

REFERENCE TITLE: sales tax; contractors; owner builders

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

## **SB 1545**

Introduced by  
Senator Chevront

AN ACT

AMENDING SECTIONS 42-5010, 42-5061, 42-5075 AND 42-6102, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5076, ARIZONA REVISED STATUTES; RELATING TO PRIME CONTRACTING TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5010, Arizona Revised Statutes, is amended to  
3 read:

4 42-5010. Rates; distribution base

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

7 1. Five per cent of the tax base as computed for the business of every  
8 person engaging or continuing in this state in the following business  
9 classifications described in article 2 of this chapter:

10 (a) Transporting classification.

11 (b) Utilities classification.

12 (c) Telecommunications classification.

13 (d) Pipeline classification.

14 (e) Private car line classification.

15 (f) Publication classification.

16 (g) Job printing classification.

17 (h) Prime contracting classification.

18 ~~(i) Owner-builder sales classification.~~

19 ~~(j)~~ (i) Amusement classification.

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

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

22 ~~(m)~~ (l) Retail classification.

23 2. Five and one-half per cent of the tax base as computed for the  
24 business of every person engaging or continuing in this state in the  
25 transient lodging classification described in section 42-5070.

26 3. Three and one-eighth per cent of the tax base as computed for the  
27 business of every person engaging or continuing in this state in the mining  
28 classification described in section 42-5072.

29 4. Zero per cent of the tax base as computed for the business of every  
30 person engaging or continuing in this state in the commercial lease  
31 classification described in section 42-5069.

32 B. Twenty per cent of the tax revenues collected at the rate  
33 prescribed by subsection A, paragraph 1 of this section from persons on  
34 account of engaging in business under the business classifications listed in  
35 subsection A, paragraph 1, subdivisions ~~(i)~~ (a) through (h) of this section  
36 is designated as distribution base for purposes of section 42-5029.

37 C. Forty per cent of the tax revenues collected at the rate prescribed  
38 by subsection A, paragraph 1 of this section from persons on account of  
39 engaging in business under the business classifications listed in subsection  
40 A, paragraph 1, subdivisions ~~(j)~~ (i) through ~~(m)~~ (l) of this section is  
41 designated as distribution base for purposes of section 42-5029.

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

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

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

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

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

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

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

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

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

1           Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:  
2           42-5061. Retail classification; definitions

3           A. The retail classification is comprised of the business of selling  
4 tangible personal property at retail. The tax base for the retail  
5 classification is the gross proceeds of sales or gross income derived from  
6 the business. The tax imposed on the retail classification does not apply to  
7 the gross proceeds of sales or gross income from:

8           1. Professional or personal service occupations or businesses which  
9 involve sales or transfers of tangible personal property only as  
10 inconsequential elements.

11           2. Services rendered in addition to selling tangible personal property  
12 at retail.

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

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

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

23           6. Business activity which is properly included in any other business  
24 classification which is taxable under article 1 of this chapter.

25           7. The sale of stocks and bonds.

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

29           9. Prosthetic appliances as defined in section 23-501 prescribed or  
30 recommended by a health professional licensed pursuant to title 32, chapter  
31 7, 8, 11, 13, 14, 15, 16, 17 or 29.

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

33           11. Prescription eyeglasses or contact lenses.

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

35           13. Durable medical equipment which has a centers for medicare and  
36 medicaid services common procedure code, is designated reimbursable by  
37 medicare, is prescribed by a person who is licensed under title 32, chapter  
38 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
39 customarily used to serve a medical purpose, is generally not useful to a  
40 person in the absence of illness or injury and is appropriate for use in the  
41 home.

42           14. Sales to nonresidents of this state for use outside this state if  
43 the vendor ships or delivers the tangible personal property out of this  
44 state.

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

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

8           17. Textbooks by any bookstore that are required by any state  
9 university or community college.

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

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

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

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

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

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

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

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

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

44           25. Tangible personal property sold to:

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

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

4 (c) A qualifying health care organization as defined in section  
5 42-5001 if the organization is dedicated to providing educational,  
6 therapeutic, rehabilitative and family medical education training for blind,  
7 visually impaired and multihandicapped children from the time of birth to age  
8 twenty-one.

9 (d) A qualifying community health center as defined in section  
10 42-5001.

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

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

22 26. Magazines or other periodicals or other publications by this state  
23 to encourage tourist travel.

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

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

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

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

38 28. The sale of a motor vehicle to:

39 (a) A nonresident of this state if the purchaser's state of residence  
40 does not allow a corresponding use tax exemption to the tax imposed by  
41 article 1 of this chapter and if the nonresident has secured a special ninety  
42 day nonresident registration permit for the vehicle as prescribed by sections  
43 28-2154 and 28-2154.01.

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

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

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

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

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

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

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

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

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

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

41           38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
42 sold to a qualified environmental technology manufacturer, producer or  
43 processor as defined in section 41-1514.02 and directly used or consumed in  
44 the generation or provision of on-site power or energy solely for  
45 environmental technology manufacturing, producing or processing or

1 environmental protection. This paragraph shall apply for fifteen full  
2 consecutive calendar or fiscal years from the date the first paper  
3 manufacturing machine is placed in service. In the case of an environmental  
4 technology manufacturer, producer or processor who does not manufacture  
5 paper, the time period shall begin with the date the first manufacturing,  
6 processing or production equipment is placed in service.

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

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

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

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

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

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

42 43. Livestock and poultry feed, salts, vitamins and other additives for  
43 livestock or poultry consumption that are sold to persons who are engaged in  
44 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 44. Sales of implants used as growth promotants and injectable  
4 medicines, not already exempt under paragraph 8 of this subsection, for  
5 livestock or poultry owned by or in possession of persons who are engaged in  
6 producing livestock, poultry, or livestock or poultry products or who are  
7 engaged in feeding livestock or poultry commercially. For the purposes of  
8 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

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

1           52. Sales of tangible personal property to be incorporated or installed  
2 as part of environmental response or remediation activities under section  
3 42-5075, subsection B, paragraph 6.

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

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

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

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

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

32           4. Machinery, equipment or transmission lines used directly in  
33 producing or transmitting electrical power, but not including distribution.  
34 Transformers and control equipment used at transmission substation sites  
35 constitute equipment used in producing or transmitting electrical power.

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

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

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

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

7 (b) Any foreign government for use by such government outside of this  
8 state.

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

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

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

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

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

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

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

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

43 (b) "Self-powered implements" includes machinery and equipment that  
44 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 used directly in the feeding of poultry,  
25 the environmental control of housing for poultry, the movement of eggs within  
26 a production and packaging facility or the sorting or cooling of eggs. This  
27 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 sold to a person engaged in the  
39 commercial production of livestock, livestock products or agricultural,  
40 horticultural, viticultural or floricultural crops or products in this state  
41 and that are used directly and primarily to prevent, monitor, control or  
42 reduce air, water or land 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 deduction, the qualified business at the time of purchase must present its  
17 certification approved by the department.

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

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

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. In addition to the deductions from the tax base prescribed by  
43 subsection A of this section, there shall be deducted from the tax base the  
44 gross proceeds of sales or gross income derived from sales of machinery,  
45 equipment, materials and other tangible personal property used directly and

1 predominantly to construct a qualified environmental technology  
2 manufacturing, producing or processing facility as described in section  
3 41-1514.02. This subsection applies for ten full consecutive calendar or  
4 fiscal years after the start of initial construction.

5 E. In computing the tax base, gross proceeds of sales or gross income  
6 from retail sales of heavy trucks and trailers does not include any amount  
7 attributable to federal excise taxes imposed by 26 United States Code section  
8 4051.

9 F. In computing the tax base, gross proceeds of sales or gross income  
10 from the sale of use fuel, as defined in section 28-5601, does not include  
11 any amount attributable to federal excise taxes imposed by 26 United States  
12 Code section 4091.

13 G. If a person is engaged in an occupation or business to which  
14 subsection A of this section applies, the person's books shall be kept so as  
15 to show separately the gross proceeds of sales of tangible personal property  
16 and the gross income from sales of services, and if not so kept the tax shall  
17 be imposed on the total of the person's gross proceeds of sales of tangible  
18 personal property and gross income from services.

19 H. If a person is engaged in the business of selling tangible personal  
20 property at both wholesale and retail, the tax under this section applies  
21 only to the gross proceeds of the sales made other than at wholesale if the  
22 person's books are kept so as to show separately the gross proceeds of sales  
23 of each class, and if the books are not so kept, the tax under this section  
24 applies to the gross proceeds of every sale so made.

25 I. A person who engages in manufacturing, baling, crating, boxing,  
26 barreling, canning, bottling, sacking, preserving, processing or otherwise  
27 preparing for sale or commercial use any livestock, agricultural or  
28 horticultural product or any other product, article, substance or commodity  
29 and who sells the product of such business at retail in this state is deemed,  
30 as to such sales, to be engaged in business classified under the retail  
31 classification. This subsection does not apply to businesses classified  
32 under the:

- 33 1. Transporting classification.
- 34 2. Utilities classification.
- 35 3. Telecommunications classification.
- 36 4. Pipeline classification.
- 37 5. Private car line classification.
- 38 6. Publication classification.
- 39 7. Job printing classification.
- 40 8. Prime contracting classification.
- 41 ~~9. Owner builder sales classification.~~
- 42 ~~10.~~ 9. Restaurant classification.

43 J. The gross proceeds of sales or gross income derived from the  
44 following shall be deducted from the tax base for the retail classification:

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

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

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

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

18           K. There shall be deducted from the tax base fifty per cent of the  
19 gross proceeds or gross income from any sale of tangible personal property  
20 made directly to the United States government or its departments or agencies,  
21 which is not deducted under subsection J of this section.

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

27           M. In computing the tax base, gross proceeds of sales or gross income  
28 does not include:

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

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

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

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

44           P. For the purposes of this section, a sale of wireless  
45 telecommunications equipment to a person who holds the equipment for sale or

1 transfer to a customer as an inducement to enter into or continue a contract  
2 for telecommunications services that are taxable under section 42-5064 is  
3 considered to be a sale for resale in the regular course of business.

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

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

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

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

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

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

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

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

39 U. In computing the tax base for the sale of a motor vehicle to a  
40 nonresident of this state, if the purchaser's state of residence allows a  
41 corresponding use tax exemption to the tax imposed by article 1 of this  
42 chapter and the rate of the tax in the purchaser's state of residence is  
43 lower than the rate prescribed in article 1 of this chapter or if the  
44 purchaser's state of residence does not impose an excise tax, and the  
45 nonresident has secured a special ninety day nonresident registration permit

1 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall  
2 be deducted from the tax base a portion of the gross proceeds or gross income  
3 from the sale so that the amount of transaction privilege tax that is paid in  
4 this state is equal to the excise tax that is imposed by the purchaser's  
5 state of residence on the nonexempt sale or use of the motor vehicle.

6 V. For the purposes of this section:

7 1. "Aircraft" includes:

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

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

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

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

22 W. For the purposes of subsection J of this section:

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

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

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

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

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

41 6. "Subcontract" means an agreement between a contractor and any  
42 person who is not an employee of the contractor for furnishing of supplies or  
43 services that, in whole or in part, are necessary to the performance of one  
44 or more government contracts, or under which any portion of the contractor's  
45 obligation under one or more government contracts is performed, undertaken or

1 assumed and that includes provisions causing title to overhead materials or  
2 other tangible personal property used in the performance of the subcontract  
3 to pass to the government or that includes provisions incorporating such  
4 title passing clauses in a government contract into the subcontract.

5 Sec. 3. Section 42-5075, Arizona Revised Statutes, is amended to read:  
6 42-5075. Prime contracting classification; exemptions;  
7 definitions

8 A. The prime contracting classification is comprised of the business  
9 of prime contracting and dealership of manufactured buildings. Sales for  
10 resale to another dealership of manufactured buildings are not subject to  
11 tax. Sales for resale do not include sales to a lessor of manufactured  
12 buildings. The sale of a used manufactured building is not taxable under  
13 this chapter. The proceeds from alteration and repairs to a used  
14 manufactured building are taxable under this section.

15 B. The tax base for the prime contracting classification is sixty-five  
16 per cent of the gross proceeds of sales or gross income derived from the  
17 business. The following amounts shall be deducted from the gross proceeds of  
18 sales or gross income before computing the tax base:

19 1. The sales price of land, which shall not exceed the fair market  
20 value.

21 2. Sales and installation of groundwater measuring devices required  
22 under section 45-604 and groundwater monitoring wells required by law,  
23 including monitoring wells installed for acquiring information for a permit  
24 required by law.

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

30 4. The gross proceeds of sales or gross income received from a  
31 contract entered into for the construction, alteration, repair, addition,  
32 subtraction, improvement, movement, wrecking or demolition of any building,  
33 highway, road, railroad, excavation, manufactured building or other  
34 structure, project, development or improvement located in a military reuse  
35 zone for providing aviation or aerospace services or for a manufacturer,  
36 assembler or fabricator of aviation or aerospace products within an active  
37 military reuse zone after the zone is initially established or renewed under  
38 section 41-1531. To be eligible to qualify for this deduction, before  
39 beginning work under the contract, the prime contractor must have applied for  
40 a letter of qualification from the department of revenue.

41 5. The gross proceeds of sales or gross income derived from a contract  
42 to construct a qualified environmental technology manufacturing, producing or  
43 processing facility, as described in section 41-1514.02, and from subsequent  
44 construction and installation contracts that begin within ten years after the  
45 start of initial construction. To qualify for this deduction, before

1 beginning work under the contract, the prime contractor must obtain a letter  
2 of qualification from the department of revenue. This paragraph shall apply  
3 for ten full consecutive calendar or fiscal years after the start of initial  
4 construction.

5 6. The gross proceeds of sales or gross income from a contract to  
6 provide for one or more of the following actions, or a contract for site  
7 preparation, constructing, furnishing or installing machinery, equipment or  
8 other tangible personal property, including structures necessary to protect  
9 exempt incorporated materials or installed machinery or equipment, and  
10 tangible personal property incorporated into the project, to perform one or  
11 more of the following actions in response to a release or suspected release  
12 of a hazardous substance, pollutant or contaminant from a facility to the  
13 environment, unless the release was authorized by a permit issued by a  
14 governmental authority:

15 (a) Actions to monitor, assess and evaluate such a release or a  
16 suspected release.

17 (b) Excavation, removal and transportation of contaminated soil and  
18 its treatment or disposal.

19 (c) Treatment of contaminated soil by vapor extraction, chemical or  
20 physical stabilization, soil washing or biological treatment to reduce the  
21 concentration, toxicity or mobility of a contaminant.

22 (d) Pumping and treatment or in situ treatment of contaminated  
23 groundwater or surface water to reduce the concentration or toxicity of a  
24 contaminant.

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

29 This paragraph does not include asbestos removal or the construction or use  
30 of ancillary structures such as maintenance sheds, offices or storage  
31 facilities for unattached equipment, pollution control equipment, facilities  
32 or other control items required or to be used by a person to prevent or  
33 control contamination before it reaches the environment.

34 7. The gross proceeds of sales or gross income that is derived from a  
35 contract entered into for the installation, assembly, repair or maintenance  
36 of machinery, equipment or other tangible personal property that is deducted  
37 from the tax base of the retail classification pursuant to section 42-5061,  
38 subsection B, or that is exempt from use tax pursuant to section 42-5159,  
39 subsection B, and that does not become a permanent attachment to a building,  
40 highway, road, railroad, excavation or manufactured building or other  
41 structure, project, development or improvement. If the ownership of the  
42 realty is separate from the ownership of the machinery, equipment or tangible  
43 personal property, the determination as to permanent attachment shall be made  
44 as if the ownership were the same. The deduction provided in this paragraph  
45 does not include gross proceeds of sales or gross income from that portion of

1 any contracting activity which consists of the development of, or  
2 modification to, real property in order to facilitate the installation,  
3 assembly, repair, maintenance or removal of machinery, equipment or other  
4 tangible personal property that is deducted from the tax base of the retail  
5 classification pursuant to section 42-5061, subsection B or that is exempt  
6 from use tax pursuant to section 42-5159, subsection B. For the purposes of  
7 this paragraph, "permanent attachment" means at least one of the following:

8 (a) To be incorporated into real property.

9 (b) To become so affixed to real property that it becomes a part of  
10 the real property.

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

13 8. Through December 31, 2009, the gross proceeds of sales or gross  
14 income received from a contract for constructing any lake facility  
15 development in a commercial enhancement reuse district that is designated  
16 pursuant to section 9-499.08 if the prime contractor maintains the following  
17 records in a form satisfactory to the department and to the city or town in  
18 which the property is located:

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

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

26 (c) Any other information that the department considers to be  
27 necessary.

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

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

32 (b) Section 42-5061, subsection B.

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

35 (d) Section 42-5159, subsection B.

36 10. The gross proceeds of sales or gross income received from a  
37 contract for the construction of an environmentally controlled facility for  
38 the raising of poultry for the production of eggs and the sorting, cooling  
39 and packaging of eggs.

40 11. The gross proceeds of sales or gross income that is derived from a  
41 contract entered into with a person who is engaged in the commercial  
42 production of livestock, livestock products or agricultural, horticultural,  
43 viticultural or floricultural crops or products in this state for the  
44 construction, alteration, repair, improvement, movement, wrecking or  
45 demolition or addition to or subtraction from any building, highway, road,

1 excavation, manufactured building or other structure, project, development or  
2 improvement used directly and primarily to prevent, monitor, control or  
3 reduce air, water or land pollution.

4 12. The gross proceeds of sales or gross income that is derived from  
5 the installation, assembly, repair or maintenance of clean rooms that are  
6 deducted from the tax base of the retail classification pursuant to section  
7 42-5061, subsection B, paragraph 17.

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

14 14. For taxable periods beginning from and after December 31, 1996 and  
15 ending before January 1, 2011, the gross proceeds of sales or gross income  
16 derived from a contract to provide and install a solar energy device. The  
17 contractor shall register with the department as a solar energy contractor.  
18 By registering, the contractor acknowledges that it will make its books and  
19 records relating to sales of solar energy devices available to the department  
20 for examination.

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

24 16. The gross proceeds of sales or gross income derived from a contract  
25 entered into for the construction of a domestic violence shelter that is  
26 owned and operated by a nonprofit charitable organization that has qualified  
27 under section 501(c)(3) of the internal revenue code.

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

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

37 19. The gross proceeds of sales or gross income received from a  
38 contract for the construction of any building, or other structure, project,  
39 development or improvement owned by a qualified business under section  
40 41-1516 for harvesting or the initial processing of qualifying forest  
41 products removed from qualifying projects as defined in section 41-1516 if  
42 actual construction begins before January 1, 2010. To qualify for this  
43 deduction, the prime contractor must obtain a letter of qualification from  
44 the department of commerce before beginning work under the contract.

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

8           21. Any amount of the gross proceeds of sales or gross income from a  
9 contract that constitutes development or impact fees paid to the state or a  
10 local government to offset governmental costs of providing public  
11 infrastructure, public safety and other public services to a development.

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

14           1. A prime contractor may establish entitlement to the deduction by  
15 both:

16           (a) Marking the invoice for the transaction to indicate that the gross  
17 proceeds of sales or gross income derived from the transaction was deducted  
18 from the base.

19           (b) Obtaining a certificate executed by the purchaser indicating the  
20 name and address of the purchaser, the precise nature of the business of the  
21 purchaser, the purpose for which the purchase was made, the necessary facts  
22 to establish the deductibility of the property under section 42-5061,  
23 subsection B, and a certification that the person executing the certificate  
24 is authorized to do so on behalf of the purchaser. The certificate may be  
25 disregarded if the prime contractor has reason to believe that the  
26 information contained in the certificate is not accurate or complete.

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

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

37           4. If a prime contractor is entitled to a deduction by complying with  
38 paragraph 1 of this subsection, the department may require the purchaser who  
39 caused the execution of the certificate to establish the accuracy and  
40 completeness of the information required to be contained in the certificate  
41 which would entitle the prime contractor to the deduction. If the purchaser  
42 cannot establish the accuracy and completeness of the information, the  
43 purchaser is liable in an amount equal to any tax, penalty and interest which  
44 the prime contractor would have been required to pay under article 1 of this  
45 chapter if the prime contractor had not complied with paragraph 1 of this

1 subsection. Payment of the amount under this paragraph exempts the purchaser  
2 from liability for any tax imposed under article 4 of this chapter. The  
3 amount shall be treated as a transaction privilege tax to the purchaser and  
4 as tax revenues collected from the prime contractor in order to designate the  
5 distribution base for purposes of section 42-5029.

6 D. Subcontractors or others who perform services in respect to any  
7 improvement, building, highway, road, railroad, excavation, manufactured  
8 building or other structure, project, development or improvement are not  
9 subject to tax if they can demonstrate that the job was within the control of  
10 a prime contractor or contractors or a dealership of manufactured buildings  
11 and that the prime contractor or dealership is liable for the tax on the  
12 gross income, gross proceeds of sales or gross receipts attributable to the  
13 job and from which the subcontractors or others were paid.

14 E. Amounts received by a contractor for a project are excluded from  
15 the contractor's gross proceeds of sales or gross income derived from the  
16 business if the person who hired the contractor executes and provides a  
17 certificate to the contractor stating that the person providing the  
18 certificate is a prime contractor and is liable for the tax under article 1  
19 of this chapter. The department shall prescribe the form of the certificate.  
20 If the contractor has reason to believe that the information contained on the  
21 certificate is erroneous or incomplete, the department may disregard the  
22 certificate. If the person who provides the certificate is not liable for  
23 the tax as a prime contractor, that person is nevertheless deemed to be the  
24 prime contractor in lieu of the contractor and is subject to the tax under  
25 this section on the gross receipts or gross proceeds received by the  
26 contractor.

27 F. Every person engaging or continuing in this state in the business  
28 of prime contracting or dealership of manufactured buildings shall present to  
29 the purchaser of such prime contracting or manufactured building a written  
30 receipt of the gross income or gross proceeds of sales from such activity and  
31 shall separately state the taxes to be paid pursuant to this section.

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

38 H. The gross proceeds of sales or gross income derived from a contract  
39 for lawn maintenance services are not subject to tax under this section if  
40 the contract does not include landscaping activities. Lawn maintenance  
41 service is a service pursuant to section 42-5061, subsection A, paragraph 1,  
42 and includes lawn mowing and edging, weeding, repairing sprinkler heads or  
43 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,  
44 lawn de-thatching, seeding winter lawns, leaf and debris collection and  
45 removal, tree or shrub pruning or clipping, garden and gravel raking and

1 applying pesticides, as defined in section 3-361, and fertilizer materials,  
2 as defined in section 3-262.

3 I. The gross proceeds of sales or gross income derived from  
4 landscaping activities are subject to tax under this section. Landscaping  
5 includes installing lawns, grading or leveling ground, installing gravel or  
6 boulders, planting trees and other plants, felling trees, removing or  
7 mulching tree stumps, removing other imbedded plants, building or modifying  
8 irrigation berms, repairing sprinkler or watering systems, installing  
9 railroad ties and installing underground sprinkler or watering systems.

10 J. The portion of gross proceeds of sales or gross income attributable  
11 to the actual direct costs of providing architectural or engineering services  
12 that are incorporated in a contract is not subject to tax under this section.  
13 For the purposes of this subsection, "direct costs" means the portion of the  
14 actual costs that are directly expended in providing architectural or  
15 engineering services.

16 K. Operating a landfill or a solid waste disposal facility is not  
17 subject to taxation under this section, including filling, compacting and  
18 creating vehicle access to and from cell sites within the landfill.  
19 Constructing roads to a landfill or solid waste disposal facility and  
20 constructing cells within a landfill or solid waste disposal facility may be  
21 deemed prime contracting under this section.

22 L. The following ~~applies~~ APPLY to manufactured buildings:

23 1. For sales in this state where the ~~dealer~~ DEALERSHIP of manufactured  
24 buildings contracts to deliver the building to a setup site or to perform the  
25 setup in this state, the taxable situs is the setup site.

26 2. For sales in this state where the ~~dealer~~ DEALERSHIP of manufactured  
27 buildings does not contract to deliver the building to a setup site or does  
28 not perform the setup, the taxable situs is the location of the dealership  
29 where the building is delivered to the buyer.

30 3. For sales in this state where the ~~dealer~~ DEALERSHIP of manufactured  
31 buildings contracts to deliver the building to a setup site that is outside  
32 this state, the situs is outside this state and the transaction is excluded  
33 from tax.

34 M. For the purposes of this section:

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

36 2. "Contractor" is synonymous with the term "builder" and means any  
37 person, firm, partnership, corporation, association or other organization, or  
38 a combination of any of them, that undertakes to or offers to undertake to,  
39 or purports to have the capacity to undertake to, or submits a bid to, or  
40 does personally or by or through others, construct, alter, repair, add to,  
41 subtract from, improve, move, wreck or demolish any building, highway, road,  
42 railroad, excavation, manufactured building or other structure, project,  
43 development or improvement, or to do any part of such a project, including  
44 the erection of scaffolding or other structure or works in connection with  
45 such a project, and includes subcontractors and specialty contractors. For

1 all purposes of taxation or deduction, this definition shall govern without  
2 regard to whether or not such contractor is acting in fulfillment of a  
3 contract.

4 3. "Dealership of manufactured buildings" means a dealer who either:

5 (a) Is licensed pursuant to title 41, chapter 16 and who sells  
6 manufactured buildings to the final consumer.

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

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

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

15 6. "Prime contractor" means a contractor who supervises, performs or  
16 coordinates the construction, alteration, repair, addition, subtraction,  
17 improvement, movement, wreckage or demolition of any building, highway, road,  
18 railroad, excavation, manufactured building or other structure, project,  
19 development or improvement including the contracting, if any, with any  
20 subcontractors or specialty contractors and who is responsible for the  
21 completion of the contract. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS  
22 SECTION, PRIME CONTRACTOR DOES NOT INCLUDE AN OWNER OF REAL PROPERTY THAT  
23 ENGAGES ONE OR MORE CONTRACTORS TO MODIFY THAT PROPERTY AND THAT DOES NOT  
24 ITSELF MODIFY THE PROPERTY REGARDLESS OF THE EXISTENCE OF A CONTRACT FOR  
25 SALE, OR SUBSEQUENT SALE, OF THE PROPERTY. IF THE OWNER RECEIVES  
26 COMPENSATION FOR ADDITIONAL MODIFICATIONS MADE TO THE PROPERTY AFTER THE  
27 TRANSFER OF TITLE AND IS RESPONSIBLE TO THE NEW OWNER FOR THOSE  
28 MODIFICATIONS, THE FORMER OWNER MAY BE CONSIDERED TO BE A PRIME CONTRACTOR  
29 SOLELY FOR THE PURPOSES OF TAXING THE GROSS PROCEEDS OF SALE OR GROSS INCOME  
30 ATTRIBUTABLE TO THE ADDITIONAL MODIFICATIONS MADE DURING THAT SUBSEQUENT  
31 PERIOD.

32 7. "Sale of a used manufactured building" does not include a lease of  
33 a used manufactured building.

34 Sec. 4. Repeal

35 Section 42-5076, Arizona Revised Statutes, is repealed.

36 Sec. 5. Section 42-6102, Arizona Revised Statutes, is amended to read:  
37 42-6102. Administration; exception

38 A. Unless the context otherwise requires, chapter 5, article 1 of this  
39 title governs the administration of the taxes imposed by this article, except  
40 that:

41 1. A separate license is not required for the taxes imposed by this  
42 article, and the taxes due under this article shall be included, reported and  
43 paid with the transaction privilege tax.

44 2. A separate bond is not required of employees of the department in  
45 administering this article.

1           3. The taxes imposed by this article may be included without  
2 segregation in any notice and lien filed for unpaid transaction privilege  
3 taxes.

4           B. The taxes imposed pursuant to this article do not apply to the  
5 gross proceeds of sales or gross income derived pursuant to contracts entered  
6 into before the date of the election to authorize the tax by prime  
7 contractors ~~and owner-builders~~ who are classified under ~~sections~~ SECTION  
8 42-5075 ~~and 42-5076~~ unless the contract contains a provision which entitles  
9 the contractor to recover the amount of the tax from a purchaser. In order  
10 to qualify for this exemption the contractor shall provide sufficient  
11 documentation, in a manner and form prescribed by the department, to verify  
12 that a contract was entered into before the date of the election to authorize  
13 the tax.

14           Sec. 6. Retroactivity; limitation on refunds; nonseverability

15           A. Section 42-5075, subsection M, paragraph 6, Arizona Revised  
16 Statutes, as amended by this act, applies retroactively to taxable periods  
17 beginning from and after January 8, 1991.

18           B. Any claim for refund of transaction privilege tax based on the  
19 retroactive application must be submitted to the department of revenue on or  
20 before December 31, 2007, pursuant to section 42-1118, Arizona Revised  
21 Statutes. A failure to file a claim on or before December 31, 2007  
22 constitutes a waiver of the claim for refund under this section.

23           C. The aggregate amount of refunds under this section shall not exceed  
24 one hundred thousand dollars including interest. If the aggregate amount of  
25 the claims under this section that are ultimately determined to be correct  
26 exceeds one hundred thousand dollars, then each claim shall be  
27 proportionately reduced so that the total refund amount equals one hundred  
28 thousand dollars. Amounts due under this section shall not be refunded  
29 unless the taxpayer requesting the refund provides evidence satisfactory to  
30 the department of revenue that amounts of tax and interest collected from  
31 other persons by the taxpayer will be returned to those persons.

32           D. The limitations imposed on refund claims in this section do not  
33 apply to refund claims filed before December 31, 2006.

34           E. If any part of this section is finally adjudicated to be invalid,  
35 the entire section is void. The provisions of this section are intended to  
36 be nonseverable.