

REFERENCE TITLE: internet sales tax; prohibition

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1157

Introduced by
Senators Gray C, Blendu; Representative Nelson

AN ACT

AMENDING SECTIONS 42-5061, 42-5159 AND 42-6004, ARIZONA REVISED STATUTES;
RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5061, Arizona Revised Statutes, is amended to
3 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. 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. Business activity which is properly included in any other business
26 classification which is taxable under article 1 of this chapter.

27 7. The sale of stocks and bonds.

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

31 9. Prosthetic appliances as defined in section 23-501 prescribed or
32 recommended by a health professional licensed pursuant to title 32, chapter
33 7, 8, 11, 13, 14, 15, 16, 17 or 29.

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

35 11. Prescription eyeglasses or contact lenses.

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

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

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

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

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

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

13 18. 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. 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. The sale of precious metal bullion and monetized bullion to the
25 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. Motor vehicle fuel and use fuel which are subject to a tax imposed
36 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
37 valid single trip use fuel tax permit issued under section 28-5739, sales of
38 aviation fuel which are subject to the tax imposed under section 28-8344 and
39 sales of jet fuel which are subject to the tax imposed under article 8 of
40 this chapter.

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

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

4 25. 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. Magazines or other periodicals or other publications by this state
28 to encourage tourist travel.

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

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

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

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

43 28. 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. Tangible personal property purchased in this state by a nonprofit
7 charitable organization that has qualified under section 501(c)(3) of the
8 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. Sales of commodities, as defined by title 7 United States Code
19 section 2, that are consigned for resale in a warehouse in this state in or
20 from which the commodity is deliverable on a contract for future delivery
21 subject to the rules of a commodity market regulated by the United States
22 commodity futures trading commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 50. Sales of alternative fuel vehicles if the vehicle was manufactured
42 as a diesel fuel vehicle and converted to operate on alternative fuel and
43 equipment that is installed in a conventional diesel fuel motor vehicle to
44 convert the vehicle to operate on an alternative fuel, as defined in section
45 1-215.

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

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

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

12 54. Through August 31, 2014, sales of Arizona centennial medallions by
13 the historical advisory commission.

14 55. SALES OF TANGIBLE AND INTANGIBLE PERSONAL PROPERTY THAT IS
15 PURCHASED OVER THE INTERNET IF THE VENDOR DOES NOT HAVE A NEXUS WITH THIS
16 STATE.

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.

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

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

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

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

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

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

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

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

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

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

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

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

1 this subsection and that are used for commercial production of agricultural,
2 horticultural, viticultural and floricultural crops and products in this
3 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. Machinery or equipment used in research and development. For the
10 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. Machinery and equipment that are purchased by or on behalf of the
22 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. Clean rooms that are used for manufacturing, processing,
18 fabrication or research and development, as defined in paragraph 14 of this
19 subsection, of semiconductor products. For the purposes of this paragraph,
20 "clean room" means all property that comprises or creates an environment
21 where humidity, temperature, particulate matter and contamination are
22 precisely controlled within specified parameters, without regard to whether
23 the property is actually contained within that environment or whether any of
24 the property is affixed to or incorporated into real property. Clean room:

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

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

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

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

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

3 20. Machinery and equipment that are sold to a person engaged in the
4 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. Qualifying equipment that is purchased from and after June 30, 2004
23 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. 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 11 of this section, without regard to the use of such
4 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. 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. 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 T. For the purposes of section 42-5032.01, the department shall
43 separately account for revenues collected under the retail classification
44 from businesses selling tangible personal property at retail:

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

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

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

18 V. For the purposes of this section:

19 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

44 4. "Overhead materials" means tangible personal property, the gross
45 proceeds of sales or gross income derived from which would otherwise be

1 included in the retail classification, and which are used or consumed in the
2 performance of a contract, the cost of which is charged to an overhead
3 expense account and allocated to various contracts based upon generally
4 accepted accounting principles and consistent with government contract
5 accounting standards.

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

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

17 Sec. 2. Section 42-5159, Arizona Revised Statutes, is amended to read:
18 42-5159. Exemptions

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

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

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

31 3. Tangible personal property, the storage, use or consumption of
32 which the constitution or laws of the United States prohibit this state from
33 taxing or to the extent that the rate or imposition of tax is
34 unconstitutional under the laws of the United States.

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

38 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
39 which in this state is subject to the tax imposed under title 28, chapter 16,
40 article 1, use fuel which is sold to or used by a person holding a valid
41 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
42 the sales, distribution or use of which in this state is subject to the tax
43 imposed under section 28-8344, and jet fuel, the sales, distribution or use
44 of which in this state is subject to the tax imposed under article 8 of this
45 chapter.

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

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

12 8. Livestock, poultry, supplies, feed, salts, vitamins and other
13 additives for use or consumption in the businesses of farming, ranching and
14 feeding livestock or poultry, not including fertilizers, herbicides and
15 insecticides. For the purposes of this paragraph, "poultry" includes
16 ratites.

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

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

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

27 12. Materials that are purchased by or for publicly funded libraries
28 including school district libraries, charter school libraries, community
29 college libraries, state university libraries or federal, state, county or
30 municipal libraries for use by the public as follows:

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

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

33 13. Tangible personal property purchased by:

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

37 (b) A hospital operated by this state or a political subdivision of
38 this state.

39 (c) A licensed nursing care institution or a licensed residential care
40 institution or a residential care facility operated in conjunction with a
41 licensed nursing care institution or a licensed kidney dialysis center, which
42 provides medical services, nursing services or health related services and is
43 not used or held for profit.

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

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

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

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

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

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

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

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

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

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

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

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

1 used by the organization solely to provide residential apartment housing for
2 low income persons over sixty-two years of age in a facility that qualifies
3 for a federal housing subsidy.

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

9 15. Tangible personal property sold by:

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

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

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

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

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

30 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

12 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
13 article 1.

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

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

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

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

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

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

36 (b) Public educational institutions.

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

40 33. Natural gas or liquefied petroleum gas used to propel a motor
41 vehicle.

42 34. Machinery, equipment, technology or related supplies that are only
43 useful to assist a person who is physically disabled as defined in section
44 46-191, has a developmental disability as defined in section 36-551 or has a

1 head injury as defined in section 41-3201 to be more independent and
2 functional.

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

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

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

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

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

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

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

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

5 40. Through December 31, 1994, tangible personal property sold pursuant
6 to a personal property liquidation transaction, as defined in section
7 42-5061. From and after December 31, 1994, tangible personal property sold
8 pursuant to a personal property liquidation transaction, as defined in
9 section 42-5061, if the gross proceeds of the sales were included in the
10 measure of the tax imposed by article 1 of this chapter or if the personal
11 property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

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

44 48. Tangible personal property sold by a nonprofit organization that is
45 exempt from taxation under section 501(c)(6) of the internal revenue code if

1 the organization produces, organizes or promotes cultural or civic related
2 festivals or events and no part of the organization's net earnings inures to
3 the benefit of any private shareholder or individual.

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

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

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

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

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

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

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

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

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

44 (a) A person holding a federal certificate of public convenience and
45 necessity, a supplemental air carrier certificate under federal aviation

1 regulations (14 Code of Federal Regulations part 121) or a foreign air
2 carrier permit for air transportation for use as or in conjunction with or
3 becoming a part of aircraft to be used to transport persons, property or
4 United States mail in intrastate, interstate or foreign commerce.

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

9 8. Machinery, tools, equipment and related supplies used or consumed
10 directly in repairing, remodeling or maintaining aircraft, aircraft engines
11 or aircraft component parts by or on behalf of a certificated or licensed
12 carrier of persons or property.

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

15 10. Machinery or equipment used directly to drill for oil or gas or
16 used directly in the process of extracting oil or gas from the earth for
17 commercial purposes.

18 11. Buses or other urban mass transit vehicles which are used directly
19 to transport persons or property for hire or pursuant to a governmentally
20 adopted and controlled urban mass transportation program and which are sold
21 to bus companies holding a federal certificate of convenience and necessity
22 or operated by any city, town or other governmental entity or by any person
23 contracting with such governmental entity as part of a governmentally adopted
24 and controlled program to provide urban mass transportation.

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

26 13. New machinery and equipment consisting of tractors, tractor-drawn
27 implements, self-powered implements, machinery and equipment necessary for
28 extracting milk, and machinery and equipment necessary for cooling milk and
29 livestock, and drip irrigation lines not already exempt under paragraph 6 of
30 this subsection and that are used for commercial production of agricultural,
31 horticultural, viticultural and floricultural crops and products in this
32 state. For the purposes of this paragraph:

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

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

38 14. Machinery or equipment used in research and development. For the
39 purposes of this paragraph, "research and development" means basic and
40 applied research in the sciences and engineering, and designing, developing
41 or testing prototypes, processes or new products, including research and
42 development of computer software that is embedded in or an integral part of
43 the prototype or new product or that is required for machinery or equipment
44 otherwise exempt under this section to function effectively. Research and
45 development do not include manufacturing quality control, routine consumer

1 product testing, market research, sales promotion, sales service, research in
2 social sciences or psychology, computer software research that is not
3 included in the definition of research and development, or other
4 nontechnological activities or technical services.

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

12 (a) "Motion picture, multimedia or interactive video production"
13 includes products for theatrical and television release, educational
14 presentations, electronic retailing, documentaries, music videos, industrial
15 films, CD-ROM, video game production, commercial advertising and television
16 episode production and other genres that are introduced through developing
17 technology.

18 (b) "Soundstage complex" means a facility of multiple stages including
19 production offices, construction shops and related areas, prop and costume
20 shops, storage areas, parking for production vehicles and areas that are
21 leased to businesses that complement the production needs and orientation of
22 the overall facility.

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

26 (a) Any direct broadcast satellite television or data transmission
27 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
28 100.

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

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

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

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

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

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

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

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

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

31 20. Machinery and equipment that are used in the commercial production
32 of livestock, livestock products or agricultural, horticultural, viticultural
33 or floricultural crops or products in this state and that are used directly
34 and primarily to prevent, monitor, control or reduce air, water or land
35 pollution.

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

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

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

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

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

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

18 C. The exemptions provided by subsection B of this section do not
19 include:

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

24 2. Janitorial equipment and hand tools.

25 3. Office equipment, furniture and supplies.

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

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

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

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

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

38 1. Revenues received from sales of ancillary services, electric
39 distribution services, electric generation services, electric transmission
40 services and other services related to providing electricity to a retail
41 electric customer who is located outside this state for use outside this
42 state if the electricity is delivered to a point of sale outside this state.

43 2. Revenues received from providing electricity, including ancillary
44 services, electric distribution services, electric generation services,
45 electric transmission services and other services related to providing

1 electricity with respect to which the transaction privilege tax imposed under
2 section 42-5063 has been paid.

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

4 1. The storage, use or consumption in Arizona of machinery, equipment,
5 materials or other tangible personal property if used directly and
6 predominantly to construct a qualified environmental technology
7 manufacturing, producing or processing facility, as described in section
8 41-1514.02. This paragraph applies for ten full consecutive calendar or
9 fiscal years after the start of initial construction.

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

19 3. THE PURCHASE OF TANGIBLE OR INTANGIBLE PERSONAL PROPERTY THAT IS
20 PURCHASED OVER THE INTERNET IF THE VENDOR DOES NOT HAVE A NEXUS WITH THIS
21 STATE.

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

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

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

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

35 1. "Aircraft" includes:

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

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

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

1 H. For the purposes of subsection D of this section, "ancillary
2 services", "electric distribution service", "electric generation service",
3 "electric transmission service" and "other services" have the same meanings
4 prescribed in section 42-5063.

5 Sec. 3. Section 42-6004, Arizona Revised Statutes, is amended to read:
6 42-6004. Exemption from municipal tax

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

9 1. Exhibition events in this state sponsored, conducted or operated by
10 a nonprofit organization that is exempt from taxation under section
11 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
12 organization is associated with a major league baseball team or a national
13 touring professional golfing association and no part of the organization's
14 net earnings inures to the benefit of any private shareholder or individual.

15 2. Interstate telecommunications services, which include that portion
16 of telecommunications services, such as subscriber line service, allocable by
17 federal law to interstate telecommunications service.

18 3. Sales of warranty or service contracts.

19 4. Sales of motor vehicles to nonresidents of this state for use
20 outside this state if the vendor ships or delivers the motor vehicle to a
21 destination outside this state.

22 5. Interest on finance contracts.

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

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

28 8. Sales of food or other items purchased with United States
29 department of agriculture food stamp coupons issued under the food stamp act
30 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
31 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
32 section 4302; 42 United States Code section 1786) but may impose such a tax
33 on other sales of food. If a city, town or special taxing district exempts
34 sales of food from its tax or imposes a different transaction privilege rate
35 on the gross proceeds of sales or gross income from sales of food and nonfood
36 items, it shall use the definition of food prescribed by rule adopted by the
37 department pursuant to section 42-5106.

38 9. Sales of TANGIBLE AND INTANGIBLE PERSONAL PROPERTY THAT IS PURCHASED
39 OVER THE INTERNET OR internet access services to the person's subscribers and
40 customers. For the purposes of this paragraph:

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

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

5 10. The gross proceeds of sales or gross income retained by the Arizona
6 exposition and state fair board from ride ticket sales at the annual Arizona
7 state fair.

8 11. Through August 31, 2014, sales of Arizona centennial medallions by
9 the historical advisory commission.

10 B. A city, town or other taxing jurisdiction shall not levy a
11 transaction privilege, sales, use, franchise or other similar tax or fee,
12 however denominated, on natural gas or liquefied petroleum gas used to propel
13 a motor vehicle.

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

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

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

23 3. The sale of a motor vehicle and any repair and replacement parts
24 and tangible personal property becoming a part of such motor vehicle 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, renting or licensing
27 such property.

28 4. Incarcerating or detaining in a privately operated prison, jail or
29 detention facility prisoners who are under the jurisdiction of the United
30 States, this state or any other state or a political subdivision of this
31 state or of any other state.

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

34 6. Through December 31, 2009, and except as provided in section
35 42-6104, a contract from constructing any lake facility development in a
36 commercial enhancement reuse district established pursuant to section
37 9-499.08.

38 7. Development or impact fees included in a construction or
39 development contract for payment to the state or a local government to offset
40 governmental costs of providing public infrastructure, public safety and
41 other public services to a development.

42 D. A city, town or other taxing jurisdiction shall not levy a
43 transaction privilege, sales, use, franchise or other similar tax or fee,
44 however denominated, in excess of one-tenth of one per cent of the value of
45 the entire product mined, smelted, extracted, refined, produced or prepared

1 for sale, profit or commercial use, on persons engaged in the business of
2 mineral processing, except to the extent that the tax is computed on the
3 gross proceeds or gross income from sales at retail.

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

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

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