

REFERENCE TITLE: comprehensive transaction privilege tax

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2361

Introduced by
Representatives Bradley, Lopez: Gallardo, Prezelski

AN ACT

AMENDING SECTIONS 42-5010, 42-5061, 42-5062, 42-5063, 42-5064, 42-5067, 42-5071, 42-5073, 42-5075 AND 42-5159, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5077; RELATING TO TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

1 subsection A, paragraph 3 of this section is designated as distribution base
2 for purposes of section 42-5029.

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

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

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

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

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

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

43 2. ~~The provisions of~~ This subsection ~~apply~~ APPLIES without regard to
44 the accounting method used by the taxpayer to report the taxes imposed under
45 article 2 of this chapter.

1 3. ~~The provisions of~~ This subsection shall not be considered in
2 determining the rate of tax imposed under chapter 6, article 3 of this title.
3 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:
4 42-5061. Retail classification; definitions
5 A. The retail classification is comprised of the business of selling
6 tangible personal property at retail. The tax base for the retail
7 classification is the gross proceeds of sales or gross income derived from
8 the business. The tax imposed on the retail classification does not apply to
9 the gross proceeds of sales or gross income from:
10 1. Professional or personal service occupations or businesses which
11 involve sales or transfers of tangible personal property only as
12 inconsequential elements.
13 2. Services rendered in addition to selling tangible personal property
14 at retail.
15 ~~3. Sales of warranty or service contracts. The storage, use or~~
16 ~~consumption of tangible personal property provided under the conditions of~~
17 ~~such contracts is subject to tax under section 42-5156.~~
18 ~~4. Sales of tangible personal property by any nonprofit organization~~
19 ~~organized and operated exclusively for charitable purposes and recognized by~~
20 ~~the United States internal revenue service under section 501(c)(3) of the~~
21 ~~internal revenue code.~~
22 ~~5.~~ 3. Sales to persons engaged in business classified under the
23 restaurant classification of articles used by human beings for food, drink or
24 condiment, whether simple, mixed or compounded.
25 ~~6.~~ 4. Business activity which is properly included in any other
26 business classification which is taxable under article 1 of this chapter.
27 ~~7.~~ 5. The sale of stocks and bonds.
28 ~~8.~~ 6. Drugs and medical oxygen, including delivery hose, mask or
29 tent, regulator and tank, on the prescription of a member of the medical,
30 dental or veterinarian profession who is licensed by law to administer such
31 substances.
32 ~~9.~~ 7. Prosthetic appliances as defined in section 23-501 prescribed
33 or recommended by a health professional licensed pursuant to title 32,
34 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
35 ~~10.~~ 8. Insulin, insulin syringes and glucose test strips.
36 ~~11.~~ 9. Prescription eyeglasses or contact lenses.
37 ~~12.~~ 10. Hearing aids as defined in section 36-1901.
38 ~~13.~~ 11. Durable medical equipment which has a centers for medicare and
39 medicaid services common procedure code, is designated reimbursable by
40 medicare, is prescribed by a person who is licensed under title 32, chapter
41 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
42 customarily used to serve a medical purpose, is generally not useful to a
43 person in the absence of illness or injury and is appropriate for use in the
44 home.

1 ~~14.~~ 12. Sales to nonresidents of this state for use outside this state
2 if the vendor ships or delivers the tangible personal property out of this
3 state.

4 ~~15.~~ 13. Food, as provided in and subject to the conditions of article
5 3 of this chapter and section 42-5074.

6 ~~16.~~ 14. Items purchased with United States department of agriculture
7 food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91
8 Stat. 958) or food instruments issued under section 17 of the child nutrition
9 act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States
10 Code section 1786).

11 ~~17.~~ 15. Textbooks by any bookstore that are required by any state
12 university or community college.

13 ~~18.~~ 16. Food and drink to a person who is engaged in business which is
14 classified under the restaurant classification and which provides such food
15 and drink without monetary charge to its employees for their own consumption
16 on the premises during the employees' hours of employment.

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

22 ~~20. Lottery tickets or shares pursuant to title 5, chapter 5,
23 article 1.~~

24 ~~21.~~ 18. The sale of precious metal bullion and monetized bullion to
25 the ultimate consumer, but the sale of coins or other forms of money for
26 manufacture into jewelry or works of art is subject to the tax. For the
27 purposes of this paragraph:

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

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

35 ~~22.~~ 19. Motor vehicle fuel and use fuel which are subject to a tax
36 imposed under title 28, chapter 16, article 1, sales of use fuel to a holder
37 of a valid single trip use fuel tax permit issued under section 28-5739,
38 sales of aviation fuel which are subject to the tax imposed under section
39 28-8344 and sales of jet fuel which are subject to the tax imposed under
40 article 8 of this chapter.

41 ~~23.~~ 20. Tangible personal property sold to a person engaged in the
42 business of leasing or renting such property under the personal property
43 rental classification if such property is to be leased or rented by such
44 person.

1 ~~24.~~ 21. Tangible personal property sold in interstate or foreign
2 commerce if prohibited from being so taxed by the Constitution of the United
3 States or the constitution of this state.

4 ~~25.~~ 22. Tangible personal property sold to:

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

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

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

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

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

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

27 ~~26.~~ 23. Magazines or other periodicals or other publications by this
28 state to encourage tourist travel.

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

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

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

39 ~~(c)~~ (b) Incorporated or fabricated by the person into any lake
40 facility development in a commercial enhancement reuse district under
41 conditions prescribed for the deduction allowed by section 42-5075,
42 subsection B, paragraph ~~8~~ 7.

43 ~~28.~~ 25. The sale of a motor vehicle to:

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

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

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

6 ~~29.~~ 26. Tangible personal property purchased in this state by a
7 nonprofit charitable organization that has qualified under section 501(c)(3)
8 of the United States internal revenue code and that engages in and uses such
9 property exclusively in programs for mentally or physically handicapped
10 persons if the programs are exclusively for training, job placement,
11 rehabilitation or testing.

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

18 ~~31.~~ 27. Sales of commodities, as defined by title 7 United States Code
19 section 2, that are consigned for resale in a warehouse in this state in or
20 from which the commodity is deliverable on a contract for future delivery
21 subject to the rules of a commodity market regulated by the United States
22 commodity futures trading commission.

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

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

33 ~~34.~~ 30. Machinery, equipment, technology or related supplies that are
34 only useful to assist a person who is physically disabled as defined in
35 section 46-191, has a developmental disability as defined in section 36-551
36 or has a head injury as defined in section 41-3201 to be more independent and
37 functional.

38 ~~35.~~ 31. Sales of tangible personal property that is shipped or
39 delivered directly to a destination outside the United States for use in that
40 foreign country.

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

43 ~~37.~~ 32. Paper machine clothing, such as forming fabrics and dryer
44 felts, sold to a paper manufacturer and directly used or consumed in paper
45 manufacturing.

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

12 ~~39.~~ 33. Sales of liquid, solid or gaseous chemicals used in
13 manufacturing, processing, fabricating, mining, refining, metallurgical
14 operations, research and development and, beginning on January 1, 1999,
15 printing, if using or consuming the chemicals, alone or as part of an
16 integrated system of chemicals, involves direct contact with the materials
17 from which the product is produced for the purpose of causing or permitting a
18 chemical or physical change to occur in the materials as part of the
19 production process. This paragraph does not include chemicals that are used
20 or consumed in activities such as packaging, storage or transportation but
21 does not affect any deduction for such chemicals that is otherwise provided
22 by this section. For the purposes of this paragraph, "printing" means a
23 commercial printing operation and includes job printing, engraving,
24 embossing, copying and bookbinding.

25 ~~40.~~ 34. Through December 31, 1994, personal property liquidation
26 transactions, conducted by a personal property liquidator. From and after
27 December 31, 1994, personal property liquidation transactions shall be
28 taxable under this section provided that nothing in this subsection shall be
29 construed to authorize the taxation of casual activities or transactions
30 under this chapter. For the purposes of this paragraph:

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

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

39 ~~41.~~ 35. Sales of food, drink and condiment for consumption within the
40 premises of any prison, jail or other institution under the jurisdiction of
41 the state department of corrections, the department of public safety, the
42 department of juvenile corrections or a county sheriff.

43 ~~42.~~ 36. A motor vehicle and any repair and replacement parts and
44 tangible personal property becoming a part of such motor vehicle sold to a
45 motor carrier who is subject to a fee prescribed in title 28, chapter 16,

1 article 4 and who is engaged in the business of leasing or renting such
2 property.

3 ~~43.~~ 37. Livestock and poultry feed, salts, vitamins and other
4 additives for livestock or poultry consumption that are sold to persons who
5 are engaged in producing livestock, poultry, or livestock or poultry products
6 or who are engaged in feeding livestock or poultry commercially. For the
7 purposes of this paragraph, "poultry" includes ratites.

8 ~~44.~~ 38. Sales of implants used as growth promotants and injectable
9 medicines, not already exempt under paragraph ~~8- 6~~ of this subsection, for
10 livestock or poultry owned by or in possession of persons who are engaged in
11 producing livestock, poultry, or livestock or poultry products or who are
12 engaged in feeding livestock or poultry commercially. For the purposes of
13 this paragraph, "poultry" includes ratites.

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

18 ~~46.~~ 39. Tangible personal property sold to a person engaged in
19 business and subject to tax under the transient lodging classification if the
20 tangible personal property is a personal hygiene item or articles used by
21 human beings for food, drink or condiment, except alcoholic beverages, which
22 are furnished without additional charge to and intended to be consumed by the
23 transient during the transient's occupancy.

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

27 ~~48.~~ 40. Sales of materials that are purchased by or for publicly
28 funded libraries including school district libraries, charter school
29 libraries, community college libraries, state university libraries or
30 federal, state, county or municipal libraries for use by the public as
31 follows:

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

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

42 ~~50. Sales of alternative fuel vehicles if the vehicle was manufactured
43 as a diesel fuel vehicle and converted to operate on alternative fuel and
44 equipment that is installed in a conventional diesel fuel motor vehicle to~~

1 ~~convert the vehicle to operate on an alternative fuel, as defined in section~~
2 ~~1-215.~~

3 ~~51.~~ 41. Sales of any spirituous, vinous or malt liquor by a person
4 that is licensed in this state as a wholesaler by the department of liquor
5 licenses and control pursuant to title 4, chapter 2, article 1.

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

9 ~~53.~~ 42. Sales of tangible personal property by a nonprofit
10 organization that is exempt from taxation under section 501(c)(6) of the
11 internal revenue code if the organization produces, organizes or promotes
12 cultural or civic related festivals or events and no part of the
13 organization's net earnings inures to the benefit of any private shareholder
14 or individual.

15 ~~54.~~ 43. Through August 31, 2014, sales of Arizona centennial
16 medallions by the historical advisory commission.

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

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

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

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

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

44 ~~5.~~ 4. Neat animals, horses, asses, sheep, ratites, swine or goats
45 used or to be used as breeding or production stock, including sales of

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

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

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

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

15 (b) Any foreign government for use by such government outside of this
16 state.

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

24 ~~8.~~ 6. Machinery, tools, equipment and related supplies used or
25 consumed directly in repairing, remodeling or maintaining aircraft, aircraft
26 engines or aircraft component parts by or on behalf of a certificated or
27 licensed carrier of persons or property.

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

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

33 ~~11.~~ 7. Buses or other urban mass transit vehicles which are used
34 directly to transport persons or property for hire or pursuant to a
35 governmentally adopted and controlled urban mass transportation program and
36 which are sold to bus companies holding a federal certificate of convenience
37 and necessity or operated by any city, town or other governmental entity or
38 by any person contracting with such governmental entity as part of a
39 governmentally adopted and controlled program to provide urban mass
40 transportation.

41 ~~12.~~ 8. Groundwater measuring devices required under section 45-604.

42 ~~13.~~ 9. New machinery and equipment consisting of tractors,
43 tractor-drawn implements, self-powered implements, machinery and equipment
44 necessary for extracting milk, and machinery and equipment necessary for
45 cooling milk and livestock, and drip irrigation lines ~~not already exempt~~

1 ~~under paragraph 6 of this subsection and~~ that are used for commercial
2 production of agricultural, horticultural, viticultural and floricultural
3 crops and products in this state. For the purposes of this paragraph:

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

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

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

21 ~~15.~~ 11. Machinery and equipment that are purchased by or on behalf of
22 the owners of a soundstage complex and primarily used for motion picture,
23 multimedia or interactive video production in the complex. This paragraph
24 applies only if the initial construction of the soundstage complex begins
25 after June 30, 1996 and before January 1, 2002 and the machinery and
26 equipment are purchased before the expiration of five years after the start
27 of initial construction. For the purposes of this paragraph:

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

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

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

42 ~~(a) Any direct broadcast satellite television or data transmission~~
43 ~~service that operates pursuant to 47 Code of Federal Regulations parts 25 and~~
44 ~~100.~~

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

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

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

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

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

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

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

34 ~~18.~~ 13. Machinery and equipment used directly in the feeding of
35 poultry, the environmental control of housing for poultry, the movement of
36 eggs within a production and packaging facility or the sorting or cooling of
37 eggs. This exemption does not apply to vehicles used for transporting eggs.

38 ~~19.~~ 14. Machinery or equipment, including related structural
39 components, that is employed in connection with manufacturing, processing,
40 fabricating, job printing, refining, mining, natural gas pipelines,
41 metallurgical operations, telecommunications, producing or transmitting
42 electricity or research and development and that is used directly to meet or
43 exceed rules or regulations adopted by the federal energy regulatory
44 commission, the United States environmental protection agency, the United
45 States nuclear regulatory commission, the Arizona department of environmental

1 quality or a political subdivision of this state to prevent, monitor, control
2 or reduce land, water or air pollution.

3 ~~20.~~ 15. Machinery and equipment that are sold to a person engaged in
4 the commercial production of livestock, livestock products or agricultural,
5 horticultural, viticultural or floricultural crops or products in this state
6 and that are used directly and primarily to prevent, monitor, control or
7 reduce air, water or land pollution.

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

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

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

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

22 ~~22.~~ 16. Qualifying equipment that is purchased from and after June 30,
23 2004 through June 30, 2014 by a qualified business under section 41-1516 for
24 harvesting or the initial processing of qualifying forest products removed
25 from qualifying projects as defined in section 41-1516. To qualify for this
26 deduction, the qualified business at the time of purchase must present its
27 certification approved by the department.

28 ~~23.~~ 17. Machinery, equipment and other tangible personal property used
29 directly in motion picture production by a motion picture production company.
30 To qualify for this deduction, at the time of purchase, the motion picture
31 production company must present to the retailer its certificate that is
32 issued pursuant to section 42-5009, subsection H and that establishes its
33 qualification for the deduction.

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

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

40 2. Janitorial equipment and hand tools.

41 3. Office equipment, furniture and supplies.

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

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

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

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

8 D. In addition to the deductions from the tax base prescribed by
9 subsection A of this section, there shall be deducted from the tax base the
10 gross proceeds of sales or gross income derived from sales of machinery,
11 equipment, materials and other tangible personal property 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 subsection applies for ten full consecutive calendar or
15 fiscal years after the start of initial construction.

16 E. In computing the tax base, gross proceeds of sales or gross income
17 from retail sales of heavy trucks and trailers does not include any amount
18 attributable to federal excise taxes imposed by 26 United States Code section
19 4051.

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

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

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

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

44 1. Transporting classification.

45 2. Utilities classification.

- 1 3. Telecommunications classification.
- 2 4. Pipeline classification.
- 3 5. Private car line classification.
- 4 6. Publication classification.
- 5 7. Job printing classification.
- 6 8. Prime contracting classification.
- 7 9. Owner builder sales classification.
- 8 10. Restaurant classification.
- 9 J. The gross proceeds of sales or gross income derived from the
- 10 following shall be deducted from the tax base for the retail classification:
- 11 1. Sales made directly to the United States government or its
- 12 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 13 2. Sales made directly to a manufacturer, modifier, assembler or
- 14 repairer if such sales are of any ingredient or component part of products
- 15 sold directly to the United States government or its departments or agencies
- 16 by the manufacturer, modifier, assembler or repairer.
- 17 3. 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.
- 23 4. Sales of overhead materials or other tangible personal property to
- 24 a manufacturer, modifier, assembler or repairer if the gross proceeds of
- 25 sales or gross income derived from the property by the manufacturer,
- 26 modifier, assembler or repairer will be exempt under paragraph 3 of this
- 27 subsection.
- 28 K. There shall be deducted from the tax base fifty per cent of the
- 29 gross proceeds or gross income from any sale of tangible personal property
- 30 made directly to the United States government or its departments or agencies,
- 31 which is not deducted under subsection J of this section.
- 32 L. The department shall require every person claiming a deduction
- 33 provided by subsection J or K of this section to file on forms prescribed by
- 34 the department at such times as the department directs a sworn statement
- 35 disclosing the name of the purchaser and the exact amount of sales on which
- 36 the exclusion or deduction is claimed.
- 37 M. In computing the tax base, gross proceeds of sales or gross income
- 38 does not include:
- 39 1. A manufacturer's cash rebate on the sales price of a motor vehicle
- 40 if the buyer assigns the buyer's right in the rebate to the retailer.
- 41 2. The waste tire disposal fee imposed pursuant to section 44-1302.
- 42 N. There shall be deducted from the tax base the amount received from
- 43 sales of solar energy devices. The retailer shall register with the
- 44 department as a solar energy retailer. By registering, the retailer

1 acknowledges that it will make its books and records relating to sales of
2 solar energy devices available to the department for examination.

3 ~~O. In computing the tax base in the case of the sale or transfer of
4 wireless telecommunications equipment as an inducement to a customer to enter
5 into or continue a contract for telecommunications services that are taxable
6 under section 42-5064, gross proceeds of sales or gross income does not
7 include any sales commissions or other compensation received by the retailer
8 as a result of the customer entering into or continuing a contract for the
9 telecommunications services.~~

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

15 ~~Q. 0.~~ Retail sales of prepaid calling cards or prepaid authorization
16 numbers for telecommunications services, including sales of reauthorization
17 of a prepaid card or authorization number, are subject to tax under this
18 section.

19 ~~R. P.~~ For the purposes of this section, the diversion of gas from a
20 pipeline by a person engaged in the business of:

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

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

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

42 Q. FEES CHARGED FOR THE INSTALLATION OF TANGIBLE PERSONAL PROPERTY BY
43 THE SELLER OF THE PROPERTY ARE SUBJECT TO TAX UNDER THIS SECTION.

1 ~~R.~~ R. For the purposes of section 42-5032.01, the department shall
2 separately account for revenues collected under the retail classification
3 from businesses selling tangible personal property at retail:

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

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

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

21 ~~T.~~ T. For the purposes of this section:

22 1. "Aircraft" includes:

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

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

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

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

37 ~~U.~~ U. For the purposes of subsection J of this section:

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

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

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

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

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

12 6. "Subcontract" means an agreement between a contractor and any
13 person who is not an employee of the contractor for furnishing of supplies or
14 services that, in whole or in part, are necessary to the performance of one
15 or more government contracts, or under which any portion of the contractor's
16 obligation under one or more government contracts is performed, undertaken or
17 assumed and that includes provisions causing title to overhead materials or
18 other tangible personal property used in the performance of the subcontract
19 to pass to the government or that includes provisions incorporating such
20 title passing clauses in a government contract into the subcontract.

21 Sec. 3. Section 42-5062, Arizona Revised Statutes, is amended to read:
22 42-5062. [Transporting classification](#)

23 A. The transporting classification is comprised of the business of
24 transporting for hire persons, freight or property by motor vehicle,
25 railroads or aircraft from one point to another point in this state. The
26 transporting classification does not include:

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

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

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

36 4. Public transportation program services for the dial-a-ride programs
37 and special needs transportation services.

38 ~~5. Transporting freight or property for hire by a railroad operating~~
39 ~~exclusively in this state if the transportation comprises a portion of a~~
40 ~~single shipment of freight or property, involving more than one railroad,~~
41 ~~either from a point in this state to a point outside this state or from a~~
42 ~~point outside this state to a point in this state. For the purposes of this~~
43 ~~paragraph, "a single shipment" means the transportation that begins at the~~
44 ~~point at which one of the railroads first takes possession of the freight or~~
45 ~~property and continues until the point at which one of the railroads~~

1 ~~relinquishes possession of the freight or property to a party other than one~~
2 ~~of the railroads.~~

3 ~~6-~~ 5. Arranging transportation as a convenience or service to a
4 person's customers if that person is not otherwise engaged in the business of
5 transporting persons, freight or property for hire. This exception does not
6 apply to businesses that dispatch vehicles pursuant to customer orders and
7 send the billings and receive the payments associated with that activity,
8 including when the transportation is performed by third party independent
9 contractors. For the purposes of this paragraph, "arranging" includes
10 billing for or collecting transportation charges from a person's customers on
11 behalf of the persons providing the transportation.

12 B. The tax base for the transporting classification is the gross
13 proceeds of sales or gross income derived from the business, except that the
14 following shall be deducted from the tax base:

15 ~~1. The gross proceeds of sales or gross income derived from~~
16 ~~transporting for hire persons, freight or property by a railroad pursuant to~~
17 ~~a contract with another railroad that is also considered to be engaged in the~~
18 ~~businesses of transporting persons, freight or property for hire if the other~~
19 ~~railroad is liable for the tax on gross proceeds of sales or gross income~~
20 ~~attributable to the transportation.~~

21 ~~2-~~ 1. The gross proceeds of sales or gross income derived from
22 business activity that is properly included in any other business
23 classification under this article and that is taxable to the person engaged
24 in that classification, but the gross proceeds of sales or gross income to be
25 deducted shall not exceed the consideration paid to the person conducting the
26 activity.

27 ~~3-~~ 2. The gross proceeds of sales or gross income derived from a
28 business activity that is arranged by the person who is subject to tax under
29 this section and that is not taxable to the person conducting the activity
30 due to an exclusion, exemption or deduction under this section or section
31 42-5073, but the gross proceeds of sales or gross income to be deducted shall
32 not exceed the consideration paid to the person conducting the activity.

33 ~~4-~~ 3. The gross proceeds of sales or gross income derived from
34 business activity that is arranged by a person who is subject to tax under
35 this section and that is taxable to another person under this section who
36 conducts the activity, but the gross proceeds of sales or gross income to be
37 deducted shall not exceed the consideration paid to the person conducting the
38 activity.

39 ~~5-~~ 4. The gross proceeds of sales or gross income derived from
40 transporting fertilizer by a railroad from a point in this state to another
41 point in this state.

1 Sec. 4. Section 42-5063, Arizona Revised Statutes, is amended to read:
2 42-5063. Utilities classification: definitions

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

4 1. Producing and furnishing or furnishing to consumers natural or
5 artificial gas and water.

6 2. Providing to retail electric customers ancillary services, electric
7 distribution services, electric generation services, electric transmission
8 services and other services related to providing electricity.

9 B. The ~~utility~~ UTILITIES classification does not include~~:-~~

10 ~~1-~~ sales of ancillary services, electric distribution services,
11 electric generation services, electric transmission services and other
12 services related to providing electricity, gas or water to a person who
13 resells the services.

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

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

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

24 C. The tax base for the utilities classification is the gross proceeds
25 of sales or gross income derived from the business, but the following shall
26 be deducted from the tax base:

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

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

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

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

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

44 4. The portion of gross proceeds of sales or gross income that is
45 derived from sales to ~~an~~ A QUALIFIED environmental technology manufacturer,

1 producer or processor as defined in section 41-1514.02 of a utility product
2 and that is used directly in environmental technology manufacturing,
3 producing or processing. This paragraph shall apply for fifteen full
4 consecutive calendar or fiscal years from the date the first paper
5 manufacturing machine is placed in service. In the case of ~~an~~ A QUALIFIED
6 environmental technology manufacturer, producer or processor who does not
7 manufacture paper, the time period shall begin with the date the first
8 manufacturing, processing or production equipment is placed in service.

9 D. For THE purposes of this section:

10 1. "Ancillary services" means those services so designated in federal
11 energy regulatory commission order 888 adopted in 1996 that include the
12 services necessary to support the transmission of electricity from resources
13 to loads while maintaining reliable operation of the transmission system
14 according to good utility practice.

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

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

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

25 5. "Other services" includes metering, meter reading services, billing
26 and collecting services.

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

30 Sec. 5. Section 42-5064, Arizona Revised Statutes, is amended to read:

31 42-5064. Telecommunications classification: definitions

32 A. The telecommunications classification is comprised of the business
33 of providing ~~intrastate~~ INTERSTATE telecommunications services. The
34 telecommunications classification does not include:

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

40 ~~2.~~ sales of internet access services to the person's subscribers and
41 customers.

42 B. The tax base for the telecommunications classification is the gross
43 proceeds of sales or gross income derived from the business, including the
44 gross income derived from tolls, subscriptions and services on behalf of
45 subscribers or from the publication of a directory of the names of

1 subscribers. However, the gross proceeds of sales or gross income derived
2 from the following shall be deducted from the tax base:

3 1. Sales of ~~intrastate~~ INTERSTATE telecommunications services to:
4 ~~(a)~~ other persons engaged in businesses classified under the
5 telecommunications classification for use in such business.

6 ~~(b) A direct broadcast satellite television or data transmission~~
7 ~~service that operates pursuant to 47 Code of Federal Regulations parts 25 and~~
8 ~~100 for use in its direct broadcast satellite television or data transmission~~
9 ~~operation by a facility described in section 42-5061, subsection B, paragraph~~
10 ~~16, subdivision (b).~~

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

13 ~~3.~~ 2. Carrier access charges established by federal communications
14 commission regulations (47 Code of Federal Regulations sections 69.105(a)
15 through 69.118).

16 ~~4. Sales of direct broadcast satellite television services pursuant to~~
17 ~~47 Code of Federal Regulations parts 25 and 100 by a direct broadcast~~
18 ~~satellite television service that operates pursuant to 47 Code of Federal~~
19 ~~Regulations parts 25 and 100.~~

20 ~~5.~~ 3. Telecommunications services purchased with a prepaid calling
21 card, or a prepaid authorization number for telecommunications services, that
22 is taxable under section 42-5061.

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

29 D. The gross proceeds of sales or gross income derived from a bundled
30 transaction of services that are taxable pursuant to section 42-5023 are
31 subject to the following:

32 1. A telecommunications service provider who can reasonably identify
33 the portion of the sales price of the bundled transaction derived from
34 charges for nontaxable services is subject to tax only on the gross proceeds
35 of sales or gross income derived from the taxable services. For the purposes
36 of this section, the telecommunications service provider may elect to
37 reasonably identify the portion of the sales price of the bundled transaction
38 derived from charges for nontaxable services by using allocation percentages
39 derived from the telecommunications service provider's entire service area,
40 including territories outside of this state. On request, the department may
41 require the telecommunications service provider to provide this allocation
42 information. The reasonableness of the allocation is subject to audit by the
43 department.

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

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

9 E. For the purposes of this section:

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

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

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

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

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

24 4. "~~Intrastate~~ INTERSTATE telecommunications services" means
25 transmitting signs, signals, writings, images, sounds, messages, data or
26 other information of any nature by wire, radio waves, light waves or other
27 electromagnetic means ~~if the information transmitted originates and~~
28 ~~terminates in this state.~~

29 Sec. 6. Section 42-5067, Arizona Revised Statutes, is amended to read:

30 42-5067. Pipeline classification

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

36 B. The tax base for the pipeline classification is the gross proceeds
37 of sales or gross income derived from the business, but the taxpayer shall
38 deduct from the tax base the gross proceeds of sales or gross income derived
39 from pipeline services to:

40 1. Qualifying hospitals as defined in section 42-5001.

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

1 Sec. 7. Section 42-5071, Arizona Revised Statutes, is amended to read:
2 42-5071. Personal property rental classification

3 A. The personal property rental classification is comprised of the
4 business of leasing or renting tangible personal property for a
5 consideration. The tax does not apply to:

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

9 2. Activities engaged in by the Arizona exposition and state fair
10 board or county fair commissions in connection with events sponsored by such
11 entities.

12 3. Leasing or renting tangible personal property by a parent
13 corporation to a subsidiary corporation or by a subsidiary corporation to
14 another subsidiary of the same parent corporation if taxes were paid under
15 this chapter on the gross proceeds or gross income accruing from the initial
16 sale of the tangible personal property. For the purposes of this paragraph,
17 "subsidiary" means a corporation of which at least eighty per cent of the
18 voting shares are owned by the parent corporation.

19 4. Operating coin operated washing, drying and dry cleaning machines
20 or coin operated car washing machines at establishments for the use of such
21 machines.

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

27 6. Leasing or renting aircraft, flight simulators or similar training
28 equipment to students or staff by nonprofit, accredited educational
29 institutions that offer associate or baccalaureate degrees in aviation or
30 aerospace related fields.

31 7. Leasing or renting photographs, transparencies or other creative
32 works used by this state on internet web sites, in magazines or in other
33 publications that encourage tourism.

34 B. The tax base for the personal property rental classification is the
35 gross proceeds of sales or gross income derived from the business, but the
36 gross proceeds of sales or gross income derived from the following shall be
37 deducted from the tax base:

38 1. Reimbursements by the lessee to the lessor of a motor vehicle for
39 payments by the lessor of the applicable fees and taxes imposed by sections
40 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
41 article 2 and article IX, section 11, Constitution of Arizona, to the extent
42 such amounts are separately identified as such fees and taxes and are billed
43 to the lessee.

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

4 (a) Section 42-5061, subsection A, paragraph ~~8, 9, 12, 13, 25, 29 or~~
5 ~~50~~ 6, 7, 10, 11, 22 OR 26.

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

8 (i) Section 42-5061, subsection B, paragraph ~~13~~ 9 if the lease is for
9 less than two years.

10 (ii) Section 42-5061, subsection B, paragraph ~~22~~ 16 if the lease is
11 for less than five years.

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

13 (d) Section 42-5061, subsection N.

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

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

20 5. Amounts received by a motor vehicle dealer for the first month of a
21 lease payment if the lease and the lease payment for the first month of the
22 lease are transferred to a third party leasing company.

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

26 D. In computing the tax base, the gross proceeds of sales or gross
27 income from the lease or rental of a motor vehicle does not include any
28 amount attributable to the car rental surcharge under section 28-5810 or
29 48-4234.

30 E. Until December 31, 1988, leasing or renting animals for
31 recreational purposes is exempt from the tax imposed by this section.
32 Beginning January 1, 1989, the gross proceeds or gross income from leasing or
33 renting animals for recreational purposes is subject to taxation under this
34 section. Tax liabilities, penalties and interest paid for taxable periods
35 before January 1, 1989 shall not be refunded unless the taxpayer requesting
36 the refund provides proof satisfactory to the department that the monies paid
37 as taxes will be returned to the customer.

38 Sec. 8. Section 42-5073, Arizona Revised Statutes, is amended to read:
39 42-5073. Amusement classification

40 A. The amusement classification is comprised of the business of
41 operating or conducting theaters, movies, operas, shows of any type or
42 nature, exhibitions, concerts, carnivals, circuses, amusement parks,
43 menageries, fairs, races, contests, games, billiard or pool parlors, bowling
44 alleys, public dances, dance halls, boxing and wrestling matches, skating
45 rinks, tennis courts, except as provided in subsection B of this section,

1 video games, pinball machines, **SECONDARY, POSTSECONDARY AND INTERCOLLEGIATE**
2 sports events or any other business charging admission or user fees for
3 exhibition, amusement or entertainment, including the operation or
4 sponsorship of events by a tourism and sports authority under title 5,
5 chapter 8. For **THE** purposes of this section, admission or user fees include,
6 but are not limited to, any revenues derived from any form of contractual
7 agreement for rights to or use of premium or special seating facilities or
8 arrangements. The amusement classification does not include:

9 1. Activities or projects of bona fide religious or educational
10 institutions.

11 ~~2. Private or group instructional activities. For the purposes of~~
12 ~~this paragraph, "private or group instructional activities" includes, but is~~
13 ~~not limited to, performing arts, martial arts, gymnastics and aerobic~~
14 ~~instruction.~~

15 ~~3.~~ 2. The operation or sponsorship of events by the Arizona
16 exposition and state fair board or county fair commissions.

17 ~~4.~~ 3. A musical, dramatic or dance group or a botanical garden,
18 museum or zoo that is qualified as a nonprofit charitable organization under
19 section 501(c)(3) of the United States internal revenue code and if no part
20 of its net income inures to the benefit of any private shareholder or
21 individual.

22 ~~5. Exhibition events in this state sponsored, conducted or operated by~~
23 ~~a nonprofit organization that is exempt from taxation under section~~
24 ~~501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the~~
25 ~~organization is associated with major league baseball teams or a national~~
26 ~~touring professional golfing association and no part of the organization's~~
27 ~~net earnings inures to the benefit of any private shareholder or individual.~~

28 ~~6.~~ 4. Operating or sponsoring rodeos that feature primarily farm and
29 ranch animals in this state and that are sponsored, conducted or operated by
30 a nonprofit organization that is exempt from taxation under section
31 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
32 revenue code and no part of the organization's net earnings inures to the
33 benefit of any private shareholder or individual.

34 ~~7. Sales of admissions to intercollegiate football contests if the~~
35 ~~contests are both:~~

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

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

42 ~~8.~~ 5. Activities and events of, or fees and assessments received by,
43 a homeowners organization from persons who are members of the organization or
44 accompanied guests of members. For the purposes of this paragraph,
45 "homeowners organization" means a mandatory membership organization comprised

1 of owners of residential property within a specified residential real estate
2 subdivision development or similar area and established to own property for
3 the benefit of its members where both of the following apply:

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

6 (b) The primary purpose of the organization is to provide for the
7 acquisition, construction, management, maintenance or care of organization
8 property.

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

15 ~~10-~~ 7. Arranging an amusement activity as a service to a person's
16 customers if that person is not otherwise engaged in the business of
17 operating or conducting an amusement ~~themselves~~ PERSONALLY or through others.

18 This exception does not apply to businesses that operate or conduct
19 amusements pursuant to customer orders and send the billings and receive the
20 payments associated with that activity, including when the amusement is
21 performed by third party independent contractors. For the purposes of this
22 paragraph, "arranging" includes billing for or collecting amusement charges
23 from a person's customers on behalf of the persons providing the amusement.

24 B. The tax base for the amusement classification is the gross proceeds
25 of sales or gross income derived from the business, except that the following
26 shall be deducted from the tax base:

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

40 ~~2-~~ 1. Amounts that are exempt under section 5-111, subsection H.

41 ~~3-~~ 2. The gross proceeds of sales or gross income derived from
42 membership fees, including initiation fees, that provide for the right to use
43 a transient lodging recreational establishment, including golf courses and
44 tennis and other racquet courts at that establishment, for participatory
45 purposes for twenty-eight days or more, except that this paragraph does not

1 include additional fees, other than initiation fees, that are charged by a
2 transient lodging recreational establishment for purposes other than
3 memberships and that provide for the right to use a transient lodging
4 recreational establishment or any portion of the establishment for
5 participatory purposes for twenty-eight days or more.

6 ~~4.~~ 3. The gross proceeds of sales or gross income derived from sales
7 to persons engaged in the business of transient lodging classified under
8 section 42-5070, if all of the following apply:

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

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

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

15 ~~5.~~ 4. The gross proceeds of sales or gross income derived from:

16 (a) Business activity that is properly included in any other business
17 classification under this article and that is taxable to the person engaged
18 in that classification, but the gross proceeds of sales or gross income to be
19 deducted shall not exceed the consideration paid to the person conducting the
20 activity.

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

27 (c) Business activity that is arranged by a person who is subject to
28 tax under this section and that is taxable to another person under this
29 section who conducts the activity, but the gross proceeds of sales or gross
30 income to be deducted shall not exceed the consideration paid to the person
31 conducting the activity.

32 C. For the purposes of subsection B of this section, ~~:-~~

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

41 ~~2. "Private recreational establishment" means a facility whose primary~~
42 ~~purpose is to provide recreational facilities, such as tennis, golf and~~
43 ~~swimming, for its members and where at least eighty per cent of the monthly~~
44 ~~gross revenue of the facility is received through accounts of memberships and~~
45 ~~accompanied guest use fees which provide for the right to use the facility,~~

1 ~~or any portion of the facility, for participatory purposes for twenty eight~~
2 ~~days or more.~~

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

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

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

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

30 G. For purposes of section 42-5032.01, the department shall separately
31 account for revenues collected under the amusement classification from sales
32 of admissions to:

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

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

41 Sec. 9. Section 42-5075, Arizona Revised Statutes, is amended to read:

42 42-5075. Prime contracting classification; exemptions;
43 definitions

44 A. The prime contracting classification is comprised of the business
45 of prime contracting and dealership of manufactured buildings. Sales for

1 resale to another dealership of manufactured buildings are not subject to
2 tax. Sales for resale do not include sales to a lessor of manufactured
3 buildings. The sale of a used manufactured building is not taxable under
4 this chapter. The proceeds from alteration and repairs to a used
5 manufactured building are taxable under this section.

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

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

12 2. Sales and installation of groundwater measuring devices required
13 under section 45-604 and groundwater monitoring wells required by law,
14 including monitoring wells installed for acquiring information for a permit
15 required by law.

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

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

32 5. The gross proceeds of sales or gross income derived from a contract
33 to construct a qualified environmental technology manufacturing, producing or
34 processing facility, as described in section 41-1514.02, and from subsequent
35 construction and installation contracts that begin within ten years after the
36 start of initial construction. To qualify for this deduction, before
37 beginning work under the contract, the prime contractor must obtain a letter
38 of qualification from the department of revenue. This paragraph shall apply
39 for ten full consecutive calendar or fiscal years after the start of initial
40 construction.

41 ~~6. The gross proceeds of sales or gross income from a contract to~~
42 ~~provide for one or more of the following actions, or a contract for site~~
43 ~~preparation, constructing, furnishing or installing machinery, equipment or~~
44 ~~other tangible personal property, including structures necessary to protect~~
45 ~~exempt incorporated materials or installed machinery or equipment, and~~

1 ~~tangible personal property incorporated into the project, to perform one or~~
2 ~~more of the following actions in response to a release or suspected release~~
3 ~~of a hazardous substance, pollutant or contaminant from a facility to the~~
4 ~~environment, unless the release was authorized by a permit issued by a~~
5 ~~governmental authority:~~

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

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

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

13 ~~(d) Pumping and treatment or in situ treatment of contaminated~~
14 ~~groundwater or surface water to reduce the concentration or toxicity of a~~
15 ~~contaminant.~~

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

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

25 ~~7.~~ 6. The gross proceeds of sales or gross income that is derived
26 from a contract entered into for the installation, assembly, repair or
27 maintenance of machinery, equipment or other tangible personal property that
28 is deducted from the tax base of the retail classification pursuant to
29 section 42-5061, subsection B, or that is exempt from use tax pursuant to
30 section 42-5159, subsection B, and that does not become a permanent
31 attachment to a building, highway, road, railroad, excavation or manufactured
32 building or other structure, project, development or improvement. If the
33 ownership of the realty is separate from the ownership of the machinery,
34 equipment or tangible personal property, the determination as to permanent
35 attachment shall be made as if the ownership were the same. The deduction
36 provided in this paragraph does not include gross proceeds of sales or gross
37 income from that portion of any contracting activity which consists of the
38 development of, or modification to, real property in order to facilitate the
39 installation, assembly, repair, maintenance or removal of machinery,
40 equipment or other tangible personal property that is deducted from the tax
41 base of the retail classification pursuant to section 42-5061, subsection B
42 or that is exempt from use tax pursuant to section 42-5159, subsection B.
43 For the purposes of this paragraph, "permanent attachment" means at least one
44 of the following:

45 (a) To be incorporated into real property.

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

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

5 ~~8-~~ 7. Through December 31, 2009, the gross proceeds of sales or gross
6 income received from a contract for constructing any lake facility
7 development in a commercial enhancement reuse district that is designated
8 pursuant to section 9-499.08 if the prime contractor maintains the following
9 records in a form satisfactory to the department and to the city or town in
10 which the property is located:

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

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

18 (c) Any other information that the department considers to be
19 necessary.

20 ~~9-~~ 8. The gross proceeds of sales or gross income attributable to the
21 purchase of machinery, equipment or other tangible personal property that is
22 exempt from or deductible from transaction privilege and use tax under:

23 (a) Section 42-5061, subsection A, paragraph ~~25~~ 22 or ~~29~~ 26.

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

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

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

28 ~~10-~~ 9. The gross proceeds of sales or gross income received from a
29 contract for the construction of an environmentally controlled facility for
30 the raising of poultry for the production of eggs and the sorting, cooling
31 and packaging of eggs.

32 ~~11-~~ 10. The gross proceeds of sales or gross income that is derived
33 from a contract entered into with a person who is engaged in the commercial
34 production of livestock, livestock products or agricultural, horticultural,
35 viticultural or floricultural crops or products in this state for the
36 construction, alteration, repair, improvement, movement, wrecking or
37 demolition or addition to or subtraction from any building, highway, road,
38 excavation, manufactured building or other structure, project, development or
39 improvement used directly and primarily to prevent, monitor, control or
40 reduce air, water or land pollution.

41 ~~12-~~ 11. The gross proceeds of sales or gross income that is derived
42 from the installation, assembly, repair or maintenance of clean rooms that
43 are deducted from the tax base of the retail classification pursuant to
44 section 42-5061, subsection B, paragraph ~~17~~ 12.

1 ~~13.~~ 12. For taxable periods beginning from and after June 30, 2001,
2 the gross proceeds of sales or gross income derived from a contract entered
3 into for the construction of a residential apartment housing facility that
4 qualifies for a federal housing subsidy for low income persons over sixty-two
5 years of age and that is owned by a nonprofit charitable organization that
6 has qualified under section 501(c)(3) of the internal revenue code.

7 ~~14.~~ 13. For taxable periods beginning from and after December 31, 1996
8 and ending before January 1, 2011, the gross proceeds of sales or gross
9 income derived from a contract to provide and install a solar energy device.
10 The contractor shall register with the department as a solar energy
11 contractor. By registering, the contractor acknowledges that it will make
12 its books and records relating to sales of solar energy devices available to
13 the department for examination.

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

17 ~~16.~~ 15. The gross proceeds of sales or gross income derived from a
18 contract entered into for the construction of a domestic violence shelter
19 that is owned and operated by a nonprofit charitable organization that has
20 qualified under section 501(c)(3) of the internal revenue code.

21 ~~17.~~ 16. The gross proceeds of sales or gross income derived from
22 contracts to perform postconstruction treatment of real property for termite
23 and general pest control, including wood destroying organisms.

24 ~~18.~~ 17. The gross proceeds of sales or gross income received from
25 contracts entered into before July 1, 2006 for constructing a state
26 university research infrastructure project if the project has been reviewed
27 by the joint committee on capital review before the university enters into
28 the construction contract for the project. For the purposes of this
29 paragraph, "research infrastructure" has the same meaning prescribed in
30 section 15-1670.

31 ~~19.~~ 18. The gross proceeds of sales or gross income received from a
32 contract for the construction of any building, or other structure, project,
33 development or improvement owned by a qualified business under section
34 41-1516 for harvesting or the initial processing of qualifying forest
35 products removed from qualifying projects as defined in section 41-1516 if
36 actual construction begins before January 1, 2010. To qualify for this
37 deduction, the prime contractor must obtain a letter of qualification from
38 the department of commerce before beginning work under the contract.

39 ~~20.~~ 19. The gross proceeds of sales or gross income received from a
40 contract for the construction of any building or other structure associated
41 with motion picture production in this state. To qualify for the deduction,
42 at the time the contract is entered into the motion picture production
43 company must present to the prime contractor its certificate that is issued
44 pursuant to section 42-5009, subsection H and that establishes its
45 qualification for the deduction.

1 ~~21.~~ 20. Any amount of the gross proceeds of sales or gross income from
2 a contract that constitutes development or impact fees paid to the state or a
3 local government to offset governmental costs of providing public
4 infrastructure, public safety and other public services to a development.

5 C. Entitlement to the deduction pursuant to subsection B, paragraph ~~7-~~
6 6 of this section is subject to the following provisions:

7 1. A prime contractor may establish entitlement to the deduction by
8 both:

9 (a) Marking the invoice for the transaction to indicate that the gross
10 proceeds of sales or gross income derived from the transaction was deducted
11 from the base.

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

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

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

30 4. If a prime contractor is entitled to a deduction by complying with
31 paragraph 1 of this subsection, the department may require the purchaser who
32 caused the execution of the certificate to establish the accuracy and
33 completeness of the information required to be contained in the certificate
34 which would entitle the prime contractor to the deduction. If the purchaser
35 cannot establish the accuracy and completeness of the information, the
36 purchaser is liable in an amount equal to any tax, penalty and interest which
37 the prime contractor would have been required to pay under article 1 of this
38 chapter if the prime contractor had not complied with paragraph 1 of this
39 subsection. Payment of the amount under this paragraph exempts the purchaser
40 from liability for any tax imposed under article 4 of this chapter. The
41 amount shall be treated as a transaction privilege tax to the purchaser and
42 as tax revenues collected from the prime contractor in order to designate the
43 distribution base for purposes of section 42-5029.

44 D. Subcontractors or others who perform services in respect to any
45 improvement, building, highway, road, railroad, excavation, manufactured

1 building or other structure, project, development or improvement are not
2 subject to tax if they can demonstrate that the job was within the control of
3 a prime contractor or contractors or a dealership of manufactured buildings
4 and that the prime contractor or dealership is liable for the tax on the
5 gross income, gross proceeds of sales or gross receipts attributable to the
6 job and from which the subcontractors or others were paid.

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

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

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

31 H. The gross proceeds of sales or gross income derived from a contract
32 for lawn maintenance services are not subject to tax under this section if
33 the contract does not include landscaping activities. Lawn maintenance
34 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
35 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
36 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
37 lawn de-thatching, seeding winter lawns, leaf and debris collection and
38 removal, tree or shrub pruning or clipping, garden and gravel raking and
39 applying pesticides, as defined in section 3-361, and fertilizer materials,
40 as defined in section 3-262.

41 I. The gross proceeds of sales or gross income derived from
42 landscaping activities are subject to tax under this section. Landscaping
43 includes installing lawns, grading or leveling ground, installing gravel or
44 boulders, planting trees and other plants, felling trees, removing or
45 mulching tree stumps, removing other imbedded plants, building or modifying

1 irrigation berms, repairing sprinkler or watering systems, installing
2 railroad ties and installing underground sprinkler or watering systems.

3 J. The portion of gross proceeds of sales or gross income attributable
4 to the actual direct costs of providing architectural or engineering services
5 that are incorporated in a contract is not subject to tax under this
6 section. For the purposes of this subsection, "direct costs" means the
7 portion of the actual costs that are directly expended in providing
8 architectural or engineering services.

9 K. Operating a landfill or a solid waste disposal facility is not
10 subject to taxation under this section, including filling, compacting and
11 creating vehicle access to and from cell sites within the
12 landfill. Constructing roads to a landfill or solid waste disposal facility
13 and constructing cells within a landfill or solid waste disposal facility may
14 be deemed prime contracting under this section.

15 L. The following apply to manufactured buildings:

16 1. For sales in this state where the dealership of manufactured
17 buildings contracts to deliver the building to a setup site or to perform the
18 setup in this state, the taxable situs is the setup site.

19 2. For sales in this state where the dealership of manufactured
20 buildings does not contract to deliver the building to a setup site or does
21 not perform the setup, the taxable situs is the location of the dealership
22 where the building is delivered to the buyer.

23 3. For sales in this state where the dealership of manufactured
24 buildings contracts to deliver the building to a setup site that is outside
25 this state, the situs is outside this state and the transaction is excluded
26 from tax.

27 M. Notwithstanding subsection N, paragraph 8 of this section, a person
28 owning real property who enters into a contract for sale of the real
29 property, who is responsible to the new owner of the property for
30 modifications made to the property in the period subsequent to the transfer
31 of title and who receives a consideration for the modifications is considered
32 a prime contractor solely for purposes of taxing the gross proceeds of sale
33 or gross income received for the modifications made subsequent to the
34 transfer of title. The original owner's gross proceeds of sale or gross
35 income received for the modifications shall be determined according to the
36 following methodology:

37 1. If any part of the contract for sale of the property specifies
38 amounts to be paid to the original owner for the modifications to be made in
39 the period subsequent to the transfer of title, the amounts are included in
40 the original owner's gross proceeds of sale or gross income under this
41 section. Proceeds from the sale of the property **THAT ARE** received after
42 transfer of title **AND** that are unrelated to the modifications made subsequent
43 to the transfer of title ~~will~~ **ARE** not ~~be~~ considered gross proceeds of sale or
44 gross income from the modifications.

1 2. If the original owner enters into an agreement separate from the
2 contract for sale of the real property providing for amounts to be paid to
3 the original owner for the modifications to be made in the period subsequent
4 to the transfer of title to the property, the amounts are included in the
5 original owner's gross proceeds of sale or gross income received for the
6 modifications made subsequent to the transfer of title.

7 3. If the original owner is responsible to the new owner for
8 modifications made to the property in the period subsequent to the transfer
9 of title and derives any gross proceeds of sale or gross income from the
10 project subsequent to the transfer of title other than a delayed disbursement
11 from escrow unrelated to the modifications, it is presumed that the amounts
12 are received for the modifications made subsequent to the transfer of title
13 unless the contrary is established by the owner through its books, records
14 and papers kept in the regular course of business.

15 4. The tax base of the original owner is computed in the same manner
16 as a prime contractor under this section.

17 N. For the purposes of this section:

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

19 2. "Contractor" is synonymous with the term "builder" and means any
20 person or organization that undertakes to or offers to undertake to, or
21 purports to have the capacity to undertake to, or submits a bid to, or does
22 personally or by or through others, modify any building, highway, road,
23 railroad, excavation, manufactured building or other structure, project,
24 development or improvement, or to do any part of such a project, including
25 the erection of scaffolding or other structure or works in connection with
26 such a project, and includes subcontractors and specialty contractors. For
27 all purposes of taxation or deduction, this definition shall govern without
28 regard to whether or not such contractor is acting in fulfillment of a
29 contract.

30 3. "Dealership of manufactured buildings" means a dealer who either:
31 (a) Is licensed pursuant to title 41, chapter 16 and who sells
32 manufactured buildings to the final consumer.

33 (b) Supervises, performs or coordinates the excavation and completion
34 of site improvements, setup or moving of a manufactured building including
35 the contracting, if any, with any subcontractor or specialty contractor for
36 the completion of the contract.

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

39 5. "Modification" means construction, alteration, repair, addition,
40 subtraction, improvement, movement, wreckage or demolition.

41 6. "Modify" means to construct, alter, repair, add to, subtract from,
42 improve, move, wreck or demolish.

43 7. "Prime contracting" means engaging in business as a prime
44 contractor.

1 8. "Prime contractor" means a contractor who supervises, performs or
2 coordinates the modification of any building, highway, road, railroad,
3 excavation, manufactured building or other structure, project, development or
4 improvement including the contracting, if any, with any subcontractors or
5 specialty contractors and who is responsible for the completion of the
6 contract. Except as provided in subsections E and M of this section, a
7 person who owns real property, who engages one or more contractors to modify
8 that real property and who does not itself modify that real property is not a
9 prime contractor within the meaning of this paragraph regardless of the
10 existence of a contract for sale or the subsequent sale of that real
11 property.

12 9. "Sale of a used manufactured building" does not include a lease of
13 a used manufactured building.

14 Sec. 10. Title 42, chapter 5, article 2, Arizona Revised Statutes, is
15 amended by adding section 42-5077, to read:

16 42-5077. Services classification; exemption

17 A. THE SERVICES CLASSIFICATION INCLUDES THE FOLLOWING BUSINESSES, NOT
18 OTHERWISE CLASSIFIED FOR TAXATION UNDER THIS ARTICLE:

19 1. PERSONAL SERVICES, INCLUDING PHOTOGRAPHIC STUDIOS AND MESSAGE
20 SERVICES.

21 2. DATING AND ESCORT SERVICES.

22 3. BUSINESS SERVICES, INCLUDING CREDIT REPORTING AND COLLECTION
23 SERVICES, COMMERCIAL ART AND GRAPHIC DESIGN SERVICES, COMPUTER AND DATA
24 PROCESSING SERVICES, ADVERTISING AGENCY SERVICES AND DETECTIVE, PRIVATE
25 INVESTIGATOR, ARMORED CAR AND SECURITY GUARD SERVICES.

26 4. AUTOMOTIVE SERVICES, INCLUDING PAINTING, TIRE RECAPPING AND REPAIR,
27 OIL REPLACEMENT, WASHING, DETAILING AND UPHOLSTERY REPAIR SERVICES.

28 5. HUNTING AND FISHING GUIDE SERVICES.

29 6. GARMENT SERVICES, INCLUDING ALTERING AND REPAIR SERVICES.

30 7. INTERIOR DESIGN SERVICES.

31 8. TELEPHONE SERVICES, INCLUDING TELEPHONE ANSWERING AND TELEMARKETING
32 SERVICES.

33 9. CARPET AND UPHOLSTERY CLEANING SERVICES.

34 10. LEGAL SERVICES, INCLUDING PRIVATE ARBITRATION SERVICES.

35 11. ENGINEERING AND MANAGEMENT SERVICES, INCLUDING ARCHITECTURAL,
36 SURVEYING, ACCOUNTING, AUDITING, BOOKKEEPING, RESEARCH, MARKETING, POLLING,
37 TESTING AND PUBLIC RELATIONS SERVICES.

38 12. DWELLING AND BUILDING SERVICES, INCLUDING PEST CONTROL, FUMIGATION,
39 BUILDING MAINTENANCE, PAINTING, REPAIR, JANITORIAL, CLEANING AND MAID
40 SERVICES.

41 13. PET GROOMING SERVICES.

42 14. MANAGEMENT CONSULTING SERVICES.

43 15. ENVIRONMENTAL CONSULTING SERVICES.

44 16. SCIENTIFIC AND TECHNICAL CONSULTING SERVICES.

45 17. LABORATORY AND FACILITY TESTING SERVICES.

- 1 18. LINEN AND UNIFORM SUPPLY SERVICES.
- 2 19. DIET REDUCTION SERVICES.
- 3 20. INDUSTRIAL SEWER AND REFUSE SERVICES.
- 4 21. GIFT AND PACKAGE WRAPPING SERVICES.
- 5 22. HEALTH CLUB SERVICES, INCLUDING TANNING PARLOR AND REDUCING SALON
- 6 SERVICES.
- 7 23. SWIMMING POOL SERVICES, INCLUDING CLEANING AND MAINTENANCE
- 8 SERVICES.
- 9 24. WATER SOFTENING AND CONDITIONING SERVICES.
- 10 25. WINDOW CLEANING SERVICES.
- 11 26. COMPUTER SERVICES, INCLUDING SOFTWARE PROGRAMMING AND MATERIAL
- 12 PREPARATION, MAINFRAME COMPUTER ACCESS AND PROCESSING SERVICES.
- 13 27. CABLE TELEVISION SERVICES.
- 14 28. CHARTERED FLIGHT SERVICES.
- 15 29. TAXIDERMY SERVICES.
- 16 30. INSTALLATION SERVICES.

17 B. THE TAX BASE FOR THE SERVICES CLASSIFICATION IS THE GROSS PROCEEDS
18 OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS, EXCEPT THAT THE TAXPAYERS
19 CLASSIFIED UNDER SUBSECTION A, PARAGRAPH 10 SHALL DEDUCT FROM THE TAX BASE UP
20 TO TWENTY THOUSAND DOLLARS RECEIVED FROM EACH CLIENT PER CALENDAR YEAR.

21 Sec. 11. Section 42-5159, Arizona Revised Statutes, is amended to
22 read:

23 42-5159. Exemptions

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

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

30 2. Tangible personal property the sale or use of which has already
31 been subjected to an excise tax at a rate equal to or exceeding the tax
32 imposed by this article under the laws of another state of the United States.
33 If the excise tax imposed by the other state is at a rate less than the tax
34 imposed by this article, the tax imposed by this article is reduced by the
35 amount of the tax already imposed by the other state.

36 3. Tangible personal property, the storage, use or consumption of
37 which the constitution or laws of the United States prohibit this state from
38 taxing or to the extent that the rate or imposition of tax is
39 unconstitutional under the laws of the United States.

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

43 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
44 which in this state is subject to the tax imposed under title 28, chapter 16,
45 article 1, use fuel which is sold to or used by a person holding a valid

1 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
2 the sales, distribution or use of which in this state is subject to the tax
3 imposed under section 28-8344, and jet fuel, the sales, distribution or use
4 of which in this state is subject to the tax imposed under article 8 of this
5 chapter.

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

11 7. Purchases of implants used as growth promotants and injectable
12 medicines, not already exempt under paragraph 16 of this subsection, for
13 livestock and poultry owned by, or in possession of, persons who are engaged
14 in producing livestock, poultry, or livestock or poultry products, or who are
15 engaged in feeding livestock or poultry commercially. For the purposes of
16 this paragraph, "poultry" includes ratites.

17 8. Livestock, poultry, supplies, feed, salts, vitamins and other
18 additives for use or consumption in the businesses of farming, ranching and
19 feeding livestock or poultry, not including fertilizers, herbicides and
20 insecticides. For the purposes of this paragraph, "poultry" includes
21 ratites.

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

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

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

32 12. Materials that are purchased by or for publicly funded libraries
33 including school district libraries, charter school libraries, community
34 college libraries, state university libraries or federal, state, county or
35 municipal libraries for use by the public as follows:

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

38 13. Tangible personal property purchased by:
39 (a) A hospital organized and operated exclusively for charitable
40 purposes, no part of the net earnings of which inures to the benefit of any
41 private shareholder or individual.

42 (b) A hospital operated by this state or a political subdivision of
43 this state.

44 (c) A licensed nursing care institution or a licensed residential care
45 institution or a residential care facility operated in conjunction with a

1 licensed nursing care institution or a licensed kidney dialysis center, which
2 provides medical services, nursing services or health related services and is
3 not used or held for profit.

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

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

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

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

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

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

26 ~~(iii)~~ (ii) Incorporated or fabricated by the person into any lake
27 facility development in a commercial enhancement reuse district under
28 conditions prescribed for the deduction allowed by section 42-5075,
29 subsection B, paragraph ~~8~~ 7.

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

34 (i) A qualifying community health center as defined in section
35 42-5001.

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

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

44 (l) For taxable periods beginning from and after June 30, 2001, a
45 nonprofit charitable organization that has qualified under section 501(c)(3)

1 of the internal revenue code and that provides residential apartment housing
2 for low income persons over sixty-two years of age in a facility that
3 qualifies for a federal housing subsidy, if the tangible personal property is
4 used by the organization solely to provide residential apartment housing for
5 low income persons over sixty-two years of age in a facility that qualifies
6 for a federal housing subsidy.

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

12 15. Tangible personal property sold by:—

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

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

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

26 16. 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 17. Prosthetic appliances, as defined in section 23-501, prescribed or
30 recommended by a person who is licensed, registered or otherwise
31 professionally credentialed as a physician, dentist, podiatrist,
32 chiropractor, naturopath, homeopath, nurse or optometrist.

33 18. Prescription eyeglasses and contact lenses.

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

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

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

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

44 23. Items purchased with United States department of agriculture food
45 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.

1 958) or food instruments issued under section 17 of the child nutrition act
2 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
3 section 1786).

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

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

10 26. Food, drink or condiment and accessory tangible personal property
11 that are acquired for use by or provided to a school district or charter
12 school if they are to be either served or prepared and served to persons for
13 consumption on the premises of a public school in a school district during
14 school hours.

15 ~~27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,~~
16 ~~article 1.~~

17 ~~28.~~ 27. Textbooks, sold by a bookstore, that are required by any state
18 university or community college.

19 ~~29.~~ 28. Magazines, other periodicals or other publications produced by
20 this state to encourage tourist travel.

21 ~~30.~~ 29. Paper machine clothing, such as forming fabrics and dryer
22 felts, purchased by a paper manufacturer and directly used or consumed in
23 paper manufacturing.

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

35 ~~32.~~ 30. Motor vehicles that are removed from inventory by a motor
36 vehicle dealer as defined in section 28-4301 and that are provided to:

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

39 (b) Public educational institutions.

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

43 ~~33. Natural gas or liquefied petroleum gas used to propel a motor~~
44 ~~vehicle.~~

1 ~~34.~~ 31. Machinery, equipment, technology or related supplies that are
2 only useful to assist a person who is physically disabled as defined in
3 section 46-191, has a developmental disability as defined in section 36-551
4 or has a head injury as defined in section 41-3201 to be more independent and
5 functional.

6 ~~35.~~ 32. Liquid, solid or gaseous chemicals used in manufacturing,
7 processing, fabricating, mining, refining, metallurgical operations, research
8 and development and, beginning on January 1, 1999, printing, if using or
9 consuming the chemicals, alone or as part of an integrated system of
10 chemicals, involves direct contact with the materials from which the product
11 is produced for the purpose of causing or permitting a chemical or physical
12 change to occur in the materials as part of the production process. This
13 paragraph does not include chemicals that are used or consumed in activities
14 such as packaging, storage or transportation but does not affect any
15 exemption for such chemicals that is otherwise provided by this section. For
16 the purposes of this paragraph, "printing" means a commercial printing
17 operation and includes job printing, engraving, embossing, copying and
18 bookbinding.

19 ~~36.~~ 33. Food, drink and condiment purchased for consumption within the
20 premises of any prison, jail or other institution under the jurisdiction of
21 the state department of corrections, the department of public safety, the
22 department of juvenile corrections or a county sheriff.

23 ~~37.~~ 34. A motor vehicle and any repair and replacement parts and
24 tangible personal property becoming a part of such motor vehicle sold to a
25 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
26 article 4 and who is engaged in the business of leasing or renting such
27 property.

28 ~~38.~~ 35. Tangible personal property which is or directly enters into
29 and becomes an ingredient or component part of cards used as prescription
30 plan identification cards.

31 ~~39.~~ 36. Overhead materials or other tangible personal property that is
32 used in performing a contract between the United States government and a
33 manufacturer, modifier, assembler or repairer, including property used in
34 performing a subcontract with a government contractor who is a manufacturer,
35 modifier, assembler or repairer, to which title passes to the government
36 under the terms of the contract or subcontract. For the purposes of this
37 paragraph:

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

1 (b) "Subcontract" means an agreement between a contractor and any
2 person who is not an employee of the contractor for furnishing of supplies or
3 services that, in whole or in part, are necessary to the performance of one
4 or more government contracts, or under which any portion of the contractor's
5 obligation under one or more government contracts is performed, undertaken or
6 assumed, and that includes provisions causing title to overhead materials or
7 other tangible personal property used in the performance of the subcontract
8 to pass to the government or that includes provisions incorporating such
9 title passing clauses in a government contract into the subcontract.

10 ~~40.~~ 37. Through December 31, 1994, tangible personal property sold
11 pursuant to a personal property liquidation transaction, as defined in
12 section 42-5061. From and after December 31, 1994, tangible personal
13 property sold pursuant to a personal property liquidation transaction, as
14 defined in section 42-5061, if the gross proceeds of the sales were included
15 in the measure of the tax imposed by article 1 of this chapter or if the
16 personal property liquidation was a casual activity or transaction.

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

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

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

31 ~~44. Alternative fuel vehicles if the vehicle was manufactured as a~~
32 ~~diesel fuel vehicle and converted to operate on alternative fuel and~~
33 ~~equipment that is installed in a conventional diesel fuel motor vehicle to~~
34 ~~convert the vehicle to operate on an alternative fuel, as defined in section~~
35 ~~1-215.~~

36 ~~45.~~ 38. Gas diverted from a pipeline, by a person engaged in the
37 business of:

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

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

44 ~~46.~~ 39. Tangible personal property that is excluded, exempt or
45 deductible from transaction privilege tax pursuant to section 42-5063.

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

4 ~~48.~~ 40. Tangible personal property sold 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 ~~49.~~ 41. Prepared food, drink or condiment donated by a restaurant as
10 classified in section 42-5074, subsection A to a nonprofit charitable
11 organization that has qualified under section 501(c)(3) of the internal
12 revenue code and that regularly serves meals to the needy and indigent on a
13 continuing basis at no cost.

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

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

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

30 3. Tangible personal property sold to persons engaged in business
31 classified under the telecommunications classification under section 42-5064
32 and consisting of central office switching equipment, switchboards, private
33 branch exchange equipment, microwave radio equipment and carrier equipment
34 including optical fiber, coaxial cable and other transmission media which are
35 components of carrier systems.

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

40 ~~5.~~ 4. Neat animals, horses, asses, sheep, ratites, swine or goats
41 used or to be used as breeding or production stock, including sales of
42 breedings or ownership shares in such animals used for breeding or
43 production.

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

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

3 ~~7.~~ 5. 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, or sold to persons who are not residents of this state and who will
13 not use such property in this state other than in removing such property from
14 this state.

15 ~~8.~~ 6. Machinery, tools, equipment and related supplies used or
16 consumed directly in repairing, remodeling or maintaining aircraft, aircraft
17 engines or aircraft component parts by or on behalf of a certificated or
18 licensed carrier of persons or property.

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

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

24 ~~11.~~ 7. Buses or other urban mass transit vehicles which are used
25 directly to transport persons or property for hire or pursuant to a
26 governmentally adopted and controlled urban mass transportation program and
27 which are sold to bus companies holding a federal certificate of convenience
28 and necessity or operated by any city, town or other governmental entity or
29 by any person contracting with such governmental entity as part of a
30 governmentally adopted and controlled program to provide urban mass
31 transportation.

32 ~~12.~~ 8. Groundwater measuring devices required under section 45-604.

33 ~~13.~~ 9. New machinery and equipment consisting of tractors,
34 tractor-drawn implements, self-powered implements, machinery and equipment
35 necessary for extracting milk, and machinery and equipment necessary for
36 cooling milk and livestock, and drip irrigation lines ~~not already exempt~~
37 ~~under paragraph 6 of this subsection and~~ that are used for commercial
38 production of agricultural, horticultural, viticultural and floricultural
39 crops and products in this state. For the purposes of this paragraph:

40 (a) "New machinery and equipment" means machinery or equipment which
41 has 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.~~ 10. Machinery or equipment used in research and development. For
2 the 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.~~ 11. Machinery and equipment that are purchased by or on behalf of
14 the 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.~~ 12. Clean rooms that are used for manufacturing, processing,
9 fabrication or research and development, as defined in paragraph ~~14~~ 10 of
10 this subsection, of semiconductor products. For the purposes of this
11 paragraph, "clean room" means all property that comprises or creates an
12 environment where humidity, temperature, particulate matter and contamination
13 are precisely controlled within specified parameters, without regard to
14 whether the property is actually contained within that environment or whether
15 any of the property is affixed to or incorporated into real property. Clean
16 room:

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

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

25 ~~18.~~ 13. Machinery and equipment that are used directly in the feeding
26 of poultry, the environmental control of housing for poultry, the movement of
27 eggs within a production and packaging facility or the sorting or cooling of
28 eggs. This exemption does not apply to vehicles used for transporting eggs.

29 ~~19.~~ 14. Machinery or equipment, including related structural
30 components, that is employed in connection with manufacturing, processing,
31 fabricating, job printing, refining, mining, natural gas pipelines,
32 metallurgical operations, telecommunications, producing or transmitting
33 electricity or research and development and that is used directly to meet or
34 exceed rules or regulations adopted by the federal energy regulatory
35 commission, the United States environmental protection agency, the United
36 States nuclear regulatory commission, the Arizona department of environmental
37 quality or a political subdivision of this state to prevent, monitor, control
38 or reduce land, water or air pollution.

39 ~~20.~~ 15. Machinery and equipment that are used in the commercial
40 production of livestock, livestock products or agricultural, horticultural,
41 viticultural or floricultural crops or products in this state and that are
42 used directly and primarily to prevent, monitor, control or reduce air, water
43 or land pollution.

44 ~~21. Machinery or equipment that enables a television station to~~
45 ~~originate and broadcast or to receive and broadcast digital television~~

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

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

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

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

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

19 ~~23.~~ 17. Machinery, equipment and other tangible personal property used
20 directly in motion picture production by a motion picture production company.
21 To qualify for this exemption, at the time of purchase, the motion picture
22 production company must present to the retailer its certificate that is
23 issued pursuant to section 42-5009, subsection H and that establishes its
24 qualification for the exemption.

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

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

31 2. Janitorial equipment and hand tools.

32 3. Office equipment, furniture and supplies.

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

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

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

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

43 D. ~~The following~~ REVENUES RECEIVED FROM PROVIDING ELECTRICITY,
44 INCLUDING ANCILLARY SERVICES, ELECTRIC DISTRIBUTION SERVICES, ELECTRIC
45 GENERATION SERVICES, ELECTRIC TRANSMISSION SERVICES AND OTHER SERVICES

1 RELATED TO PROVIDING ELECTRICITY WITH RESPECT TO WHICH THE TRANSACTION
2 PRIVILEGE TAX IMPOSED UNDER SECTION 42-5063 HAS BEEN PAID shall be deducted
3 in computing the purchase price of electricity by a retail electric customer
4 from a utility business. ~~←~~

5 ~~1. Revenues received from sales of ancillary services, electric~~
6 ~~distribution services, electric generation services, electric transmission~~
7 ~~services and other services related to providing electricity to a retail~~
8 ~~electric customer who is located outside this state for use outside this~~
9 ~~state if the electricity is delivered to a point of sale outside this state.~~

10 ~~2. Revenues received from providing electricity, including ancillary~~
11 ~~services, electric distribution services, electric generation services,~~
12 ~~electric transmission services and other services related to providing~~
13 ~~electricity with respect to which the transaction privilege tax imposed under~~
14 ~~section 42-5063 has been paid.~~

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

16 1. The storage, use or consumption in Arizona of machinery, equipment,
17 materials or other tangible personal property if used directly and
18 predominantly to construct a qualified environmental technology
19 manufacturing, producing or processing facility, as described in section
20 41-1514.02. This paragraph applies for ten full consecutive calendar or
21 fiscal years after the start of initial construction.

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

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

33 1. Fees charged by a municipally owned utility to persons constructing
34 residential, commercial or industrial developments or connecting residential,
35 commercial or industrial developments to a municipal utility system or
36 systems if the fees are segregated and used only for capital expansion,
37 system enlargement or debt service of the utility system or systems.

38 2. Reimbursement or contribution compensation to any person or persons
39 owning a utility system for property and equipment installed to provide
40 utility access to, on or across the land of an actual utility consumer if the
41 property and equipment become the property of the utility. This deduction
42 shall not exceed the value of such property and equipment.

43 G. For the purposes of subsection B of this section:

44 1. "Aircraft" includes:

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

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

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

10 H. For the purposes of subsection D of this section, "ancillary
11 services", "electric distribution service", "electric generation service",
12 "electric transmission service" and "other services" have the same meanings
13 prescribed in section 42-5063.

14 Sec. 12. Conforming legislation

15 The legislative council staff shall prepare proposed legislation
16 conforming the Arizona Revised Statutes to the provisions of this act for
17 consideration in the forty-ninth legislature, first regular session.

18 Sec. 13. Effective date

19 This act is effective from and after December 31, 2008.