

REFERENCE TITLE: sales tax exemptions; repeal; dates

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2645

Introduced by

Representatives Farley, Ableser, Alston, Arredondo, Campbell, Chabin,
Hobbs, Meyer, Miranda C, Miranda R, Pancrazi, Tovar, Wheeler, Senators
Aboud, Cajero Bedford, Schapira, Lujan: Representatives Gallego, Gonzales,
McCune Davis, Saldate, Senators Landrum Taylor, Lopez

AN ACT

AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5039; AMENDING SECTIONS 42-5061, 42-5062, 42-5063, 42-5064, 42-5065, 42-5066, 42-5067, 42-5069, 42-5070, 42-5071, 42-5072, 42-5073, 42-5074, 42-5075, 42-5102 AND 42-5159, ARIZONA REVISED STATUTES; 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. Title 42, chapter 5, article 1, Arizona Revised Statutes,
3 is amended by adding section 42-5039, to read:
4 42-5039. Requirements for new income tax deductions and
5 exemptions established by the legislature
6 ANY NEW TRANSACTION PRIVILEGE OR USE TAX DEDUCTION OR EXEMPTION THAT IS
7 ESTABLISHED BY THE LEGISLATURE UNDER THIS CHAPTER SHALL INCLUDE IN ITS
8 ENABLING LEGISLATION A SPECIFIC REPEAL DATE FOR THE DEDUCTION OR EXEMPTION.
9 THE SPECIFIC REPEAL DATE SHALL BE FROM AND AFTER DECEMBER 31 OF THE SEVENTH
10 FULL CALENDAR YEAR FOLLOWING THE DATE THE DEDUCTION OR EXEMPTION IS ENACTED.
11 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:
12 42-5061. Retail classification; definitions
13 A. The retail classification is comprised of the business of selling
14 tangible personal property at retail. The tax base for the retail
15 classification is the gross proceeds of sales or gross income derived from
16 the business. The tax imposed on the retail classification does not apply to
17 the gross proceeds of sales or gross income from:
18 1. Professional or personal service occupations or businesses which
19 involve sales or transfers of tangible personal property only as
20 inconsequential elements.
21 2. Services rendered in addition to selling tangible personal property
22 at retail.
23 3. Sales of warranty or service contracts. The storage, use or
24 consumption of tangible personal property provided under the conditions of
25 such contracts is subject to tax under section 42-5156.
26 4. Sales of tangible personal property by any nonprofit organization
27 organized and operated exclusively for charitable purposes and recognized by
28 the United States internal revenue service under section 501(c)(3) of the
29 internal revenue code.
30 5. Sales to persons engaged in business classified under the
31 restaurant classification of articles used by human beings for food, drink or
32 condiment, whether simple, mixed or compounded.
33 6. Business activity which is properly included in any other business
34 classification which is taxable under this article.
35 7. The sale of stocks and bonds.
36 8. Drugs and medical oxygen, including delivery hose, mask or tent,
37 regulator and tank, on the prescription of a member of the medical, dental or
38 veterinarian profession who is licensed by law to administer such substances.
39 9. Prosthetic appliances as defined in section 23-501 prescribed or
40 recommended by a health professional who is licensed pursuant to title 32,
41 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
42 10. Insulin, insulin syringes and glucose test strips.
43 11. Prescription eyeglasses or contact lenses.
44 12. Hearing aids as defined in section 36-1901.

1 13. Durable medical equipment which has a centers for medicare and
2 medicaid services common procedure code, is designated reimbursable by
3 medicare, is prescribed by a person who is licensed under title 32, chapter
4 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
5 customarily used to serve a medical purpose, is generally not useful to a
6 person in the absence of illness or injury and is appropriate for use in the
7 home.

8 14. Sales to nonresidents of this state for use outside this state if
9 the vendor ships or delivers the tangible personal property out of this
10 state.

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

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

18 17. Textbooks by any bookstore that are required by any state
19 university or community college.

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

24 19. Articles of food, drink or condiment and accessory tangible
25 personal property to a school district or charter school if such articles and
26 accessory tangible personal property are to be prepared and served to persons
27 for consumption on the premises of a public school within the district or on
28 the premises of the charter school during school hours.

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

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

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

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

42 22. Motor vehicle fuel and use fuel that are subject to a tax imposed
43 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
44 valid single trip use fuel tax permit issued under section 28-5739, sales of
45 aviation fuel that are subject to the tax imposed under section 28-8344 and

1 sales of jet fuel that are subject to the tax imposed under article 8 of this
2 chapter.

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

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

9 25. Tangible personal property sold to:

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

11 (b) A qualifying health care organization as defined in section
12 42-5001 if the tangible personal property is used by the organization solely
13 to provide health and medical related educational and charitable services.

14 (c) A qualifying health care organization as defined in section
15 42-5001 if the organization is dedicated to providing educational,
16 therapeutic, rehabilitative and family medical education training for blind,
17 visually impaired and multihandicapped children from the time of birth to age
18 twenty-one.

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

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

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

32 26. Magazines or other periodicals or other publications by this state
33 to encourage tourist travel.

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

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

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

44 (c) Incorporated or fabricated by the person into any lake facility
45 development in a commercial enhancement reuse district under conditions

1 prescribed for the deduction allowed by section 42-5075, subsection B,
2 paragraph 8.

3 28. The sale of a motor vehicle to:

4 (a) A nonresident of this state if the purchaser's state of residence
5 does not allow a corresponding use tax exemption to the tax imposed by
6 article 1 of this chapter and if the nonresident has secured a special ninety
7 day nonresident registration permit for the vehicle as prescribed by sections
8 28-2154 and 28-2154.01.

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

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

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

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

28 32. Sales of tangible personal property by a nonprofit organization
29 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
30 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
31 sponsors or operates a rodeo featuring primarily farm and ranch animals and
32 no part of the organization's net earnings inures to the benefit of any
33 private shareholder or individual.

34 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
35 propagative material to persons who use those items to commercially produce
36 agricultural, horticultural, viticultural or floricultural crops in this
37 state.

38 34. Machinery, equipment, technology or related supplies that are only
39 useful to assist a person who is physically disabled as defined in section
40 46-191, has a developmental disability as defined in section 36-551 or has a
41 head injury as defined in section 41-3201 to be more independent and
42 functional.

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

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

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

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

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

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

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

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

44 41. Sales of food, drink and condiment for consumption within the
45 premises of any prison, jail or other institution under the jurisdiction of

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

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

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

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

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

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

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

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

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

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

1 50. Sales of alternative fuel vehicles if the vehicle was manufactured
2 as a diesel fuel vehicle and converted to operate on alternative fuel and
3 equipment that is installed in a conventional diesel fuel motor vehicle to
4 convert the vehicle to operate on an alternative fuel, as defined in section
5 1-215.

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

9 52. Sales of tangible personal property to be incorporated or installed
10 as part of environmental response or remediation activities under section
11 42-5075, subsection B, paragraph 6.

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

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

19 55. Application services that are designed to assess or test student
20 learning or to promote curriculum design or enhancement purchased by or for
21 any school district, charter school, community college or state university.
22 For the purposes of this paragraph:

23 (a) "Application services" means software applications provided
24 remotely using hypertext transfer protocol or another network protocol.

25 (b) "Curriculum design or enhancement" means planning, implementing or
26 reporting on courses of study, lessons, assignments or other learning
27 activities.

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

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

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

1 3. Tangible personal property sold to persons engaged in business
2 classified under the telecommunications classification and consisting of
3 central office switching equipment, switchboards, private branch exchange
4 equipment, microwave radio equipment and carrier equipment including optical
5 fiber, coaxial cable and other transmission media which are components of
6 carrier systems.

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

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

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

18 7. Aircraft, navigational and communication instruments and other
19 accessories and related equipment sold to:

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

26 (b) Any foreign government.

27 (c) Persons who are not residents of this state and who will not use
28 such property in this state other than in removing such property from this
29 state. This subdivision also applies to corporations that are not
30 incorporated in this state, regardless of maintaining a place of business in
31 this state, if the principal corporate office is located outside this state
32 and the property will not be used in this state other than in removing the
33 property from this state.

34 8. Machinery, tools, equipment and related supplies used or consumed
35 directly in repairing, remodeling or maintaining aircraft, aircraft engines
36 or aircraft component parts by or on behalf of a certificated or licensed
37 carrier of persons or property.

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

40 10. Machinery or equipment used directly to drill for oil or gas or
41 used directly in the process of extracting oil or gas from the earth for
42 commercial purposes.

43 11. Buses or other urban mass transit vehicles which are used directly
44 to transport persons or property for hire or pursuant to a governmentally
45 adopted and controlled urban mass transportation program and which are sold

1 to bus companies holding a federal certificate of convenience and necessity
2 or operated by any city, town or other governmental entity or by any person
3 contracting with such governmental entity as part of a governmentally adopted
4 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

43 (b) "Soundstage complex" means a facility of multiple stages including
44 production offices, construction shops and related areas, prop and costume
45 shops, storage areas, parking for production vehicles and areas that are

1 leased to businesses that complement the production needs and orientation of
2 the overall facility.

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

6 (a) Any direct broadcast satellite television or data transmission
7 service that operates pursuant to 47 Code of Federal Regulations part 25.

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

10 (i) Over two-thirds of the transmissions, measured in megabytes,
11 transmitted by the facility during the test period were transmitted to or on
12 behalf of one or more direct broadcast satellite television or data
13 transmission services that operate pursuant to 47 Code of Federal Regulations
14 part 25.

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

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

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

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

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

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

44 19. Machinery or equipment, including related structural components,
45 that is employed in connection with manufacturing, processing, fabricating,

1 job printing, refining, mining, natural gas pipelines, metallurgical
2 operations, telecommunications, producing or transmitting electricity or
3 research and development and that is used directly to meet or exceed rules or
4 regulations adopted by the federal energy regulatory commission, the United
5 States environmental protection agency, the United States nuclear regulatory
6 commission, the Arizona department of environmental quality or a political
7 subdivision of this state to prevent, monitor, control or reduce land, water
8 or air pollution.

9 20. Machinery and equipment that are sold to a person engaged in the
10 commercial production of livestock, livestock products or agricultural,
11 horticultural, viticultural or floricultural crops or products in this state
12 and that are used directly and primarily to prevent, monitor, control or
13 reduce air, water or land pollution.

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

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

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

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

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

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

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

42 1. Expendable materials. For the purposes of this paragraph,
43 expendable materials do not include any of the categories of tangible
44 personal property specified in subsection B of this section regardless of the
45 cost or useful life of that property.

1 2. Janitorial equipment and hand tools.

2 3. Office equipment, furniture and supplies.

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

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

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

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

13 D. In addition to the deductions from the tax base prescribed by
14 subsection A of this section, there shall be deducted from the tax base the
15 gross proceeds of sales or gross income derived from sales of machinery,
16 equipment, materials and other tangible personal property used directly and
17 predominantly to construct a qualified environmental technology
18 manufacturing, producing or processing facility as described in section
19 41-1514.02. This subsection applies for ten full consecutive calendar or
20 fiscal years after the start of initial construction.

21 E. In computing the tax base, gross proceeds of sales or gross income
22 from retail sales of heavy trucks and trailers does not include any amount
23 attributable to federal excise taxes imposed by 26 United States Code section
24 4051.

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

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

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

41 I. A person who engages in manufacturing, baling, crating, boxing,
42 barreling, canning, bottling, sacking, preserving, processing or otherwise
43 preparing for sale or commercial use any livestock, agricultural or
44 horticultural product or any other product, article, substance or commodity
45 and who sells the product of such business at retail in this state is deemed,

1 as to such sales, to be engaged in business classified under the retail
2 classification. This subsection does not apply to businesses classified
3 under the:

- 4 1. Transporting classification.
- 5 2. Utilities classification.
- 6 3. Telecommunications classification.
- 7 4. Pipeline classification.
- 8 5. Private car line classification.
- 9 6. Publication classification.
- 10 7. Job printing classification.
- 11 8. Prime contracting classification.
- 12 9. Owner builder sales classification.
- 13 10. Restaurant classification.

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

- 16 1. Sales made directly to the United States government or its
17 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 18 2. Sales made directly to a manufacturer, modifier, assembler or
19 repairer if such sales are of any ingredient or component part of products
20 sold directly to the United States government or its departments or agencies
21 by the manufacturer, modifier, assembler or repairer.

22 3. Overhead materials or other tangible personal property that is used
23 in performing a contract between the United States government and a
24 manufacturer, modifier, assembler or repairer, including property used in
25 performing a subcontract with a government contractor who is a manufacturer,
26 modifier, assembler or repairer, to which title passes to the government
27 under the terms of the contract or subcontract.

28 4. Sales of overhead materials or other tangible personal property to
29 a manufacturer, modifier, assembler or repairer if the gross proceeds of
30 sales or gross income derived from the property by the manufacturer,
31 modifier, assembler or repairer will be exempt under paragraph 3 of this
32 subsection.

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

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

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

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

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

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

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

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

19 Q. Retail sales of prepaid calling cards or prepaid authorization
20 numbers for telecommunications services, including sales of reauthorization
21 of a prepaid card or authorization number, are subject to tax under this
22 section.

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

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

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

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

1 T. 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 U. 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 V. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
22 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
23 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
24 DECEMBER 31, 2019.

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

26 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

25 Sec. 3. Section 42-5062, Arizona Revised Statutes, is amended to read:
26 42-5062. Transporting classification

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

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

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

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

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

42 5. Transporting freight or property for hire by a railroad operating
43 exclusively in this state if the transportation comprises a portion of a
44 single shipment of freight or property, involving more than one railroad,
45 either from a point in this state to a point outside this state or from a

1 point outside this state to a point in this state. For the purposes of this
2 paragraph, "a single shipment" means the transportation that begins at the
3 point at which one of the railroads first takes possession of the freight or
4 property and continues until the point at which one of the railroads
5 relinquishes possession of the freight or property to a party other than one
6 of the railroads.

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

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

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

25 2. The gross proceeds of sales or gross income derived from business
26 activity that is properly included in any other business classification under
27 this article and that is taxable to the person engaged in that
28 classification, but the gross proceeds of sales or gross income to be
29 deducted shall not exceed the consideration paid to the person conducting the
30 activity.

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

37 4. The gross proceeds of sales or gross income derived from business
38 activity that is arranged by a person who is subject to tax under this
39 section and that is taxable to another person under this section who conducts
40 the activity, but the gross proceeds of sales or gross income to be deducted
41 shall not exceed the consideration paid to the person conducting the
42 activity.

43 5. The gross proceeds of sales or gross income derived from
44 transporting fertilizer by a railroad from a point in this state to another
45 point in this state.

1 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
2 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
3 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
4 DECEMBER 31, 2019.

5 Sec. 4. Section 42-5063, Arizona Revised Statutes, is amended to read:
6 42-5063. Utilities classification; definitions

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

8 1. Producing and furnishing or furnishing to consumers natural or
9 artificial gas and water.

10 2. Providing to retail electric customers ancillary services, electric
11 distribution services, electric generation services, electric transmission
12 services and other services related to providing electricity.

13 B. The utilities classification does not include:

14 1. Sales of ancillary services, electric distribution services,
15 electric generation services, electric transmission services and other
16 services related to providing electricity, gas or water to a person who
17 resells the services.

18 2. Sales of natural gas or liquefied petroleum gas used to propel a
19 motor vehicle.

20 3. Sales of alternative fuel, as defined in section 1-215, to 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 4. Sales of ancillary services, electric distribution services,
24 electric generation services, electric transmission services and other
25 services that are related to providing electricity to a retail electric
26 customer who is located outside this state for use outside this state if the
27 electricity is delivered to a point of sale outside this state.

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

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

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

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

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

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

4 4. The portion of gross proceeds of sales or gross income that is
5 derived from sales to a qualified environmental technology manufacturer,
6 producer or processor as defined in section 41-1514.02 of a utility product
7 and that is used directly in environmental technology manufacturing,
8 producing or processing. This paragraph shall apply for twenty full
9 consecutive calendar or fiscal years from the date the first paper
10 manufacturing machine is placed in service. In the case of a qualified
11 environmental technology manufacturer, producer or processor who does not
12 manufacture paper, the time period shall begin with the date the first
13 manufacturing, processing or production equipment is placed in service.

14 **D. NOTWITHSTANDING SUBSECTIONS B AND C OF THIS SECTION, THE ITEMS**
15 **DESCRIBED IN SUBSECTIONS B AND C OF THIS SECTION SHALL NOT BE DEDUCTED OR**
16 **EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER**
17 **DECEMBER 31, 2019.**

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

19 1. "Ancillary services" means those services so designated in federal
20 energy regulatory commission order 888 adopted in 1996 that include the
21 services necessary to support the transmission of electricity from resources
22 to loads while maintaining reliable operation of the transmission system
23 according to good utility practice.

24 2. "Electric distribution service" means distributing electricity to
25 retail electric customers through the use of electric distribution
26 facilities.

27 3. "Electric generation service" means providing electricity for sale
28 to retail electric customers but excluding electric distribution or
29 transmission services.

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

34 5. "Other services" includes metering, meter reading services, billing
35 and collecting services.

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

39 Sec. 5. Section 42-5064, Arizona Revised Statutes, is amended to read:
40 **42-5064. Telecommunications classification; definitions**

41 A. The telecommunications classification is comprised of the business
42 of providing intrastate telecommunications services. The telecommunications
43 classification does not include:

44 1. Sales of intrastate telecommunications services by a cable
45 television system as defined in section 9-505 or by a microwave television

1 transmission system that transmits television programming to multiple
2 subscribers and that is operated pursuant to 47 Code of Federal Regulations
3 parts 21 and 74.

4 2. Sales of internet access or application services to the person's
5 subscribers and customers. For the purposes of this paragraph:

6 (a) "Application services" means software applications provided
7 remotely using hypertext transfer protocol or another network protocol and
8 purchased by or for any school district, charter school, community college or
9 state university to assess or test student learning or to promote curriculum
10 design or enhancement.

11 (b) "Curriculum design or enhancement" means planning, implementing or
12 reporting on courses of study, lessons, assignments or other learning
13 activities.

14 B. The tax base for the telecommunications classification is the gross
15 proceeds of sales or gross income derived from the business, including the
16 gross income derived from tolls, subscriptions and services on behalf of
17 subscribers or from the publication of a directory of the names of
18 subscribers. However, the gross proceeds of sales or gross income derived
19 from the following shall be deducted from the tax base:

20 1. Sales of intrastate telecommunications services to:

21 (a) Other persons engaged in businesses classified under the
22 telecommunications classification for use in such business.

23 (b) A direct broadcast satellite television or data transmission
24 service that operates pursuant to 47 Code of Federal Regulations part 25 for
25 use in its direct broadcast satellite television or data transmission
26 operation by a facility described in section 42-5061, subsection B, paragraph
27 16, subdivision (b).

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

30 3. Carrier access charges established by federal communications
31 commission regulations (47 Code of Federal Regulations sections 69.105(a)
32 through 69.118).

33 4. Sales of direct broadcast satellite television services pursuant to
34 47 Code of Federal Regulations part 25 by a direct broadcast satellite
35 television service that operates pursuant to 47 Code of Federal Regulations
36 part 25.

37 5. Telecommunications services purchased with a prepaid calling card,
38 or a prepaid authorization number for telecommunications services, that is
39 taxable under section 42-5061.

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

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

4 1. A telecommunications service provider who can reasonably identify
5 the portion of the sales price of the bundled transaction derived from
6 charges for nontaxable services is subject to tax only on the gross proceeds
7 of sales or gross income derived from the taxable services. For the purposes
8 of this section, the telecommunications service provider may elect to
9 reasonably identify the portion of the sales price of the bundled transaction
10 derived from charges for nontaxable services by using allocation percentages
11 derived from the telecommunications service provider's entire service area,
12 including territories outside of this state. On request, the department may
13 require the telecommunications service provider to provide this allocation
14 information. The reasonableness of the allocation is subject to audit by the
15 department.

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

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

24 E. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
25 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
26 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
27 DECEMBER 31, 2019.

28 ~~E.~~ F. For the purposes of this section:

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

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

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

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

39 3. "Internet access" means a service that enables users to access
40 content, information, electronic mail or other services over the internet.
41 Internet access does not include telecommunications services provided by a
42 common carrier.

43 4. "Intrastate telecommunications services" means transmitting signs,
44 signals, writings, images, sounds, messages, data or other information of any

1 nature by wire, radio waves, light waves or other electromagnetic means if
2 the information transmitted originates and terminates in this state.

3 Sec. 6. Section 42-5065, Arizona Revised Statutes, is amended to read:
4 42-5065. Publication classification; definition

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

8 1. Manufacturing or publishing books.

9 2. Sales of magazines or other periodicals or other publications by
10 this state to encourage tourist travel.

11 B. The tax base for the publication classification is the gross
12 proceeds of sales or gross income derived from the business, including the
13 gross income derived from notices and subscription income, but the following
14 shall be deducted from the tax base:

15 1. Gross income derived from advertising.

16 2. Gross proceeds of sales or gross income derived from sales of
17 personal property to:

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

19 (b) A qualifying health care organization as defined in section
20 42-5001 if the tangible personal property is used by the organization solely
21 to provide health and medical related educational and charitable services.

22 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
23 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
24 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
25 DECEMBER 31, 2019.

26 ~~C.~~ D. For purposes of this section "subscription income" includes all
27 circulation revenue, except amounts actually retained by or credited to
28 carriers and other vendors as compensation for sale or delivery of
29 publications and revenue from publications sold, directly or through
30 wholesalers or jobbers, to retailers for resale.

31 Sec. 7. Section 42-5066, Arizona Revised Statutes, is amended to read:
32 42-5066. Job printing classification

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

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

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

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

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

44 2. Sales of job printing, engraving, embossing and copying for use
45 outside this state if the materials are shipped or delivered out of this

1 state regardless of where title to the materials passes or their free on
2 board point.

3 3. Sales of personal property to:

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

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

8 4. Sales of postage and freight except that the amount deducted shall
9 not exceed the actual postage and freight expense that is paid to the United
10 States postal service or a commercial delivery service and that is separately
11 itemized by the taxpayer on the customer's invoice and in the taxpayer's
12 records.

13 5. Sales to a motion picture production company that will use the job
14 printing, engraving, embossing or copying directly in motion picture
15 production. To qualify for this deduction, at the time of sale, the motion
16 picture production company must present the job printer its certificate that
17 is issued pursuant to section 42-5009, subsection H, and that establishes its
18 qualifications for the deduction.

19 C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, THE ITEMS DESCRIBED
20 IN SUBSECTION B OF THIS SECTION SHALL NOT BE DEDUCTED OR EXEMPTED FROM THE
21 TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER DECEMBER 31, 2019.

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

23 42-5067. Pipeline classification

24 A. The pipeline classification is comprised of the business of
25 operating pipelines for transporting oil or natural or artificial gas through
26 pipes or conduits from one point to another point in this state. The
27 pipeline classification does not include sales of natural gas or liquefied
28 petroleum gas used to propel a motor vehicle.

29 B. The tax base for the pipeline classification is the gross proceeds
30 of sales or gross income derived from the business, but the taxpayer shall
31 deduct from the tax base the gross proceeds of sales or gross income derived
32 from pipeline services to:

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

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

37 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
38 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
39 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
40 DECEMBER 31, 2019.

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

42 42-5069. Commercial lease classification; definitions

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

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

7 C. The commercial lease classification does not include:

8 1. Any business activities that are classified under the transient
9 lodging classification.

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

13 3. Leasing real property to a lessee who subleases the property if the
14 lessee is engaged in business classified under the commercial lease
15 classification or the transient lodging classification.

16 4. Leasing real property pursuant to a written lease agreement entered
17 into before December 1, 1967. This exclusion does not apply to the
18 businesses of hotels, guest houses, dude ranches and resorts, rooming houses,
19 apartment houses, office buildings, automobile storage garages, parking lots
20 or tourist camps, or to the extension or renewal of any such written lease
21 agreement.

22 5. Leasing real property by a corporation to an affiliated
23 corporation. For the purposes of this paragraph, "affiliated corporation"
24 means a corporation that owns or controls at least eighty per cent of the
25 lessor, that is at least eighty per cent owned or controlled by the lessor or
26 that is at least eighty per cent owned or controlled by a corporation that
27 also owns or controls at least eighty per cent of the lessor. Ownership and
28 control are determined by reference to the voting shares of a corporation.

29 6. Leasing real property for boarding horses.

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

37 8. Leasing or renting real property or the right to use real property
38 for use as a rodeo featuring primarily farm and ranch animals in this state
39 sponsored, operated or conducted by a nonprofit organization that is exempt
40 from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or
41 501(c)(8) of the internal revenue code and no part of the organization's net
42 earnings inures to the benefit of any private shareholder or individual.

43 9. Leasing or renting dwelling units, lodging facilities or trailer or
44 mobile home spaces if the units, facilities or spaces are intended to serve
45 as the principal or permanent place of residence for the lessee or renter or

1 if the unit, facility or space is leased or rented to a single tenant thirty
2 or more consecutive days.

3 10. Leasing or renting real property and improvements for use primarily
4 for religious worship by a nonprofit organization that is exempt from
5 taxation under section 501(c)(3) of the internal revenue code and no part of
6 the organization's net earnings inures to the benefit of any private
7 shareholder or individual.

8 11. Leasing or renting real property used for agricultural purposes
9 under either of the following circumstances:

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

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

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

25 (a) The majority of such vending or exhibition activities relate to
26 the nature of the trade or business sponsoring the event.

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

29 (c) The event is organized by the persons engaged in the particular
30 trade or industry.

31 13. Leasing, renting or granting the right to use real property for a
32 period not to exceed twenty-one days by a coliseum, civic center, civic
33 plaza, convention center, auditorium or arena owned by this state or any of
34 its political subdivisions.

35 14. Leasing or subleasing real property used by a nursing care
36 institution as defined in section 36-401 that is licensed pursuant to title
37 36, chapter 4.

38 15. Leasing or renting an eligible facility as defined in section
39 28-7701.

40 16. Granting or providing rights to real property that constitute a
41 profit à prendre for the severance of minerals, including all rights to use
42 the surface or subsurface of the property as is necessary or convenient to
43 the right to sever the minerals. This paragraph does not exclude from the
44 commercial lease classification leasehold rights to the real property that
45 are granted in addition to and not included within the right of profit à

1 prendre, but the tax base for the grant of such a leasehold right, if the
2 gross income derived from the grant is not separately stated from the gross
3 income derived from the grant of the profit à prendre, shall not exceed the
4 fair market value of the leasehold rights computed after excluding the value
5 of all rights under the profit à prendre. For the purposes of this
6 paragraph, "profit à prendre" means a right to use the land of another to
7 mine minerals, and carries with it the right of entry and the right to remove
8 and take the minerals from the land and also includes the right to use the
9 surface of the land as is necessary and convenient for exercise of the
10 profit.

11 D. The tax base for the commercial lease classification is the gross
12 proceeds of sales or gross income derived from the business, but
13 reimbursements to the lessor for utility service shall be deducted from the
14 tax base.

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

21 F. NOTWITHSTANDING SUBSECTIONS B, C AND D OF THIS SECTION, THE ITEMS
22 DESCRIBED IN SUBSECTIONS B, C AND D OF THIS SECTION SHALL NOT BE DEDUCTED OR
23 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
24 DECEMBER 31, 2019.

25 ~~F.~~ G. For the purposes of this section:

- 26 1. "Leasing" includes renting.
27 2. "Real property" includes any improvements, rights or interest in
28 such property.

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

31 42-5070. Transient lodging classification: definition

32 A. The transient lodging classification is comprised of the business
33 of operating, for occupancy by transients, a hotel or motel, including an
34 inn, tourist home or house, dude ranch, resort, campground, studio or
35 bachelor hotel, lodging house, rooming house, apartment house, dormitory,
36 public or private club, mobile home or house trailer at a fixed location or
37 other similar structure, and also including a space, lot or slab which is
38 occupied or intended or designed for occupancy by transients in a mobile home
39 or house trailer furnished by them for such occupancy.

40 B. The transient lodging classification does not include:

- 41 1. Operating a convalescent home or facility, home for the aged,
42 hospital, jail, military installation or fraternity or sorority house or
43 operating any structure exclusively by an association, institution,
44 governmental agency or corporation for religious, charitable or educational

1 purposes, if no part of the net earnings of the association, corporation or
2 other entity inures to the benefit of any private shareholder or individual.

3 2. A lease or rental of a mobile home or house trailer at a fixed
4 location or any other similar structure, and also including a space, lot or
5 slab which is occupied or intended or designed for occupancy by transients in
6 a mobile home or house trailer furnished by them for such occupancy for
7 thirty or more consecutive days.

8 3. Leasing or renting four or fewer rooms of an owner-occupied
9 residential home, together with furnishing no more than a breakfast meal, to
10 transient lodgers at no more than a fifty per cent average annual occupancy
11 rate.

12 C. The tax base for the transient lodging classification is the gross
13 proceeds of sales or gross income derived from the business, except that the
14 tax base does not include:

15 1. Gross proceeds of sales or gross income derived from business
16 activity that is properly included in another business classification under
17 this article and that is taxable to the person engaged in that business
18 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 2. Gross proceeds of sales or gross income from leases or rentals of
22 lodging space to a motion picture production company if, at the time of lease
23 or rental, the motion picture production company presents to the business its
24 certificate of qualification that is issued pursuant to section 42-5009,
25 subsection H.

26 D. For the purposes of this section, the tax base for the transient
27 lodging classification does not include gross proceeds of sales or gross
28 income derived from:

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

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

35 3. Commissions paid to a person that is engaged in transient lodging
36 business subject to taxation under this section by a person providing
37 services or property to the customers of the person engaging in the transient
38 lodging business.

39 E. NOTWITHSTANDING SUBSECTIONS B, C AND D OF THIS SECTION, THE ITEMS
40 DESCRIBED IN SUBSECTIONS B, C AND D OF THIS SECTION SHALL NOT BE DEDUCTED OR
41 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
42 DECEMBER 31, 2019.

43 ~~E.~~ F. For the purposes of this section, "transient" means any person
44 who either at the person's own expense or at the expense of another obtains

1 lodging space or the use of lodging space on a daily or weekly basis, or on
2 any other basis for less than thirty consecutive days.

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

5 42-5071. Personal property rental classification

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

9 1. Leasing or renting films, tapes or slides used by theaters or
10 movies, which are engaged in business under the amusement classification, or
11 used by television stations or radio stations.

12 2. Activities engaged in by the Arizona exposition and state fair
13 board or county fair commissions in connection with events sponsored by such
14 entities.

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

22 4. Operating coin operated washing, drying and dry cleaning machines
23 or coin operated car washing machines at establishments for the use of such
24 machines.

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

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

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

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

41 1. Reimbursements by the lessee to the lessor of a motor vehicle for
42 payments by the lessor of the applicable fees and taxes imposed by sections
43 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
44 article 2 and article IX, section 11, Constitution of Arizona, to the extent

1 such amounts are separately identified as such fees and taxes and are billed
2 to the lessee.

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

6 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 50
7 or 55.

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

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

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

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

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

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

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

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

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

28 D. In computing the tax base, the gross proceeds of sales or gross
29 income from the lease or rental of a motor vehicle does not include any
30 amount attributable to the car rental surcharge under section 28-5810 or
31 48-4234.

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

40 F. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
41 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
42 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
43 DECEMBER 31, 2019.

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

3 42-5072. Mining classification; definition

4 A. The mining classification is comprised of the business of mining,
5 quarrying or producing for sale, profit or commercial use any
6 nonmetalliferous mineral product that has been mined, quarried or otherwise
7 extracted within the boundaries of this state described in article I, section
8 1, Constitution of Arizona.

9 B. The tax base for the mining classification is the gross proceeds of
10 sales or gross income derived from the business. **THROUGH DECEMBER 31, 2019,**
11 the gross proceeds of sales or gross income derived from sales described
12 under section 42-5061, subsection A, paragraph 27 and subsection J, paragraph
13 2 shall be deducted from the tax base.

14 C. The tax base includes the value of the entire product mined,
15 quarried or produced for sale, profit or commercial use in this state,
16 regardless of the place of sale of the product or of the fact that deliveries
17 may be made to points without this state. If, however, the sale price of the
18 product includes freight, the sale price shall be reduced by the actual
19 freight paid by any person from the place of production to the place of
20 delivery.

21 D. In the case of a person engaged in business classified under the
22 mining classification all or part of whose income is derived from service or
23 manufacturing charges instead of from sales of the products manufactured or
24 handled, the tax base includes the gross income of the person derived from
25 the service or manufacturing charge.

26 E. If a person engaging in business classified under the mining
27 classification ships or transports all or part of a product out of this state
28 without making sale of the product or ships his product outside of this state
29 in an unfinished condition, the value of the product or article in the
30 condition or form in which it existed when transported out of this state and
31 before it enters interstate commerce is included in the tax base, and the
32 department shall prescribe equitable and uniform rules for ascertaining that
33 value. In determining the tax base, if the product or any part of the
34 product has been processed in this state and the proceeds of such processing
35 have been included in the tax base of the processor under this chapter, the
36 person may deduct from the value of the product when transported out of this
37 state the cost of such processing.

38 F. A person who conducts a business classified under the mining
39 classification may be deemed also to be engaged in business classified under
40 the retail classification to the extent the person's activities comprise
41 business under the retail classification if the tax is paid at the rate
42 imposed on the retail classification by section 42-5010. If the transaction
43 is not subject to taxation under the retail classification, the transaction
44 shall be included in the tax base under this section.

1 G. For the purposes of this section, "nonmetalliferous mineral
2 product" means oil, natural gas, limestone, sand, gravel or any other
3 nonmetalliferous mineral product, compound or combination of nonmetalliferous
4 mineral products.

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

7 42-5073. Amusement classification

8 A. The amusement classification is comprised of the business of
9 operating or conducting theaters, movies, operas, shows of any type or
10 nature, exhibitions, concerts, carnivals, circuses, amusement parks,
11 menageries, fairs, races, contests, games, billiard or pool parlors, bowling
12 alleys, public dances, dance halls, boxing and wrestling matches, skating
13 rinks, tennis courts, except as provided in subsection B of this section,
14 video games, pinball machines, sports events or any other business charging
15 admission or user fees for exhibition, amusement or entertainment, including
16 the operation or sponsorship of events by a tourism and sports authority
17 under title 5, chapter 8. For purposes of this section, admission or user
18 fees include, but are not limited to, any revenues derived from any form of
19 contractual agreement for rights to or use of premium or special seating
20 facilities or arrangements. The amusement classification does not include:

21 1. Activities or projects of bona fide religious or educational
22 institutions.

23 2. Private or group instructional activities. For the purposes of
24 this paragraph, "private or group instructional activities" includes, but is
25 not limited to, performing arts, martial arts, gymnastics and aerobic
26 instruction.

27 3. The operation or sponsorship of events by the Arizona exposition
28 and state fair board or county fair commissions.

29 4. A musical, dramatic or dance group or a botanical garden, museum or
30 zoo that is qualified as a nonprofit charitable organization under section
31 501(c)(3) of the United States internal revenue code and if no part of its
32 net income inures to the benefit of any private shareholder or individual.

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

39 6. Operating or sponsoring rodeos that feature primarily farm and
40 ranch animals in this state and that are sponsored, conducted or operated by
41 a nonprofit organization that is exempt from taxation under section
42 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
43 revenue code and no part of the organization's net earnings inures to the
44 benefit of any private shareholder or individual.

1 7. Sales of admissions to intercollegiate football contests if the
2 contests are both:

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

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

9 8. Activities and events of, or fees and assessments received by, a
10 homeowners organization from persons who are members of the organization or
11 accompanied guests of members. For the purposes of this paragraph,
12 "homeowners organization" means a mandatory membership organization comprised
13 of owners of residential property within a specified residential real estate
14 subdivision development or similar area and established to own property for
15 the benefit of its members where both of the following apply:

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

18 (b) The primary purpose of the organization is to provide for the
19 acquisition, construction, management, maintenance or care of organization
20 property.

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

27 10. Arranging an amusement activity as a service to a person's
28 customers if that person is not otherwise engaged in the business of
29 operating or conducting an amusement personally or through others. This
30 exception does not apply to businesses that operate or conduct amusements
31 pursuant to customer orders and send the billings and receive the payments
32 associated with that activity, including when the amusement is performed by
33 third party independent contractors. For the purposes of this paragraph,
34 "arranging" includes billing for or collecting amusement charges from a
35 person's customers on behalf of the persons providing the amusement.

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

39 1. The gross proceeds of sales or gross income derived from
40 memberships, including initiation fees, which provide for the right to use a
41 health or fitness establishment or a private recreational establishment, or
42 any portion of an establishment, including tennis and other racquet courts at
43 that establishment, for participatory purposes for twenty-eight days or more
44 and fees charged for use of the health or fitness establishment or private
45 recreational establishment by bona fide accompanied guests of members, except

1 that this paragraph does not include additional fees, other than initiation
2 fees, charged by a health or fitness establishment or a private recreational
3 establishment for purposes other than memberships which provide for the right
4 to use a health or fitness establishment or private recreational
5 establishment, or any portion of an establishment, for participatory purposes
6 for twenty-eight days or more and accompanied guest use fees.

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

8 3. The gross proceeds of sales or gross income derived from membership
9 fees, including initiation fees, that provide for the right to use a
10 transient lodging recreational establishment, including golf courses and
11 tennis and other racquet courts at that establishment, for participatory
12 purposes for twenty-eight days or more, except that this paragraph does not
13 include additional fees, other than initiation fees, that are charged by a
14 transient lodging recreational establishment for purposes other than
15 memberships and that provide for the right to use a transient lodging
16 recreational establishment or any portion of the establishment for
17 participatory purposes for twenty-eight days or more.

18 4. The gross proceeds of sales or gross income derived from sales to
19 persons engaged in the business of transient lodging classified under section
20 42-5070, if all of the following apply:

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

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

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

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

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

33 (b) Business activity that is arranged by the person who is subject to
34 tax under this section and that is not taxable to the person conducting the
35 activity due to an exclusion, exemption or deduction under this section or
36 section 42-5062, 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 (c) Business activity that is arranged by a person who is subject to
40 tax under this section and that is taxable to another person under this
41 section who conducts the activity, but the gross proceeds of sales or gross
42 income to be deducted shall not exceed the consideration paid to the person
43 conducting the activity.

1 C. For the purposes of subsection B of this section:

2 1. "Health or fitness establishment" means a facility whose primary
3 purpose is to provide facilities, equipment, instruction or education to
4 promote the health and fitness of its members and at least eighty per cent of
5 the monthly gross revenue of the facility is received through accounts of
6 memberships and accompanied guest use fees which provide for the right to use
7 the facility, or any portion of the facility, under the terms of the
8 membership agreement for participatory purposes for twenty-eight days or
9 more.

10 2. "Private recreational establishment" means a facility whose primary
11 purpose is to provide recreational facilities, such as tennis, golf and
12 swimming, for its members and where at least eighty per cent of the monthly
13 gross revenue of the facility is received through accounts of memberships and
14 accompanied guest use fees which provide for the right to use the facility,
15 or any portion of the facility, for participatory purposes for twenty-eight
16 days or more.

17 3. "Transient lodging recreational establishment" means a facility
18 whose primary purpose is to provide facilities for transient lodging, that is
19 subject to taxation under this chapter and that also provides recreational
20 facilities, such as tennis, golf and swimming, for members for a period of
21 twenty-eight days or more.

22 D. Until December 31, 1988, the revenues from hayrides and other
23 animal-drawn amusement rides, from horseback riding and riding instruction
24 and from recreational tours using motor vehicles designed to operate on and
25 off public highways are exempt from the tax imposed by this section.
26 Beginning January 1, 1989, the gross proceeds or gross income from hayrides
27 and other animal-drawn amusement rides, from horseback riding and from
28 recreational tours using motor vehicles designed to operate on and off public
29 highways are subject to taxation under this section. Tax liabilities,
30 penalties and interest paid for taxable periods before January 1, 1989 shall
31 not be refunded unless the taxpayer requesting the refund provides proof
32 satisfactory to the department that the taxes will be returned to the
33 customer.

34 E. If a person is engaged in the business of offering both exhibition,
35 amusement or entertainment and private or group instructional activities, the
36 person's books shall be kept to show separately the gross income from
37 exhibition, amusement or entertainment and the gross income from
38 instructional activities. If the books do not provide this separate
39 accounting, the tax is imposed on the person's total gross income from the
40 business.

41 F. For purposes of section 42-5032.01, the department shall separately
42 account for revenues collected under the amusement classification from sales
43 of admissions to:

44 1. Events that are held in a multipurpose facility that is owned or
45 operated by the tourism and sports authority pursuant to title 5, chapter 8,

1 including intercollegiate football contests that are operated by a nonprofit
2 organization that is exempt from taxation under section 501(c)(3) of the
3 internal revenue code.

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

7 G. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
8 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
9 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
10 DECEMBER 31, 2019.

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

13 42-5074. Restaurant classification

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

18 B. The tax base for the restaurant classification is the gross
19 proceeds of sales or gross income derived from the business. The gross
20 proceeds of sales or gross income derived from the following shall be
21 deducted from the tax base:

22 1. Sales to a person engaged in business classified under the
23 restaurant classification if the items sold are to be resold in the regular
24 course of the business.

25 2. Sales by a congressionally chartered veterans organization of food
26 or drink prepared for consumption on the premises leased, owned or maintained
27 by the organization.

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

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

39 5. Sales at a rodeo featuring primarily farm and ranch animals in this
40 state by a nonprofit organization that is exempt from taxation under section
41 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
42 revenue code and no part of the organization's net earnings inures to the
43 benefit of any private shareholder or individual.

44 6. Sales by any nonprofit organization organized and operated
45 exclusively for charitable purposes and recognized by the United States

1 internal revenue service under section 501(c)(3) of the internal revenue
2 code.

3 7. Sales to qualifying hospitals as defined in section 42-5001.

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

8 9. Sales of food, drink and condiment for consumption within the
9 premises of any prison, jail or other institution under the jurisdiction of
10 the state department of corrections, the department of public safety, the
11 department of juvenile corrections or a county sheriff.

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

17 11. Sales of articles of prepared or unprepared food, drink or
18 condiment and accessory tangible personal property to a school district or
19 charter school if the articles and accessory tangible personal property are
20 served to persons for consumption on the premises of a public school in the
21 school district or charter school during school hours.

22 12. Prepared food, drink or condiment donated by a restaurant to a
23 nonprofit charitable organization that has qualified under section 501(c)(3)
24 of the internal revenue code and that regularly serves meals to the needy and
25 indigent on a continuing basis at no cost.

26 C. The tax imposed on the restaurant classification pursuant to this
27 section does not apply to the gross proceeds of sales or gross income from
28 tangible personal property sold to a commercial airline consisting of food,
29 beverages and condiments and accessories used for serving the food and
30 beverages, if those items are to be provided without additional charge to
31 passengers for consumption in flight. For the purposes of this subsection,
32 "commercial airline" means a person holding a federal certificate of public
33 convenience and necessity or foreign air carrier permit for air
34 transportation to transport persons, property or United States mail in
35 intrastate, interstate or foreign commerce.

36 D. For purposes of section 42-5032.01, the department shall separately
37 account for revenues collected under the restaurant classification from
38 businesses operating restaurants, dining rooms, lunchrooms, lunch stands,
39 soda fountains, catering services or similar establishments:

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

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

1 E. NOTWITHSTANDING SUBSECTIONS B AND C OF THIS SECTION, THE ITEMS
2 DESCRIBED IN SUBSECTIONS B AND C OF THIS SECTION SHALL NOT BE DEDUCTED OR
3 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
4 DECEMBER 31, 2019.

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

7 42-5075. Prime contracting classification; exemptions;
8 definitions

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

16 B. The tax base for the prime contracting classification is sixty-five
17 per cent of the gross proceeds of sales or gross income derived from the
18 business. THROUGH DECEMBER 31, 2019, the following amounts shall be deducted
19 from the gross proceeds of sales or gross income before computing the tax
20 base:

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

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

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

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

43 5. The gross proceeds of sales or gross income derived from a contract
44 to construct a qualified environmental technology manufacturing, producing or
45 processing facility, as described in section 41-1514.02, and from subsequent

1 construction and installation contracts that begin within ten years after the
2 start of initial construction. To qualify for this deduction, before
3 beginning work under the contract, the prime contractor must obtain a letter
4 of qualification from the department of revenue. This paragraph shall apply
5 for ten full consecutive calendar or fiscal years after the start of initial
6 construction.

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

17 (a) Actions to monitor, assess and evaluate such a release or a
18 suspected release.

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

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

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

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

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

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

1 as if the ownership were the same. The deduction provided in this paragraph
2 does not include gross proceeds of sales or gross income from that portion of
3 any contracting activity which consists of the development of, or
4 modification to, real property in order to facilitate the installation,
5 assembly, repair, maintenance or removal of machinery, equipment or other
6 tangible personal property that is deducted from the tax base of the retail
7 classification pursuant to section 42-5061, subsection B or that is exempt
8 from use tax pursuant to section 42-5159, subsection B. For the purposes of
9 this paragraph, "permanent attachment" means at least one of the following:

10 (a) To be incorporated into real property.

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

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

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

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

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

28 (c) Any other information that the department considers to be
29 necessary.

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

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

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

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

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

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

42 11. The gross proceeds of sales or gross income that is derived from a
43 contract entered into with a person who is engaged in the commercial
44 production of livestock, livestock products or agricultural, horticultural,
45 viticultural or floricultural crops or products in this state for the

1 construction, alteration, repair, improvement, movement, wrecking or
2 demolition or addition to or subtraction from any building, highway, road,
3 excavation, manufactured building or other structure, project, development or
4 improvement used directly and primarily to prevent, monitor, control or
5 reduce air, water or land pollution.

6 12. The gross proceeds of sales or gross income that is derived from
7 the installation, assembly, repair or maintenance of clean rooms that are
8 deducted from the tax base of the retail classification pursuant to section
9 42-5061, subsection B, paragraph 17.

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

16 14. For taxable periods beginning from and after December 31, 1996 and
17 ending before January 1, 2017, the gross proceeds of sales or gross income
18 derived from a contract to provide and install a solar energy device. The
19 contractor shall register with the department as a solar energy contractor.
20 By registering, the contractor acknowledges that it will make its books and
21 records relating to sales of solar energy devices available to the department
22 for examination.

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

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

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

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

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

1 deduction, the prime contractor must obtain a letter of qualification from
2 the department of commerce before beginning work under the contract.

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

10 21. Any amount of the gross proceeds of sales or gross income
11 attributable to development fees that are incurred in relation to a contract
12 for construction, development or improvement of real property and that are
13 paid by a prime contractor or subcontractor. For the purposes of this
14 paragraph:

15 (a) The attributable amount shall not exceed the value of the
16 development fees actually imposed.

17 (b) The attributable amount is equal to the total amount of
18 development fees paid by the prime contractor or subcontractor, and the total
19 development fees credited in exchange for the construction of, contribution
20 to or dedication of real property for providing public infrastructure, public
21 safety or other public services necessary to the development. The real
22 property must be the subject of the development fees.

23 (c) "Development fees" means fees imposed to offset capital costs of
24 providing public infrastructure, public safety or other public services to a
25 development and authorized pursuant to section 9-463.05, section 11-1102 or
26 title 48 regardless of the jurisdiction to which the fees are paid.

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

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

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

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

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

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

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

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

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

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

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

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

9 H. THROUGH DECEMBER 31, 2019, the gross proceeds of sales or gross
10 income derived from a contract for lawn maintenance services are not subject
11 to tax under this section if the contract does not include landscaping
12 activities. Lawn maintenance service is a service pursuant to section
13 42-5061, subsection A, paragraph 1, and includes lawn mowing and edging,
14 weeding, repairing sprinkler heads or drip irrigation heads, seasonal
15 replacement of flowers, refreshing gravel, lawn de-thatching, seeding winter
16 lawns, leaf and debris collection and removal, tree or shrub pruning or
17 clipping, garden and gravel raking and applying pesticides, as defined in
18 section 3-361, and fertilizer materials, as defined in section 3-262.

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

26 J. THROUGH DECEMBER 31, 2019, the portion of gross proceeds of sales
27 or gross income attributable to the actual direct costs of providing
28 architectural or engineering services that are incorporated in a contract is
29 not subject to tax under this section. For the purposes of this subsection,
30 "direct costs" means the portion of the actual costs that are directly
31 expended in providing architectural or engineering services.

32 K. THROUGH DECEMBER 31, 2019, operating a landfill or a solid waste
33 disposal facility is not subject to taxation under this section, including
34 filling, compacting and creating vehicle access to and from cell sites within
35 the landfill. Constructing roads to a landfill or solid waste disposal
36 facility and constructing cells within a landfill or solid waste disposal
37 facility may be deemed prime contracting under this section.

38 L. The following apply to manufactured buildings:

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

42 2. For sales in this state where the dealership of manufactured
43 buildings does not contract to deliver the building to a setup site or does
44 not perform the setup, the taxable situs is the location of the dealership
45 where the building is delivered to the buyer.

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

5 M. **THROUGH DECEMBER 31, 2019**, the gross proceeds of sales or gross
6 income attributable to a separate, written design phase services contract or
7 professional services contract, executed before modification begins, is not
8 subject to tax under this section, regardless of whether the services are
9 provided sequential to or concurrent with prime contracting activities that
10 are subject to tax under this section. This subsection does not include the
11 gross proceeds of sales or gross income attributable to construction phase
12 services. For the purposes of this subsection:

13 1. "Construction phase services" means services for the execution and
14 completion of any modification, including the following:

15 (a) Administration or supervision of any modification performed on the
16 project, including team management and coordination, scheduling, cost
17 controls, submittal process management, field management, safety program,
18 close-out process and warranty period services.

19 (b) Administration or supervision of any modification performed
20 pursuant to a punch list. For the purposes of this subdivision, "punch list"
21 means minor items of modification work performed after substantial completion
22 and before final completion of the project.

23 (c) Administration or supervision of any modification performed
24 pursuant to change orders. For the purposes of this subdivision, "change
25 order" means a written instrument issued after execution of a contract for
26 modification work, providing for all of the following:

27 (i) The scope of a change in the modification work, contract for
28 modification work or other contract documents.

29 (ii) The amount of an adjustment, if any, to the guaranteed maximum
30 price as set in the contract for modification work. For the purposes of this
31 item, "guaranteed maximum price" means the amount guaranteed to be the
32 maximum amount due to a prime contractor for the performance of all
33 modification work for the project.

34 (iii) The extent of an adjustment, if any, to the contract time of
35 performance set forth in the contract.

36 (d) Administration or supervision of any modification performed
37 pursuant to change directives. For the purposes of this subdivision, "change
38 directive" means a written order directing a change in modification work
39 before agreement on an adjustment of the guaranteed maximum price or contract
40 time.

41 (e) Inspection to determine the dates of substantial completion or
42 final completion.

43 (f) Preparation of any manuals, warranties, as-built drawings, spares
44 or other items the prime contractor must furnish pursuant to the contract for
45 modification work. For the purposes of this subdivision, "as-built drawing"

1 means a drawing that indicates field changes made to adapt to field
2 conditions, field changes resulting from change orders or buried and
3 concealed installation of piping, conduit and utility services.

4 (g) Preparation of status reports after modification work has begun
5 detailing the progress of work performed, including preparation of any of the
6 following:

7 (i) Master schedule updates.

8 (ii) Modification work cash flow projection updates.

9 (iii) Site reports made on a periodic basis.

10 (iv) Identification of discrepancies, conflicts or ambiguities in
11 modification work documents that require resolution.

12 (v) Identification of any health and safety issues that have arisen in
13 connection with the modification work.

14 (h) Preparation of daily logs of modification work, including
15 documentation of personnel, weather conditions and on-site occurrences.

16 (i) Preparation of any submittals or shop drawings used by the prime
17 contractor to illustrate details of the modification work performed.

18 (j) Administration or supervision of any other activities for which a
19 prime contractor receives a certificate for payment or certificate for final
20 payment based on the progress of modification work performed on the project.

21 2. "Design phase services" means services for developing and
22 completing a design for a project that are not construction phase services,
23 including the following:

24 (a) Evaluating surveys, reports, test results or any other information
25 on-site conditions for the project, including physical characteristics, legal
26 limitations and utility locations for the site.

27 (b) Evaluating any criteria or programming objectives for the project
28 to ascertain requirements for the project, such as physical requirements
29 affecting cost or projected utilization of the project.

30 (c) Preparing drawings and specifications for architectural program
31 documents, schematic design documents, design development documents,
32 modification work documents or documents that identify the scope of or
33 materials for the project.

34 (d) Preparing an initial schedule for the project, excluding the
35 preparation of updates to the master schedule after modification work has
36 begun.

37 (e) Preparing preliminary estimates of costs of modification work
38 before completion of the final design of the project, including an estimate
39 or schedule of values for any of the following:

40 (i) Labor, materials, machinery and equipment, tools, water, heat,
41 utilities, transportation and other facilities and services used in the
42 execution and completion of modification work, regardless of whether they are
43 temporary or permanent or whether they are incorporated in the modifications.

44 (ii) The cost of labor and materials to be furnished by the owner of
45 the real property.

1 (iii) The cost of any equipment of the owner of the real property to
2 be assigned by the owner to the prime contractor.

3 (iv) The cost of any labor for installation of equipment separately
4 provided by the owner of the real property that has been designed, specified,
5 selected or specifically provided for in any design document for the project.

6 (v) Any fee paid by the owner of the real property to the prime
7 contractor pursuant to the contract for modification work.

8 (vi) Any bond and insurance premiums.

9 (vii) Any applicable taxes.

10 (viii) Any contingency fees for the prime contractor that may be used
11 before final completion of the project.

12 (f) Reviewing and evaluating cost estimates and project documents to
13 prepare recommendations on site use, site improvements, selection of
14 materials, building systems and equipment, modification feasibility,
15 availability of materials and labor, local modification activity as related
16 to schedules and time requirements for modification work.

17 (g) Preparing the plan and procedures for selection of subcontractors,
18 including any prequalification of subcontractor candidates.

19 3. "Professional services" means architect services, assayer services,
20 engineer services, geologist services, land surveying services or landscape
21 architect services that are within the scope of those services as provided in
22 title 32, chapter 1 and for which gross proceeds of sales or gross income has
23 not otherwise been deducted under subsection J of this section.

24 N. Notwithstanding subsection 0, paragraph 8 of this section, a person
25 owning real property who enters into a contract for sale of the real
26 property, who is responsible to the new owner of the property for
27 modifications made to the property in the period subsequent to the transfer
28 of title and who receives a consideration for the modifications is considered
29 a prime contractor solely for purposes of taxing the gross proceeds of sale
30 or gross income received for the modifications made subsequent to the
31 transfer of title. The original owner's gross proceeds of sale or gross
32 income received for the modifications shall be determined according to the
33 following methodology:

34 1. If any part of the contract for sale of the property specifies
35 amounts to be paid to the original owner for the modifications to be made in
36 the period subsequent to the transfer of title, the amounts are included in
37 the original owner's gross proceeds of sale or gross income under this
38 section. Proceeds from the sale of the property that are received after
39 transfer of title and that are unrelated to the modifications made subsequent
40 to the transfer of title are not considered gross proceeds of sale or gross
41 income from the modifications.

42 2. If the original owner enters into an agreement separate from the
43 contract for sale of the real property providing for amounts to be paid to
44 the original owner for the modifications to be made in the period subsequent
45 to the transfer of title to the property, the amounts are included in the

1 original owner's gross proceeds of sale or gross income received for the
2 modifications made subsequent to the transfer of title.

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

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

13 0. For the purposes of this section:

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

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

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

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

29 (b) Supervises, performs or coordinates the excavation and completion
30 of site improvements, setup or moving of a manufactured building including
31 the contracting, if any, with any subcontractor or specialty contractor for
32 the completion of the contract.

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

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

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

39 7. "Prime contracting" means engaging in business as a prime
40 contractor.

41 8. "Prime contractor" means a contractor who supervises, performs or
42 coordinates the modification of any building, highway, road, railroad,
43 excavation, manufactured building or other structure, project, development or
44 improvement including the contracting, if any, with any subcontractors or
45 specialty contractors and who is responsible for the completion of the

1 contract. Except as provided in subsections E and N of this section, a
2 person who owns real property, who engages one or more contractors to modify
3 that real property and who does not itself modify that real property is not a
4 prime contractor within the meaning of this paragraph regardless of the
5 existence of a contract for sale or the subsequent sale of that real
6 property.

7 9. "Sale of a used manufactured building" does not include a lease of
8 a used manufactured building.

9 Sec. 16. Section 42-5102, Arizona Revised Statutes, is amended to
10 read:

11 42-5102. Tax exemption for sales of food; nonexempt sales

12 A. **THROUGH DECEMBER 31, 2019**, except for the gross proceeds of sales
13 or gross income from the sale of food for consumption on the premises, the
14 taxes imposed by this chapter do not apply to the gross proceeds of sales or
15 gross income from sales of food by any of the following:

16 1. A retailer who conducts an eligible grocery business.

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

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

22 4. A retailer who conducts a delicatessen business either from a
23 counter which is separate from the place and cash register where taxable
24 sales are made or from a counter which has two cash registers which are used
25 to record taxable and tax exempt sales or a retailer who conducts a
26 delicatessen business and who uses a cash register which has at least two tax
27 computing keys which are used to record taxable and tax exempt sales.

28 5. A retailer who is a street or sidewalk vendor and who uses a
29 pushcart, mobile facility, motor vehicle or other such conveyance.

30 6. Vending machines and other types of automatic retailers.

31 B. **THROUGH DECEMBER 31, 2019**, the taxes imposed by this chapter do not
32 apply to the gross proceeds of sales or gross income from sales of food by a
33 state university or community college or its designee on its campuses to
34 students using a validated meal ticket or to patients purchasing or consuming
35 food at the Arizona health sciences center.

36 C. **THROUGH DECEMBER 31, 2019**, the taxes imposed by this chapter do not
37 apply to the gross proceeds of sales or gross income from sales of food by a
38 retailer to:

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

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

44 3. A facility which provides on a regular basis care and supervision
45 of persons who, because of age or a mental or physical condition, are

1 incapable of caring for themselves and where they are unaccompanied by their
2 custodians or guardians for periods of less than twenty-four hours a day.

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

6 5. A prison, jail or other institution under the jurisdiction of the
7 state department of corrections, the department of public safety, the
8 department of juvenile corrections or a county sheriff for consumption on the
9 premises.

10 Sec. 17. Section 42-5159, Arizona Revised Statutes, is amended to
11 read:

12 42-5159. Exemptions

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

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

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

25 3. Tangible personal property, the storage, use or consumption of
26 which the constitution or laws of the United States prohibit this state from
27 taxing or to the extent that the rate or imposition of tax is
28 unconstitutional under the laws of the United States.

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

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

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

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

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

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

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

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

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

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

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

28 13. Tangible personal property purchased by:

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

32 (b) A hospital operated by this state or a political subdivision of
33 this state.

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

39 (d) A qualifying health care organization, as defined in section
40 42-5001, if the tangible personal property is used by the organization solely
41 to provide health and medical related educational and charitable services.

42 (e) A qualifying health care organization as defined in section
43 42-5001 if the organization is dedicated to providing educational,
44 therapeutic, rehabilitative and family medical education training for blind,

1 visually impaired and multihandicapped children from the time of birth to age
2 twenty-one.

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

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

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

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

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

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

25 (i) A qualifying community health center as defined in section
26 42-5001.

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

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

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

43 14. Commodities, as defined by title 7 United States Code section 2,
44 that are consigned for resale in a warehouse in this state in or from which
45 the commodity is deliverable on a contract for future delivery subject to the

1 rules of a commodity market regulated by the United States commodity futures
2 trading commission.

3 15. Tangible personal property sold by:

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

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

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

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

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

24 18. Prescription eyeglasses and contact lenses.

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

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

27 21. Durable medical equipment which has a centers for medicare and
28 medicaid services common procedure code, is designated reimbursable by
29 medicare, is prescribed by a person who is licensed under title 32, chapter
30 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
31 used to serve a medical purpose, is generally not useful to a person in the
32 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

6 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
7 article 1.

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

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

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

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

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

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

30 (b) Public educational institutions.

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

34 33. Natural gas or liquefied petroleum gas used to propel a motor
35 vehicle.

36 34. Machinery, equipment, technology or related supplies that are only
37 useful to assist a person who is physically disabled as defined in section
38 46-191, has a developmental disability as defined in section 36-551 or has a
39 head injury as defined in section 41-3201 to be more independent and
40 functional.

41 35. Liquid, solid or gaseous chemicals used in manufacturing,
42 processing, fabricating, mining, refining, metallurgical operations, research
43 and development and, beginning on January 1, 1999, printing, if using or
44 consuming the chemicals, alone or as part of an integrated system of
45 chemicals, involves direct contact with the materials from which the product

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

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

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

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

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

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

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

43 40. Through December 31, 1994, tangible personal property sold pursuant
44 to a personal property liquidation transaction, as defined in section
45 42-5061. From and after December 31, 1994, tangible personal property sold

1 pursuant to a personal property liquidation transaction, as defined in
2 section 42-5061, if the gross proceeds of the sales were included in the
3 measure of the tax imposed by article 1 of this chapter or if the personal
4 property liquidation was a casual activity or transaction.

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

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

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

19 44. Alternative fuel vehicles if the vehicle was manufactured as a
20 diesel fuel vehicle and converted to operate on alternative fuel and
21 equipment that is installed in a conventional diesel fuel motor vehicle to
22 convert the vehicle to operate on an alternative fuel, as defined in section
23 1-215.

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

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

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

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

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

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

42 49. Prepared food, drink or condiment donated by a restaurant as
43 classified in section 42-5074, subsection A to a nonprofit charitable
44 organization that has qualified under section 501(c)(3) of the internal

1 revenue code and that regularly serves meals to the needy and indigent on a
2 continuing basis at no cost.

3 50. Application services that are designed to assess or test student
4 learning or to promote curriculum design or enhancement purchased by or for
5 any school district, charter school, community college or state university.
6 For the purposes of this paragraph:

7 (a) "Application services" means software applications provided
8 remotely using hypertext transfer protocol or another network protocol.

9 (b) "Curriculum design or enhancement" means planning, implementing or
10 reporting on courses of study, lessons, assignments or other learning
11 activities.

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

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

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

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

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

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

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

1 7. Aircraft, navigational and communication instruments and other
2 accessories and related equipment sold to:

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

9 (b) Any foreign government, or sold to persons who are not residents
10 of this state and who will not use such property in this state other than in
11 removing such property from this state.

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

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

18 10. Machinery or equipment used directly to drill for oil or gas or
19 used directly in the process of extracting oil or gas from the earth for
20 commercial purposes.

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

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

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

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

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

41 14. Machinery or equipment used in research and development. For the
42 purposes of this paragraph, "research and development" means basic and
43 applied research in the sciences and engineering, and designing, developing
44 or testing prototypes, processes or new products, including research and
45 development of computer software that is embedded in or an integral part of

1 the prototype or new product or that is required for machinery or equipment
2 otherwise exempt under this section to function effectively. Research and
3 development do not include manufacturing quality control, routine consumer
4 product testing, market research, sales promotion, sales service, research in
5 social sciences or psychology, computer software research that is not
6 included in the definition of research and development, or other
7 nontechnological activities or technical services.

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

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

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

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

29 (a) Any direct broadcast satellite television or data transmission
30 service that operates pursuant to 47 Code of Federal Regulations part 25.

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

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

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

42 For the purposes of subdivision (b) of this paragraph, "test period" means
43 the three hundred sixty-five day period beginning on the later of the date on
44 which the tangible personal property is purchased or the date on which the

1 direct broadcast satellite television or data transmission service first
2 transmits information to its customers.

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

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

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

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

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

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

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

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

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

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

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

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

20 C. The exemptions provided by subsection B of this section do not
21 include:

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

26 2. Janitorial equipment and hand tools.

27 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

22 3. The purchase of solar energy devices from a retailer that is
23 registered with the department as a solar energy retailer or a solar energy
24 contractor.

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

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

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

37 G. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
38 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
39 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
40 DECEMBER 31, 2019.

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

42 1. "Aircraft" includes:

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

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

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

7 ~~H.~~ I. For the purposes of subsection D of this section, "ancillary
8 services", "electric distribution service", "electric generation service",
9 "electric transmission service" and "other services" have the same meanings
10 prescribed in section 42-5063.

11 Sec. 18. Requirements for enactment; two-thirds vote

12 Pursuant to article IX, section 22, Constitution of Arizona, this act
13 is effective only on the affirmative vote of at least two-thirds of the
14 members of each house of the legislature and is effective immediately on the
15 signature of the governor or, if the governor vetoes this act, on the
16 subsequent affirmative vote of at least three-fourths of the members of each
17 house of the legislature.