail.
- 3 3. Sales of warranty or service contracts. The storage, use or
4 consumption of tangible personal property provided under the conditions of
5 such contracts is subject to tax under section 42-5156.
- 6 4. Sales of tangible personal property by any nonprofit organization
7 organized and operated exclusively for charitable purposes and recognized by
8 the United States internal revenue service under section 501(c)(3) of the
9 internal revenue code.
- 10 5. Sales to persons engaged in business classified under the
11 restaurant classification of articles used by human beings for food, drink or
12 condiment, whether simple, mixed or compounded.
- 13 6. Business activity which is properly included in any other business
14 classification which is taxable under article 1 of this chapter.
- 15 7. The sale of stocks and bonds.
- 16 8. Drugs and medical oxygen, including delivery hose, mask or tent,
17 regulator and tank, on the prescription of a member of the medical, dental or
18 veterinarian profession who is licensed by law to administer such substances.
- 19 9. Prosthetic appliances as defined in section 23-501 prescribed or
20 recommended by a health professional licensed pursuant to title 32, chapter
21 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 22 10. Insulin, insulin syringes and glucose test strips.
- 23 11. Prescription eyeglasses or contact lenses.
- 24 12. Hearing aids as defined in section 36-1901.
- 25 13. Durable medical equipment which has a centers for medicare and
26 medicaid services common procedure code, is designated reimbursable by
27 medicare, is prescribed by a person who is licensed under title 32, chapter
28 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
29 customarily used to serve a medical purpose, is generally not useful to a
30 person in the absence of illness or injury and is appropriate for use in the
31 home.
- 32 14. Sales to nonresidents of this state for use outside this state if
33 the vendor ships or delivers the tangible personal property out of this
34 state.
- 35 15. Food, as provided in and subject to the conditions of article 3 of
36 this chapter and section 42-5074.
- 37 16. Items purchased with United States department of agriculture food
38 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
39 958) or food instruments issued under section 17 of the child nutrition act
40 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
41 section 1786).
- 42 17. Textbooks by any bookstore that are required by any state
43 university or community college.
- 44 18. Food and drink to a person who is engaged in business which is
45 classified under the restaurant classification and which provides such food

1 and drink without monetary charge to its employees for their own consumption
2 on the premises during the employees' hours of employment.

3 19. Articles of food, drink or condiment and accessory tangible
4 personal property to a school district if such articles and accessory
5 tangible personal property are to be prepared and served to persons for
6 consumption on the premises of a public school within the district during
7 school hours.

8 20. Lottery tickets or shares pursuant to title 5, chapter 5,
9 article 1.

10 21. The sale of precious metal bullion and monetized bullion to the
11 ultimate consumer, but the sale of coins or other forms of money for
12 manufacture into jewelry or works of art is subject to the tax. For the
13 purposes of this paragraph:

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

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

21 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
22 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
23 valid single trip use fuel tax permit issued under section 28-5739, sales of
24 aviation fuel which are subject to the tax imposed under section 28-8344 and
25 sales of jet fuel which are subject to the tax imposed under article 8 of
26 this chapter.

27 23. Tangible personal property sold to a person engaged in the business
28 of leasing or renting such property under the personal property rental
29 classification if such property is to be leased or rented by such person.

30 24. Tangible personal property sold in interstate or foreign commerce
31 if prohibited from being so taxed by the Constitution of the United States or
32 the constitution of this state.

33 25. Tangible personal property sold to:

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

35 (b) A qualifying health care organization as defined in section
36 42-5001 if the tangible personal property is used by the organization solely
37 to provide health and medical related educational and charitable services.

38 (c) A qualifying health care organization as defined in section
39 42-5001 if the organization is dedicated to providing educational,
40 therapeutic, rehabilitative and family medical education training for blind,
41 visually impaired and multihandicapped children from the time of birth to age
42 twenty-one.

43 (d) A qualifying community health center as defined in section
44 42-5001.

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

4 (f) For taxable periods beginning from and after June 30, 2001, a
5 nonprofit charitable organization that has qualified under section 501(c)(3)
6 of the internal revenue code and that provides residential apartment housing
7 for low income persons over sixty-two years of age in a facility that
8 qualifies for a federal housing subsidy, if the tangible personal property is
9 used by the organization solely to provide residential apartment housing for
10 low income persons over sixty-two years of age in a facility that qualifies
11 for a federal housing subsidy.

12 26. Magazines or other periodicals or other publications by this state
13 to encourage tourist travel.

14 27. Tangible personal property sold to a person that is subject to tax
15 under this article by reason of being engaged in business classified under
16 the prime contracting classification under section 42-5075, or to a
17 subcontractor working under the control of a prime contractor that is subject
18 to tax under article 1 of this chapter, if the property so sold is any of the
19 following:

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

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

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

28 28. The sale of a motor vehicle to:

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

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

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

42 30. Sales of tangible personal property by a nonprofit organization
43 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
44 of the internal revenue code if the organization is associated with a major
45 league baseball team or a national touring professional golfing association

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

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

8 32. Sales of tangible personal property by a nonprofit organization
9 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
10 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
11 sponsors or operates a rodeo featuring primarily farm and ranch animals and
12 no part of the organization's net earnings inures to the benefit of any
13 private shareholder or individual.

14 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
15 propagative material to persons who use those items to commercially produce
16 agricultural, horticultural, viticultural or floricultural crops in this
17 state.

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

23 35. Sales of tangible personal property that is shipped or delivered
24 directly to a destination outside the United States for use in that foreign
25 country.

26 36. Sales of natural gas or liquefied petroleum gas used to propel a
27 motor vehicle.

28 37. Paper machine clothing, such as forming fabrics and dryer felts,
29 sold to a paper manufacturer and directly used or consumed in paper
30 manufacturing.

31 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
32 sold to a qualified environmental technology manufacturer, producer or
33 processor as defined in section 41-1514.02 and directly used or consumed in
34 the generation or provision of on-site power or energy solely for
35 environmental technology manufacturing, producing or processing or
36 environmental protection. This paragraph shall apply for fifteen full
37 consecutive calendar or fiscal years from the date the first paper
38 manufacturing machine is placed in service. In the case of an environmental
39 technology manufacturer, producer or processor who does not manufacture
40 paper, the time period shall begin with the date the first manufacturing,
41 processing or production equipment is placed in service.

42 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
43 processing, fabricating, mining, refining, metallurgical operations, research
44 and development and, beginning on January 1, 1999, printing, if using or
45 consuming the chemicals, alone or as part of an integrated system of

1 chemicals, involves direct contact with the materials from which the product
2 is produced for the purpose of causing or permitting a chemical or physical
3 change to occur in the materials as part of the production process. This
4 paragraph does not include chemicals that are used or consumed in activities
5 such as packaging, storage or transportation but does not affect any
6 deduction for such chemicals that is otherwise provided by this section. For
7 the purposes of this paragraph, "printing" means a commercial printing
8 operation and includes job printing, engraving, embossing, copying and
9 bookbinding.

10 40. Through December 31, 1994, personal property liquidation
11 transactions, conducted by a personal property liquidator. From and after
12 December 31, 1994, personal property liquidation transactions shall be
13 taxable under this section provided that nothing in this subsection shall be
14 construed to authorize the taxation of casual activities or transactions
15 under this chapter. For the purposes of this paragraph:

16 (a) "Personal property liquidation transaction" means a sale of
17 personal property made by a personal property liquidator acting solely on
18 behalf of the owner of the personal property sold at the dwelling of the
19 owner or upon the death of any owner, on behalf of the surviving spouse, if
20 any, any devisee or heir or the personal representative of the estate of the
21 deceased, if one has been appointed.

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

24 41. Sales of food, drink and condiment for consumption within the
25 premises of any prison, jail or other institution under the jurisdiction of
26 the state department of corrections, the department of public safety, the
27 department of juvenile corrections or a county sheriff.

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

32 43. Livestock and poultry feed, salts, vitamins and other additives for
33 livestock or poultry consumption that are sold to persons who are engaged in
34 producing livestock, poultry, or livestock or poultry products or who are
35 engaged in feeding livestock or poultry commercially. For the purposes of
36 this paragraph, "poultry" includes ratites.

37 44. Sales of implants used as growth promotants and injectable
38 medicines, not already exempt under paragraph 8 of this subsection, for
39 livestock or poultry owned by or in possession of persons who are engaged in
40 producing livestock, poultry, or livestock or poultry products or who are
41 engaged in feeding livestock or poultry commercially. For the purposes of
42 this paragraph, "poultry" includes ratites.

43 45. Sales of motor vehicles at auction to nonresidents of this state
44 for use outside this state if the vehicles are shipped or delivered out of

1 this state, regardless of where title to the motor vehicles passes or its
2 free on board point.

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

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

12 48. Sales of materials that are purchased by or for publicly funded
13 libraries including school district libraries, charter school libraries,
14 community college libraries, state university libraries or federal, state,
15 county or municipal libraries for use by the public as follows:

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

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

18 49. Tangible personal property sold to a commercial airline and
19 consisting of food, beverages and condiments and accessories used for serving
20 the food and beverages, if those items are to be provided without additional
21 charge to passengers for consumption in flight. For the purposes of this
22 paragraph, "commercial airline" means a person holding a federal certificate
23 of public convenience and necessity or foreign air carrier permit for air
24 transportation to transport persons, property or United States mail in
25 intrastate, interstate or foreign commerce.

26 50. Sales of alternative fuel vehicles if the vehicle was manufactured
27 as a diesel fuel vehicle and converted to operate on alternative fuel and
28 equipment that is installed in a conventional diesel fuel motor vehicle to
29 convert the vehicle to operate on an alternative fuel, as defined in section
30 1-215.

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

34 52. Sales of tangible personal property to be incorporated or installed
35 as part of environmental response or remediation activities under section
36 42-5075, subsection B, paragraph 6.

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

42 54. SALES OF THE FOLLOWING TANGIBLE PERSONAL PROPERTY DURING A
43 TRANSACTION PRIVILEGE AND USE TAX HOLIDAY, SUBJECT TO THE CONDITIONS,
44 LIMITATIONS AND REQUIREMENTS PRESCRIBED BY SUBSECTION V OF THIS SECTION:

1 (a) AN ARTICLE OF CLOTHING OR FOOTWEAR DESIGNED TO BE WORN ON OR ABOUT
2 THE HUMAN BODY IF THE SALES PRICE OF THE ARTICLE IS LESS THAN ONE HUNDRED
3 DOLLARS, EXCEPT THAT THIS SUBDIVISION DOES NOT APPLY TO:

4 (i) SPORT OR RECREATIONAL EQUIPMENT AND PROTECTIVE EQUIPMENT.

5 (ii) CLOTHING ACCESSORIES OR EQUIPMENT.

6 (iii) THE RENTAL OF CLOTHING.

7 (b) A COMPUTER IF THE SALES PRICE OF THE COMPUTER IS LESS THAN ONE
8 THOUSAND DOLLARS.

9 (c) SCHOOL SUPPLIES THAT ARE ITEMS NORMALLY USED BY STUDENTS IN A
10 STANDARD CLASSROOM FOR EDUCATIONAL PURPOSES IF THE SALES PRICE OF EACH ITEM
11 IS LESS THAN FIFTY DOLLARS.

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

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

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

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

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

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

43 6. Pipes or valves four inches in diameter or larger used to transport
44 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. 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. If a person is engaged in the business of selling tangible personal
25 property at both wholesale and retail, the tax under this section applies
26 only to the gross proceeds of the sales made other than at wholesale if the
27 person's books are kept so as to show separately the gross proceeds of sales
28 of each class, and if the books are not so kept, the tax under this section
29 applies to the gross proceeds of every sale so made.

30 I. 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. 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.
17 4. Sales of overhead materials or other tangible personal property to
18 a manufacturer, modifier, assembler or repairer if the gross proceeds of
19 sales or gross income derived from the property by the manufacturer,
20 modifier, assembler or repairer will be exempt under paragraph 3 of this
21 subsection.
22 K. There shall be deducted from the tax base fifty per cent of the
23 gross proceeds or gross income from any sale of tangible personal property
24 made directly to the United States government or its departments or agencies,
25 which is not deducted under subsection J of this section.
26 L. The department shall require every person claiming a deduction
27 provided by subsection J or K of this section to file on forms prescribed by
28 the department at such times as the department directs a sworn statement
29 disclosing the name of the purchaser and the exact amount of sales on which
30 the exclusion or deduction is claimed.
31 M. In computing the tax base, gross proceeds of sales or gross income
32 does not include:
33 1. A manufacturer's cash rebate on the sales price of a motor vehicle
34 if the buyer assigns the buyer's right in the rebate to the retailer.
35 2. The waste tire disposal fee imposed pursuant to section 44-1302.
36 N. There shall be deducted from the tax base the amount received from
37 sales of solar energy devices. The retailer shall register with the
38 department as a solar energy retailer. By registering, the retailer
39 acknowledges that it will make its books and records relating to sales of
40 solar energy devices available to the department for examination.
41 O. In computing the tax base in the case of the sale or transfer of
42 wireless telecommunications equipment as an inducement to a customer to enter
43 into or continue a contract for telecommunications services that are taxable
44 under section 42-5064, gross proceeds of sales or gross income does not
45 include any sales commissions or other compensation received by the retailer

1 as a result of the customer entering into or continuing a contract for the
2 telecommunications services.

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

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

12 R. For the purposes of this section, the diversion of gas from a
13 pipeline by a person engaged in the business of:

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

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

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. 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. 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 or if the
3 purchaser's state of residence does not impose an excise tax, and the
4 nonresident has secured a special ninety day nonresident registration permit
5 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
6 be deducted from the tax base a portion of the gross proceeds or gross income
7 from the sale so that the amount of transaction privilege tax that is paid in
8 this state is equal to the excise tax that is imposed by the purchaser's
9 state of residence on the nonexempt sale or use of the motor vehicle.

10 V. FOR THE PURPOSES OF ADMINISTERING THE TRANSACTION PRIVILEGE AND USE
11 TAX HOLIDAY UNDER SUBSECTION A, PARAGRAPH 54 OF THIS SECTION:

12 1. THE GROSS PROCEEDS OR GROSS INCOME FROM RENTAL OF CLOTHING OR
13 FOOTWEAR, COMPUTERS AND SCHOOL SUPPLIES DOES NOT QUALIFY FOR THE
14 DEDUCTION. SUBSECTION A, PARAGRAPH 54 OF THIS SECTION DOES NOT APPLY TO
15 RENTAL OF TANGIBLE PERSONAL PROPERTY.

16 2. THE DEDUCTION UNDER SUBSECTION A, PARAGRAPH 54 OF THIS SECTION DOES
17 NOT APPLY TO TRANSACTIONS AT A THEME PARK, ENTERTAINMENT COMPLEX, SPORTS
18 ARENA, STADIUM, GOLF COURSE, HEALTH CLUB, ZOO, MOTION PICTURE THEATER OR
19 OTHER SPECTATOR ENTERTAINMENT VENUE, TRANSIENT LODGING ESTABLISHMENT,
20 RESTAURANT OR AIRPORT.

21 3. THE TIME ZONE OF THE RETAILER'S LOCATION DETERMINES:

22 (a) THE AUTHORIZED TIME PERIOD FOR A TRANSACTION PRIVILEGE AND USE TAX
23 HOLIDAY.

24 (b) THE AUTHORIZED TIME PERIOD IF THE RETAILER AND PURCHASER ARE
25 LOCATED IN DIFFERENT TIME ZONES.

26 4. "CLOTHING" MEANS ALL HUMAN WEARING APPAREL SUITABLE FOR GENERAL
27 USE. CLOTHING DOES NOT INCLUDE BELT BUCKLES SOLD SEPARATELY, COSTUME MASKS
28 SOLD SEPARATELY, PATCHES AND EMBLEMS SOLD SEPARATELY, SEWING EQUIPMENT AND
29 SUPPLIES, INCLUDING KNITTING NEEDLES, PATTERNS, PINS, SCISSORS, SEWING
30 MACHINES, SEWING NEEDLES, TAPE MEASURES AND THIMBLES, AND SEWING MATERIALS
31 THAT BECOME PART OF CLOTHING, INCLUDING BUTTONS, FABRIC, LACE, THREAD, YARN
32 AND ZIPPERS.

33 5. "CLOTHING ACCESSORIES OR EQUIPMENT" MEANS INCIDENTAL ITEMS WORN ON
34 THE PERSON OR IN CONJUNCTION WITH CLOTHING, WITHOUT REGARD TO WHETHER THE
35 ITEM IS WORN ON THE BODY IN A MANNER THAT IS CHARACTERISTIC OF CLOTHING.
36 CLOTHING ACCESSORIES OR EQUIPMENT INCLUDES BRIEFCASES, PURSES, LUGGAGE,
37 COSMETICS, HAIR NOTIONS, INCLUDING BARRETTES, HAIR BOWS AND HAIR NETS,
38 HANDBAGS, HANDKERCHIEFS, JEWELRY, SUNGLASSES, UMBRELLAS, WALLETS, WATCHES,
39 WIGS AND HAIRPIECES.

40 6. "COMPUTER" MEANS A LAPTOP, DESKTOP, NOTEBOOK OR TOWER COMPUTER
41 SYSTEM THAT CONSISTS OF A CENTRAL PROCESSING UNIT, RANDOM ACCESS MEMORY, A
42 STORAGE DRIVE, A DISPLAY MONITOR AND A KEYBOARD AND DEVICES DESIGNED FOR USE
43 IN CONJUNCTION WITH A PERSONAL COMPUTER, SUCH AS A DISC DRIVE, MEMORY MODULE,
44 COMPACT DISC DRIVE, DAUGHTERBOARD, DIGITALIZER, MICROPHONE, MODEM,
45 MOTHERBOARD, MOUSE, MULTIMEDIA SPEAKER, PRINTER, SCANNER, SINGLE-USER

1 HARDWARE, SINGLE-USER OPERATING SYSTEM, SOUND CARD OR VIDEO CARD. COMPUTER
2 DOES NOT MEAN MAINFRAME COMPUTERS, NETWORK HARDWARE, OPERATING SYSTEMS AND
3 SOFTWARE, MINICOMPUTERS, HAND-HELD COMPUTERS, PERSONAL DIGITAL ASSISTANTS
4 WITHOUT INTERNET ACCESS, HARDWARE WORD PROCESSORS, GRAPHICAL CALCULATORS,
5 VIDEO GAME CONSOLES, GAME CONTROLLERS, TELEPHONES, DIGITAL CAMERAS, PAGERS,
6 COMPACT DISCS ENCODED WITH MUSIC OR MOTION PICTURES, DIGITAL VERSATILE DISCS
7 ENCODED WITH MUSIC OR MOTION PICTURES AND SURGE PROTECTION OR UNINTERRUPTED
8 POWER SUPPLY DEVICES.

9 7. "FOOTWEAR" MEANS SHOES, BOOTS, SLIPPERS, SANDALS, FLIP FLOPS AND
10 TENNIS SHOES THAT ARE MEANT TO BE WORN BY HUMANS ON THEIR FEET.

11 8. "PROTECTIVE EQUIPMENT" MEANS ITEMS FOR HUMAN WEAR THAT ARE DESIGNED
12 AS PROTECTION FOR THE WEARER AGAINST INJURY OR DISEASE OR AS PROTECTION
13 AGAINST DAMAGE OR INJURY OF OTHER PERSONS OR PROPERTY BUT THAT ARE NOT
14 SUITABLE FOR GENERAL USE. PROTECTIVE EQUIPMENT INCLUDES BREATHING MASKS,
15 CLEAN ROOM APPAREL AND EQUIPMENT, EAR AND HEARING PROTECTORS, FACE SHIELDS,
16 HARD HATS, HELMETS, PAINT OR DUST RESPIRATORS, PROTECTIVE GLOVES, SAFETY
17 GLASSES, GOGGLES, SAFETY BELTS, TOOL BELTS AND WELDERS' GLOVES AND MASKS.

18 9. "SCHOOL SUPPLIES" MEANS IMPLEMENTS AND MATERIALS USED BY TYPICAL
19 STUDENTS OF A GENERAL EDUCATION CURRICULUM. SCHOOL SUPPLIES:

20 (a) INCLUDE NOTEBOOKS, PAPER, WRITING INSTRUMENTS, CRAYONS, ART
21 SUPPLIES, PAPER CLIPS, STAPLES, STAPLERS, SCISSORS, RULERS, BOOK BAGS,
22 BACKPACKS, HANDHELD CALCULATORS, MAPS AND GLOBES VALUED AT LESS THAN
23 TWENTY-FIVE DOLLARS PER UNIT.

24 (b) DO NOT INCLUDE TOOLS, SUCH AS HAMMERS, SAWS, SCREWDRIVERS,
25 WRENCHES, POWER TOOLS, DRILLS, PNEUMATIC TOOLS AND PLUMBING TOOLS.

26 10. "SPORT OR RECREATIONAL EQUIPMENT" MEANS ITEMS THAT ARE DESIGNED FOR
27 HUMAN USE AND WORN IN CONJUNCTION WITH AN ATHLETIC OR RECREATIONAL ACTIVITY
28 BUT THAT ARE NOT SUITABLE FOR GENERAL USE. SPORT OR RECREATIONAL EQUIPMENT
29 INCLUDES BALLET AND TAP SHOES, CLEATED OR SPIKED ATHLETIC SHOES, GLOVES,
30 INCLUDING BASEBALL, BOWLING, BOXING, HOCKEY AND GOLF GLOVES, GOGGLES, HAND
31 AND ELBOW GUARDS, LIFE PRESERVERS AND VESTS, MOUTH GUARDS, ROLLER AND ICE
32 SKATES, SHIN GUARDS, SHOULDER PADS, SKI BOOTS, WADERS, WETSUITS AND FINS.

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

34 1. "Aircraft" includes:

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

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

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

44 3. "Selling at retail" means a sale for any purpose other than for
45 resale in the regular course of business in the form of tangible personal

1 property, but transfer of possession, lease and rental as used in the
2 definition of sale mean only such transactions as are found on investigation
3 to be in lieu of sales as defined without the words lease or rental.

4 ~~W-~~ X. For the purposes of subsection J of this section:

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

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

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

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

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

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

32 Sec. 7. Section 42-5151, Arizona Revised Statutes, is amended to read:

33 42-5151. Definitions

34 In this article, unless the context otherwise requires:

35 1. "Ancillary services" means those services so designated in federal
36 energy regulatory commission order 888 adopted in 1996 that include the
37 services necessary to support the transmission of electricity from resources
38 to loads while maintaining reliable operation of the transmission system
39 according to good utility practice.

40 2. "Electric distribution service" means distributing electricity to
41 retail electric customers through the use of electric distribution
42 facilities.

43 3. "Electric generation service" means providing electricity for sale
44 to retail electric customers but excluding electric distribution or
45 transmission services.

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

5 5. "Electric utility services" means the business of providing
6 electric ancillary services, electric distribution services, electric
7 generation services, electric transmission services and other services
8 related to providing electricity.

9 6. "Electricity" means electric energy, electric capacity or electric
10 capacity and energy.

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

14 8. "Natural gas" means natural or artificial gas, and includes methane
15 and propane gas, the natural gas commodity, natural gas pipeline capacity or
16 natural gas commodity and pipeline capacity.

17 9. "Natural gas utility services" means the business of selling
18 natural gas or providing natural gas transportation services or other
19 services related to providing natural gas.

20 10. "Notice" means written notice served personally or by certified
21 mail and addressed to the last known address of the person to whom such
22 notice is given.

23 11. "Other services" includes metering, meter reading services, billing
24 and collecting services.

25 12. "Person" means an individual, firm, partnership, joint venture,
26 association, corporation, estate, trust, receiver or syndicate, this state or
27 a county, city, municipality, district or other political subdivision or
28 agency thereof.

29 13. "Purchase" means any transfer, exchange or barter, conditional or
30 otherwise, in any manner or by any means, of tangible personal property for a
31 consideration, including transactions by which the possession of property is
32 transferred but the seller retains the title as security for payment.

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

40 (a) Discounts allowed and taken.

41 (b) Charges for labor or services in installing, remodeling or
42 repairing.

43 (c) Freight costs billed to and collected from a purchaser by a
44 retailer for tangible personal property which, on the order of the retailer,
45 is shipped directly from a manufacturer or wholesaler to the purchaser.

1 (d) Amounts attributable to federal excise taxes imposed by 26 United
2 States Code section 4001, 4051 or 4091 on sales of heavy trucks and trailers
3 and automobiles or on sales of use fuel, as defined in section 28-5601.

4 (e) The value of merchandise that is traded in on the purchase of new
5 or pre-owned merchandise when the trade-in allowance is deducted from the
6 sales price of the new or pre-owned merchandise before the completion of the
7 sale.

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

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

14 17. "Retailer" includes:

15 (a) Every person engaged in the business of making sales of tangible
16 personal property for storage, use or other consumption or in the business of
17 making sales at auction of tangible personal property owned by that person or
18 others for storage, use or other consumption. If in the opinion of the
19 department it is necessary for the efficient administration of this article
20 to regard any salesmen, representatives, peddlers or canvassers as the agents
21 of the dealers, distributors, supervisors or employers under whom they
22 operate or from whom they obtain the tangible personal property sold by them,
23 regardless of whether they are making sales on their own behalf or on behalf
24 of such dealers, distributors, supervisors or employers, the department may
25 so regard them and may regard the dealers, distributors, supervisors or
26 employers as retailers for purposes of this article.

27 (b) A person who solicits orders for tangible personal property by
28 mail if the solicitations are substantial and recurring or if the retailer
29 benefits from any banking, financing, debt collection, telecommunication,
30 television shopping system, cable, optic, microwave or other communication
31 system or marketing activities occurring in this state or benefits from the
32 location in this state of authorized installation, servicing or repair
33 facilities.

34 18. "Storage" means keeping or retaining tangible personal property
35 purchased from a retailer for any purpose except sale in the regular course
36 of business or subsequent use solely outside this state.

37 19. "Taxpayer" means any retailer or person storing, using or consuming
38 tangible personal property the storage, use or consumption of which is
39 subject to the tax imposed by this article when such tax was not paid to a
40 retailer.

41 20. "TRANSACTION PRIVILEGE AND USE TAX HOLIDAY" MEANS THE PERIOD
42 BEGINNING AT 12:01 A.M. ON THE FIRST FRIDAY IN AUGUST AND ENDING AT MIDNIGHT
43 ON THE FOLLOWING SUNDAY EACH YEAR.

1 ~~20-~~ 21. "Use or consumption" means the exercise of any right or power
2 over tangible personal property incidental to owning the property except
3 holding for sale or selling the property in the regular course of business.

4 ~~21-~~ 22. "Utility business" means a person that is engaged in the
5 business of providing electric utility services to retail electric customers
6 or natural gas utility services to retail natural gas customers.

7 Sec. 8. Section 42-5159, Arizona Revised Statutes, is amended to read:

8 42-5159. Exemptions

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

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

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

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

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

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

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

41 7. Purchases of implants used as growth promotants and injectable
42 medicines, not already exempt under paragraph 16 of this subsection, for
43 livestock and poultry owned by, or in possession of, persons who are engaged
44 in producing livestock, poultry, or livestock or poultry products, or who are

1 engaged in feeding livestock or poultry commercially. For the purposes of
2 this paragraph, "poultry" includes ratites.

3 8. Livestock, poultry, supplies, feed, salts, vitamins and other
4 additives for use or consumption in the businesses of farming, ranching and
5 feeding livestock or poultry, not including fertilizers, herbicides and
6 insecticides. For the purposes of this paragraph, "poultry" includes
7 ratites.

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

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

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

18 12. Materials that are purchased by or for publicly funded libraries
19 including school district libraries, charter school libraries, community
20 college libraries, state university libraries or federal, state, county or
21 municipal libraries for use by the public as follows:

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

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

24 13. Tangible personal property purchased by:

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

28 (b) A hospital operated by this state or a political subdivision of
29 this state.

30 (c) A licensed nursing care institution or a licensed residential care
31 institution or a residential care facility operated in conjunction with a
32 licensed nursing care institution or a licensed kidney dialysis center, which
33 provides medical services, nursing services or health related services and is
34 not used or held for profit.

35 (d) A qualifying health care organization, as defined in section
36 42-5001, if the tangible personal property is used by the organization solely
37 to provide health and medical related educational and charitable services.

38 (e) A qualifying health care organization as defined in section
39 42-5001 if the organization is dedicated to providing educational,
40 therapeutic, rehabilitative and family medical education training for blind,
41 visually impaired and multihandicapped children from the time of birth to age
42 twenty-one.

43 (f) A nonprofit charitable organization that has qualified under
44 section 501(c)(3) of the United States internal revenue code and that engages
45 in and uses such property exclusively in programs for mentally or physically

1 handicapped persons if the programs are exclusively for training, job
2 placement, rehabilitation or testing.

3 (g) A person that is subject to tax under article 1 of this chapter by
4 reason of being engaged in business classified under the prime contracting
5 classification under section 42-5075, or a subcontractor working under the
6 control of a prime contractor, if the tangible personal property is any of
7 the following:

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

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

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

16 (h) A nonprofit charitable organization that has qualified under
17 section 501(c)(3) of the internal revenue code if the property is purchased
18 from the parent or an affiliate organization that is located outside this
19 state.

20 (i) A qualifying community health center as defined in section
21 42-5001.

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

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

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

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

43 15. Tangible personal property sold by:

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

4 (b) A nonprofit organization that is exempt from taxation under
5 section 501(c)(3) or 501(c)(6) of the internal revenue code if the
6 organization is associated with a major league baseball team or a national
7 touring professional golfing association and no part of the organization's
8 net earnings inures to the benefit of any private shareholder or individual.

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

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

17 17. Prosthetic appliances, as defined in section 23-501, prescribed or
18 recommended by a person who is licensed, registered or otherwise
19 professionally credentialed as a physician, dentist, podiatrist,
20 chiropractor, naturopath, homeopath, nurse or optometrist.

21 18. Prescription eyeglasses and contact lenses.

22 19. Insulin, insulin syringes and glucose test strips.

23 20. Hearing aids as defined in section 36-1901.

24 21. Durable medical equipment which has a centers for medicare and
25 medicaid services common procedure code, is designated reimbursable by
26 medicare, is prescribed by a person who is licensed under title 32, chapter
27 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
28 used to serve a medical purpose, is generally not useful to a person in the
29 absence of illness or injury and is appropriate for use in the home.

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

32 23. Items purchased with United States department of agriculture food
33 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
34 958) or food instruments issued under section 17 of the child nutrition act
35 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
36 section 1786).

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

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

43 26. Food, drink or condiment and accessory tangible personal property
44 that are acquired for use by or provided to a school district or charter
45 school if they are to be either served or prepared and served to persons for

1 consumption on the premises of a public school in a school district during
2 school hours.

3 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
4 article 1.

5 28. Textbooks, sold by a bookstore, that are required by any state
6 university or community college.

7 29. Magazines, other periodicals or other publications produced by this
8 state to encourage tourist travel.

9 30. Paper machine clothing, such as forming fabrics and dryer felts,
10 purchased by a paper manufacturer and directly used or consumed in paper
11 manufacturing.

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

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

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

27 (b) Public educational institutions.

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

31 33. Natural gas or liquefied petroleum gas used to propel a motor
32 vehicle.

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

38 35. Liquid, solid or gaseous chemicals used in manufacturing,
39 processing, fabricating, mining, refining, metallurgical operations, research
40 and development and, beginning on January 1, 1999, printing, if using or
41 consuming the chemicals, alone or as part of an integrated system of
42 chemicals, involves direct contact with the materials from which the product
43 is produced for the purpose of causing or permitting a chemical or physical
44 change to occur in the materials as part of the production process. This
45 paragraph does not include chemicals that are used or consumed in activities

1 such as packaging, storage or transportation but does not affect any
2 exemption for such chemicals that is otherwise provided by this section. For
3 the purposes of this paragraph, "printing" means a commercial printing
4 operation and includes job printing, engraving, embossing, copying and
5 bookbinding.

6 36. Food, drink and condiment purchased for consumption within the
7 premises of any prison, jail or other institution under the jurisdiction of
8 the state department of corrections, the department of public safety, the
9 department of juvenile corrections or a county sheriff.

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

14 38. Tangible personal property which is or directly enters into and
15 becomes an ingredient or component part of cards used as prescription plan
16 identification cards.

17 39. Overhead materials or other tangible personal property that is used
18 in performing a contract between the United States government and a
19 manufacturer, modifier, assembler or repairer, including property used in
20 performing a subcontract with a government contractor who is a manufacturer,
21 modifier, assembler or repairer, to which title passes to the government
22 under the terms of the contract or subcontract. For the purposes of this
23 paragraph:

24 (a) "Overhead materials" means tangible personal property, the gross
25 proceeds of sales or gross income derived from which would otherwise be
26 included in the retail classification, and which are used or consumed in the
27 performance of a contract, the cost of which is charged to an overhead
28 expense account and allocated to various contracts based upon generally
29 accepted accounting principles and consistent with government contract
30 accounting standards.

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

40 40. Through December 31, 1994, tangible personal property sold pursuant
41 to a personal property liquidation transaction, as defined in section
42 42-5061. From and after December 31, 1994, tangible personal property sold
43 pursuant to a personal property liquidation transaction, as defined in
44 section 42-5061, if the gross proceeds of the sales were included in the

1 measure of the tax imposed by article 1 of this chapter or if the personal
2 property liquidation was a casual activity or transaction.

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

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

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

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

22 45. Gas diverted from a pipeline, by a person engaged in the business
23 of:

24 (a) Operating a natural or artificial gas pipeline, and used or
25 consumed for the sole purpose of fueling compressor equipment that
26 pressurizes the pipeline.

27 (b) Converting natural gas into liquefied natural gas, and used or
28 consumed for the sole purpose of fueling compressor equipment used in the
29 conversion process.

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

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

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

40 49. Prepared food, drink or condiment donated by a restaurant as
41 classified in section 42-5074, subsection A to a nonprofit charitable
42 organization that has qualified under section 501(c)(3) of the internal
43 revenue code and that regularly serves meals to the needy and indigent on a
44 continuing basis at no cost.

1 50. THE FOLLOWING TANGIBLE PERSONAL PROPERTY PURCHASED DURING A
2 TRANSACTION PRIVILEGE AND USE TAX HOLIDAY, SUBJECT TO THE CONDITIONS,
3 LIMITATIONS AND REQUIREMENTS PRESCRIBED BY SUBSECTION G OF THIS SECTION:

4 (a) AN ARTICLE OF CLOTHING OR FOOTWEAR DESIGNED TO BE WORN ON OR ABOUT
5 THE HUMAN BODY IF THE SALES PRICE OF THE ARTICLE IS LESS THAN ONE HUNDRED
6 DOLLARS, EXCEPT THAT THIS SUBDIVISION DOES NOT APPLY TO:

7 (i) SPORT OR RECREATIONAL EQUIPMENT AND PROTECTIVE EQUIPMENT.

8 (ii) CLOTHING ACCESSORIES OR EQUIPMENT.

9 (iii) THE RENTAL OF CLOTHING.

10 (b) A COMPUTER IF THE SALES PRICE OF THE COMPUTER IS LESS THAN ONE
11 THOUSAND DOLLARS.

12 (c) SCHOOL SUPPLIES THAT ARE ITEMS NORMALLY USED BY STUDENTS IN A
13 STANDARD CLASSROOM FOR EDUCATIONAL PURPOSES IF THE SALES PRICE OF EACH ITEM
14 IS LESS THAN FIFTY DOLLARS.

15 B. In addition to the exemptions allowed by subsection A of this
16 section, the following categories of tangible personal property are also
17 exempt:

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

25 2. Machinery, or equipment, used directly in the process of extracting
26 ores or minerals from the earth for commercial purposes, including equipment
27 required to prepare the materials for extraction and handling, loading or
28 transporting such extracted material to the surface. "Mining" includes
29 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 under section 42-5064
33 and consisting of central office switching equipment, switchboards, private
34 branch exchange equipment, microwave radio equipment and carrier equipment
35 including optical fiber, coaxial cable and other transmission media which are
36 components of carrier systems.

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

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

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

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

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

13 (b) Any foreign government for use by such government outside of this
14 state, or sold to persons who are not residents of this state and who will
15 not use such property in this state other than in removing such property from
16 this state.

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

21 9. Rolling stock, rails, ties and signal control equipment used
22 directly to transport persons or property.

23 10. Machinery or equipment used directly to drill for oil or gas or
24 used directly in the process of extracting oil or gas from the earth for
25 commercial purposes.

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

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

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

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

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

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

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

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

26 (b) "Soundstage complex" means a facility of multiple stages including
27 production offices, construction shops and related areas, prop and costume
28 shops, storage areas, parking for production vehicles and areas that are
29 leased to businesses that complement the production needs and orientation of
30 the overall facility.

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

34 (a) Any direct broadcast satellite television or data transmission
35 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
36 100.

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

39 (i) Over two-thirds of the transmissions, measured in megabytes,
40 transmitted by the facility during the test period were transmitted to or on
41 behalf of one or more direct broadcast satellite television or data
42 transmission services that operate pursuant to 47 Code of Federal Regulations
43 parts 25 and 100.

44 (ii) Over two-thirds of the transmissions, measured in megabytes,
45 transmitted by or on behalf of those direct broadcast television or data

1 transmission services during the test period were transmitted by the facility
2 to or on behalf of those services.

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

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

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

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

24 18. Machinery and equipment that are used directly in the feeding of
25 poultry, the environmental control of housing for poultry, the movement of
26 eggs within a production and packaging facility or the sorting or cooling of
27 eggs. This exemption does not apply to vehicles used for transporting eggs.

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

38 20. Machinery and equipment that are used in the commercial production
39 of livestock, livestock products or agricultural, horticultural, viticultural
40 or floricultural crops or products in this state and that are used directly
41 and primarily to prevent, monitor, control or reduce air, water or land
42 pollution.

43 21. Machinery or equipment that enables a television station to
44 originate and broadcast or to receive and broadcast digital television
45 signals and that was purchased to facilitate compliance with the

1 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
2 Code section 336) and the federal communications commission order issued
3 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
4 not exempt any of the following:

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

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

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

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

18 23. Machinery, equipment and other tangible personal property used
19 directly in motion picture production by a motion picture production
20 company. To qualify for this exemption, at the time of purchase, the motion
21 picture production company must present to the retailer its certificate that
22 is issued pursuant to section 42-5009, subsection H and that establishes its
23 qualification for the exemption.

24 C. The exemptions provided by subsection B of this section do not
25 include:

26 1. Expendable materials. For the purposes of this paragraph,
27 expendable materials do not include any of the categories of tangible
28 personal property specified in subsection B of this section regardless of the
29 cost or useful life of that property.

30 2. Janitorial equipment and hand tools.

31 3. Office equipment, furniture and supplies.

32 4. Tangible personal property used in selling or distributing
33 activities, other than the telecommunications transmissions described in
34 subsection B, paragraph 16 of this section.

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

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

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

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

44 1. Revenues received from sales of ancillary services, electric
45 distribution services, electric generation services, electric transmission

1 services and other services related to providing electricity to a retail
2 electric customer who is located outside this state for use outside this
3 state if the electricity is delivered to a point of sale outside this state.

4 2. Revenues received from providing electricity, including ancillary
5 services, electric distribution services, electric generation services,
6 electric transmission services and other services related to providing
7 electricity with respect to which the transaction privilege tax imposed under
8 section 42-5063 has been paid.

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

10 1. The storage, use or consumption in Arizona of machinery, equipment,
11 materials or other tangible personal property if used directly and
12 predominantly to construct a qualified environmental technology
13 manufacturing, producing or processing facility, as described in section
14 41-1514.02. This paragraph applies for ten full consecutive calendar or
15 fiscal years after the start of initial construction.

16 2. The purchase of electricity by a qualified environmental technology
17 manufacturer, producer or processor as defined in section 41-1514.02 that is
18 used directly in environmental technology manufacturing, producing or
19 processing. This paragraph shall apply for fifteen full consecutive calendar
20 or fiscal years from the date the first paper manufacturing machine is placed
21 in service. In the case of an environmental technology manufacturer,
22 producer or processor who does not manufacture paper, the time period shall
23 begin with the date the first manufacturing, processing or production
24 equipment is placed in service.

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

27 1. Fees charged by a municipally owned utility to persons constructing
28 residential, commercial or industrial developments or connecting residential,
29 commercial or industrial developments to a municipal utility system or
30 systems if the fees are segregated and used only for capital expansion,
31 system enlargement or debt service of the utility system or systems.

32 2. Reimbursement or contribution compensation to any person or persons
33 owning a utility system for property and equipment installed to provide
34 utility access to, on or across the land of an actual utility consumer if the
35 property and equipment become the property of the utility. This deduction
36 shall not exceed the value of such property and equipment.

37 G. FOR THE PURPOSES OF ADMINISTERING THE TRANSACTION PRIVILEGE AND USE
38 TAX HOLIDAY UNDER SUBSECTION A, PARAGRAPH 50 OF THIS SECTION:

39 1. THE EXEMPTION UNDER SUBSECTION A, PARAGRAPH 50 OF THIS SECTION DOES
40 NOT APPLY TO TANGIBLE PERSONAL PROPERTY PURCHASED AT A THEME PARK,
41 ENTERTAINMENT COMPLEX, SPORTS ARENA, STADIUM, GOLF COURSE, HEALTH CLUB, ZOO,
42 MOTION PICTURE THEATER OR OTHER SPECTATOR ENTERTAINMENT VENUE, TRANSIENT
43 LODGING ESTABLISHMENT, RESTAURANT OR AIRPORT.

44 2. THE TIME ZONE OF THE RETAILER'S LOCATION DETERMINES:

1 (a) THE AUTHORIZED TIME PERIOD FOR A TRANSACTION PRIVILEGE AND USE TAX
2 HOLIDAY.

3 (b) THE AUTHORIZED TIME PERIOD IF THE RETAILER AND PURCHASER ARE
4 LOCATED IN DIFFERENT TIME ZONES.

5 3. "CLOTHING" MEANS ALL HUMAN WEARING APPAREL SUITABLE FOR GENERAL
6 USE. CLOTHING DOES NOT INCLUDE BELT BUCKLES SOLD SEPARATELY, COSTUME MASKS
7 SOLD SEPARATELY, PATCHES AND EMBLEMS SOLD SEPARATELY, SEWING EQUIPMENT AND
8 SUPPLIES, INCLUDING KNITTING NEEDLES, PATTERNS, PINS, SCISSORS, SEWING
9 MACHINES, SEWING NEEDLES, TAPE MEASURES AND THIMBLES, AND SEWING MATERIALS
10 THAT BECOME PART OF CLOTHING, INCLUDING BUTTONS, FABRIC, LACE, THREAD, YARN
11 AND ZIPPERS.

12 4. "CLOTHING ACCESSORIES OR EQUIPMENT" MEANS INCIDENTAL ITEMS WORN ON
13 THE PERSON OR IN CONJUNCTION WITH CLOTHING, WITHOUT REGARD TO WHETHER THE
14 ITEM IS WORN ON THE BODY IN A MANNER THAT IS CHARACTERISTIC OF
15 CLOTHING. CLOTHING ACCESSORIES OR EQUIPMENT INCLUDES BRIEFCASES, PURSES,
16 LUGGAGE, COSMETICS, HAIR NOTIONS, INCLUDING BARRETTES, HAIR BOWS AND HAIR
17 NETS, HANDBAGS, HANDKERCHIEFS, JEWELRY, SUNGLASSES, UMBRELLAS, WALLETS,
18 WATCHES, WIGS AND HAIRPIECES.

19 5. "COMPUTER" MEANS A LAPTOP, DESKTOP, NOTEBOOK OR TOWER COMPUTER
20 SYSTEM THAT CONSISTS OF A CENTRAL PROCESSING UNIT, RANDOM ACCESS MEMORY, A
21 STORAGE DRIVE, A DISPLAY MONITOR AND A KEYBOARD AND DEVICES DESIGNED FOR USE
22 IN CONJUNCTION WITH A PERSONAL COMPUTER, SUCH AS A DISC DRIVE, MEMORY MODULE,
23 COMPACT DISC DRIVE, DAUGHTERBOARD, DIGITALIZER, MICROPHONE, MODEM,
24 MOTHERBOARD, MOUSE, MULTIMEDIA SPEAKER, PRINTER, SCANNER, SINGLE-USER
25 HARDWARE, SINGLE-USER OPERATING SYSTEM, SOUND CARD OR VIDEO CARD. COMPUTER
26 DOES NOT MEAN MAINFRAME COMPUTERS, NETWORK HARDWARE, OPERATING SYSTEMS AND
27 SOFTWARE, MINICOMPUTERS, HAND-HELD COMPUTERS, PERSONAL DIGITAL ASSISTANTS
28 WITHOUT INTERNET ACCESS, HARDWARE WORD PROCESSORS, GRAPHICAL CALCULATORS,
29 VIDEO GAME CONSOLES, GAME CONTROLLERS, TELEPHONES, DIGITAL CAMERAS, PAGERS,
30 COMPACT DISCS ENCODED WITH MUSIC OR MOTION PICTURES, DIGITAL VERSATILE DISCS
31 ENCODED WITH MUSIC OR MOTION PICTURES AND SURGE PROTECTION OR UNINTERRUPTED
32 POWER SUPPLY DEVICES.

33 6. "FOOTWEAR" MEANS SHOES, BOOTS, SLIPPERS, SANDALS, FLIP FLOPS AND
34 TENNIS SHOES THAT ARE MEANT TO BE WORN BY HUMANS ON THEIR FEET.

35 7. "PROTECTIVE EQUIPMENT" MEANS ITEMS FOR HUMAN WEAR THAT ARE DESIGNED
36 AS PROTECTION FOR THE WEARER AGAINST INJURY OR DISEASE OR AS PROTECTION
37 AGAINST DAMAGE OR INJURY OF OTHER PERSONS OR PROPERTY BUT THAT ARE NOT
38 SUITABLE FOR GENERAL USE. PROTECTIVE EQUIPMENT INCLUDES BREATHING MASKS,
39 CLEAN ROOM APPAREL AND EQUIPMENT, EAR AND HEARING PROTECTORS, FACE SHIELDS,
40 HARD HATS, HELMETS, PAINT OR DUST RESPIRATORS, PROTECTIVE GLOVES, SAFETY
41 GLASSES, GOGGLES, SAFETY BELTS, TOOL BELTS AND WELDERS' GLOVES AND MASKS.

42 8. "SCHOOL SUPPLIES" MEANS IMPLEMENTS AND MATERIALS USED BY TYPICAL
43 STUDENTS OF A GENERAL EDUCATION CURRICULUM. SCHOOL SUPPLIES:

44 (a) INCLUDE NOTEBOOKS, PAPER, WRITING INSTRUMENTS, CRAYONS, ART
45 SUPPLIES, PAPER CLIPS, STAPLES, STAPLERS, SCISSORS, RULERS, BOOK BAGS,

1 BACKPACKS, HANDHELD CALCULATORS, MAPS AND GLOBES VALUED AT LESS THAN
2 TWENTY-FIVE DOLLARS PER UNIT.

3 (b) DO NOT INCLUDE TOOLS, SUCH AS HAMMERS, SAWS, SCREWDRIVERS,
4 WRENCHES, POWER TOOLS, DRILLS, PNEUMATIC TOOLS AND PLUMBING TOOLS.

5 9. "SPORT OR RECREATIONAL EQUIPMENT" MEANS ITEMS THAT ARE DESIGNED FOR
6 HUMAN USE AND WORN IN CONJUNCTION WITH AN ATHLETIC OR RECREATIONAL ACTIVITY
7 BUT THAT ARE NOT SUITABLE FOR GENERAL USE. SPORT OR RECREATIONAL EQUIPMENT
8 INCLUDES BALLET AND TAP SHOES, CLEATED OR SPIKED ATHLETIC SHOES, GLOVES,
9 INCLUDING BASEBALL, BOWLING, BOXING, HOCKEY AND GOLF GLOVES, GOGGLES, HAND
10 AND ELBOW GUARDS, LIFE PRESERVERS AND VESTS, MOUTH GUARDS, ROLLER AND ICE
11 SKATES, SHIN GUARDS, SHOULDER PADS, SKI BOOTS, WADERS, WETSUITS AND FINS.

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

13 1. "Aircraft" includes:

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

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

20 2. "Other accessories and related equipment" includes aircraft
21 accessories and equipment such as ground service equipment that physically
22 contact aircraft at some point during the overall carrier operation.

23 ~~H.~~ I. For the purposes of subsection D of this section, "ancillary
24 services", "electric distribution service", "electric generation service",
25 "electric transmission service" and "other services" have the same meanings
26 prescribed in section 42-5063.

27 Sec. 9. Section 42-6004, Arizona Revised Statutes, is amended to read:

28 42-6004. Exemption from municipal tax

29 A. A city, town or special taxing district shall not levy a
30 transaction privilege, sales, use or other similar tax on:

31 1. Exhibition events in this state sponsored, conducted or operated by
32 a nonprofit organization that is exempt from taxation under section
33 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
34 organization is associated with a major league baseball team or a national
35 touring professional golfing association and no part of the organization's
36 net earnings inures to the benefit of any private shareholder or individual.

37 2. Interstate telecommunications services, which include that portion
38 of telecommunications services, such as subscriber line service, allocable by
39 federal law to interstate telecommunications service.

40 3. Sales of warranty or service contracts.

41 4. Sales of motor vehicles to nonresidents of this state for use
42 outside this state if the vendor ships or delivers the motor vehicle to a
43 destination outside this state.

44 5. Interest on finance contracts.

45 6. Dealer documentation fees on the sales of motor vehicles.

1 7. Through December 31, 2009, the gross proceeds of sales or gross
2 income received from a contract from constructing any lake facility
3 development in a commercial enhancement reuse district established pursuant
4 to section 9-499.08.

5 8. Sales of food or other items purchased with United States
6 department of agriculture food stamp coupons issued under the food stamp act
7 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
8 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
9 section 4302; 42 United States Code section 1786) but may impose such a tax
10 on other sales of food. If a city, town or special taxing district exempts
11 sales of food from its tax or imposes a different transaction privilege rate
12 on the gross proceeds of sales or gross income from sales of food and nonfood
13 items, it shall use the definition of food prescribed by rule adopted by the
14 department pursuant to section 42-5106.

15 9. Sales of internet access services to the person's subscribers and
16 customers. For the purposes of this paragraph:

17 (a) "Internet" means the computer and telecommunications facilities
18 that comprise the interconnected worldwide network of networks that employ
19 the transmission control protocol or internet protocol, or any predecessor or
20 successor protocol, to communicate information of all kinds by wire or radio.

21 (b) "Internet access" means a service that enables users to access
22 content, information, electronic mail or other services over the internet.
23 Internet access does not include telecommunication services provided by a
24 common carrier.

25 10. The gross proceeds of sales or gross income retained by the Arizona
26 exposition and state fair board from ride ticket sales at the annual Arizona
27 state fair.

28 11. THE FOLLOWING TANGIBLE PERSONAL PROPERTY SOLD DURING A TRANSACTION
29 PRIVILEGE AND USE TAX HOLIDAY AS DEFINED IN SECTION 42-5001, SUBJECT TO THE
30 SAME LIMITATIONS AND REQUIREMENTS PRESCRIBED BY SECTION 42-5061,
31 SUBSECTION V:

32 (a) AN ARTICLE OF CLOTHING OR FOOTWEAR DESIGNED TO BE WORN ON OR ABOUT
33 THE HUMAN BODY IF THE SALES PRICE OF THE ARTICLE IS LESS THAN ONE HUNDRED
34 DOLLARS, EXCEPT THAT THIS SUBDIVISION DOES NOT APPLY TO:

35 (i) SPORT OR RECREATIONAL EQUIPMENT AND PROTECTIVE EQUIPMENT.

36 (ii) CLOTHING ACCESSORIES OR EQUIPMENT.

37 (iii) THE RENTAL OF CLOTHING.

38 (b) A COMPUTER IF THE SALES PRICE OF THE COMPUTER IS LESS THAN ONE
39 THOUSAND DOLLARS.

40 (c) SCHOOL SUPPLIES THAT ARE ITEMS NORMALLY USED BY STUDENTS IN A
41 STANDARD CLASSROOM FOR EDUCATIONAL PURPOSES IF THE SALES PRICE OF EACH ITEM
42 IS LESS THAN FIFTY DOLLARS.

43 B. A city, town or other taxing jurisdiction shall not levy a
44 transaction privilege, sales, use, franchise or other similar tax or fee,

1 however denominated, on natural gas or liquefied petroleum gas used to propel
2 a motor vehicle.

3 C. A city, town or other taxing jurisdiction shall not levy a
4 transaction privilege, sales, gross receipts, use, franchise or other similar
5 tax or fee, however denominated, on gross proceeds of sales or gross income
6 derived from any of the following:

7 1. A motor carrier's use on the public highways in this state if the
8 motor carrier is subject to a fee prescribed in title 28, chapter 16,
9 article 4.

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

12 3. The sale of a motor vehicle and any repair and replacement parts
13 and tangible personal property becoming a part of such motor vehicle to a
14 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
15 article 4 and who is engaged in the business of leasing, renting or licensing
16 such property.

17 4. Incarcerating or detaining in a privately operated prison, jail or
18 detention facility prisoners who are under the jurisdiction of the United
19 States, this state or any other state or a political subdivision of this
20 state or of any other state.

21 5. Transporting for hire persons, freight or property by light motor
22 vehicles subject to a fee under title 28, chapter 15, article 4.

23 6. Through December 31, 2009, and except as provided in section
24 42-6104, a contract from constructing any lake facility development in a
25 commercial enhancement reuse district established pursuant to section
26 9-499.08.

27 7. Development or impact fees included in a construction or
28 development contract for payment to the state or a local government to offset
29 governmental costs of providing public infrastructure, public safety and
30 other public services to a development.

31 D. A city, town or other taxing jurisdiction shall not levy a
32 transaction privilege, sales, use, franchise or other similar tax or fee,
33 however denominated, in excess of one-tenth of one per cent of the value of
34 the entire product mined, smelted, extracted, refined, produced or prepared
35 for sale, profit or commercial use, on persons engaged in the business of
36 mineral processing, except to the extent that the tax is computed on the
37 gross proceeds or gross income from sales at retail.

38 E. In computing the tax base, any city, town or other taxing
39 jurisdiction shall not include in the gross proceeds of sales or gross
40 income:

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

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

1 Sec. 10. Rules: exemption

2 The department of revenue is exempt from the rule making requirements
3 of title 41, chapter 6, Arizona Revised Statutes, for one year after the
4 effective date of this act to adopt administrative rules regarding the
5 implementation of this act.

6 Sec. 11. Emergency

7 This act is an emergency measure that is necessary to preserve the
8 public peace, health or safety and is operative immediately as provided by
9 law.