

REFERENCE TITLE: data centers; tax incentives

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

## **HB 2787**

Introduced by  
Representatives Dial, Forese, Gallego: Gowan, Pierce, Urie, Yee

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1519; AMENDING SECTIONS 42-5061, 42-5075, 42-5159 AND 42-12006, ARIZONA REVISED STATUTES; RELATING TO COMPUTER DATA CENTERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,  
3 is amended by adding section 41-1519, to read:

4 41-1519. Computer data center incentives; definitions

5 A. THE ARIZONA COMMERCE AUTHORITY SHALL CERTIFY BUSINESSES THAT OWN  
6 REAL PROPERTY FOR USE AS A QUALIFIED COMPUTER DATA CENTER AND THAT ENGAGE IN  
7 COMMERCIAL ACTIVITY FOR PROFIT. CERTIFIED BUSINESSES QUALIFY FOR TRANSACTION  
8 PRIVILEGE AND USE TAX INCENTIVES UNDER TITLE 42, CHAPTER 5 AND PROPERTY USED  
9 BY THE BUSINESS AS A COMPUTER DATA CENTER MAY BE CLASSIFIED AS CLASS SIX  
10 UNDER SECTION 42-12006.

11 B. TO QUALIFY FOR THE PURPOSES OF THIS SECTION:

12 1. THE COMPUTER DATA CENTER MUST CONSIST OF AT LEAST TEN THOUSAND  
13 SQUARE FEET CONSTRUCTED OR REFURBISHED SPECIFICALLY, AND USED PRIMARILY, TO  
14 HOUSE WORKING COMPUTER SERVERS WHERE THE SERVER SPACE HAS NOT PREVIOUSLY BEEN  
15 DEDICATED TO HOUSING WORKING SERVERS. THE DATA CENTER MAY CONSIST OF MODULAR  
16 UNITS LESS THAN TEN THOUSAND SQUARE FEET IF EACH MODULE USES UNINTERRUPTED  
17 POWER SUPPLY, POWER DISTRIBUTION, COOLING, SERVER ENCLOSURES AND OTHER  
18 MODULAR COMPONENTS PRIMARILY TO HOUSE WORKING COMPUTER SERVERS. THE DATA  
19 CENTER MAY BE LOCATED IN MULTIPLE BUILDINGS AT A SINGLE SITE. THE  
20 CERTIFICATE OF OCCUPANCY FOR THE NEW OR REFURBISHED DATA CENTER MUST HAVE  
21 BEEN ISSUED FROM AND AFTER DECEMBER 31, 2012 THROUGH DECEMBER 31, 2017, OR  
22 THE INSTALLATION OF THE MODULAR DATA CENTER MUST HAVE BEEN COMPLETED FROM AND  
23 AFTER JUNE 30, 2012 THROUGH DECEMBER 31, 2017. THE AUTHORITY MAY PRESCRIBE  
24 ADDITIONAL QUALIFYING REQUIREMENTS TO ENSURE THE BONA FIDE COMMERCIAL  
25 USABILITY OF THE DATA CENTER, INCLUDING FACILITIES FOR UNINTERRUPTED POWER,  
26 FIRE PREVENTION AND SUPPRESSION AND ENHANCED SECURITY SYSTEMS.

27 2. THE SERVER EQUIPMENT MUST BE:

28 (a) ORIGINAL SERVER EQUIPMENT INSTALLED IN THE ELIGIBLE DATA CENTER ON  
29 OR AFTER JULY 1, 2012.

30 (b) REPLACEMENT SERVER EQUIPMENT TO REPLACE ORIGINAL SERVER EQUIPMENT  
31 THAT QUALIFIED UNDER SUBDIVISION (a) OF THIS PARAGRAPH AND THE REPLACEMENT  
32 EQUIPMENT IS INSTALLED AND PUT INTO REGULAR USE BEFORE DECEMBER 31, 2017.

33 3. THE BUSINESS MUST CREATE OR RETAIN EITHER:

34 (a) AT LEAST ONE NEW QUALIFIED EMPLOYMENT POSITION FOR EACH TEN  
35 THOUSAND SQUARE FEET OF NEWLY CONSTRUCTED OR REFURBISHED SERVER SPACE.

36 (b) AT LEAST FIFTY QUALIFIED EMPLOYMENT POSITIONS DIRECTLY OR  
37 INDIRECTLY THROUGH A QUALIFIED MODULAR DATA CENTER.

38 4. THE BUSINESS MUST OBTAIN AND SUBMIT TO THE AUTHORITY A RESOLUTION  
39 OF THE GOVERNING BODY OF THE CITY OR TOWN IN WHICH THE BUSINESS WILL BE  
40 LOCATED, OR OF THE COUNTY BOARD OF SUPERVISORS IF THE BUSINESS WILL NOT BE  
41 LOCATED IN A CITY OR TOWN. THE RESOLUTION MUST ACKNOWLEDGE THAT THE BUSINESS  
42 INTENDS TO MEET THE REQUIREMENTS OF THIS SECTION AND CONSENT TO THE REDUCED  
43 ASSESSED VALUATION OF THE TAXABLE PROPERTY.

44 C. THE AUTHORITY SHALL NOT CERTIFY ANY BUSINESS FOR QUALIFICATION FOR  
45 PROPERTY TAX INCENTIVES AFTER JUNE 30, 2018. HOWEVER, CERTIFICATION UNDER

1 THIS SECTION IS VALID FOR TEN YEARS, INCLUDING AFTER 2018, SUBJECT TO ANNUAL  
2 RECERTIFICATION IF THE BUSINESS CONTINUES TO MEET THE OTHER ELIGIBILITY  
3 REQUIREMENTS. IN ORDER TO BE ANNUALLY RECERTIFIED, A BUSINESS MUST CONTINUE  
4 TO MEET ALL THE ELIGIBILITY REQUIREMENTS OF THIS SECTION AND MUST ANNUALLY  
5 REPORT THE FOLLOWING AND PROVIDE SUPPORTING DOCUMENTATION TO THE AUTHORITY ON  
6 A FORM AND IN A MANNER APPROVED BY THE AUTHORITY:

7 1. THE BUSINESS NAME AND MAILING ADDRESS AND ANY OTHER CONTACT  
8 INFORMATION REQUESTED BY THE AUTHORITY.

9 2. THE PHYSICAL ADDRESS OF THE BUSINESS LOCATION.

10 3. THE ASSESSOR'S PARCEL NUMBER OF REAL PROPERTY TO WHICH THE CLASS  
11 SIX ASSESSMENT CLASSIFICATION WILL APPLY.

12 4. IF AVAILABLE, THE ASSESSOR'S ACCOUNT NUMBER FOR PERSONAL PROPERTY  
13 TO WHICH THE CLASS SIX ASSESSMENT CLASSIFICATION WILL APPLY.

14 5. FOR THE LOCATION, THE GROSS RECEIPTS, GROSS PAYROLL AND AVERAGE  
15 HOURLY WAGE PAID TO EMPLOYEES FOR THE PRECEDING TAX YEAR.

16 6. OWNERSHIP AND FULL CASH VALUE OF REAL AND PERSONAL PROPERTY TO BE  
17 CERTIFIED.

18 7. CHANGES IN LOCATION, OWNERSHIP AND OPERATIONS OF THE BUSINESS IN  
19 THE IMMEDIATELY PRECEDING YEAR.

20 8. THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES AT THE LOCATION FOR THE  
21 IMMEDIATELY PRECEDING YEAR.

22 9. OTHER INFORMATION NECESSARY FOR THE MANAGEMENT OF THESE PROPERTY  
23 TAX INCENTIVES AS DETERMINED BY THE AUTHORITY.

24 D. TO RECEIVE CLASSIFICATION AS CLASS SIX PROPERTY, THE CERTIFIED  
25 BUSINESS MUST SUBMIT A COPY OF THE AUTHORITY'S INITIAL CERTIFICATION, EACH  
26 ANNUAL RECERTIFICATION AND A WRITTEN REQUEST TO CLASSIFY THE PROPERTY TO THE  
27 COUNTY ASSESSOR OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED ON OR BEFORE  
28 DECEMBER 10 OF EACH YEAR.

29 E. A BUSINESS SHALL SUBMIT ITS APPLICATION FOR INITIAL CERTIFICATION  
30 OR ANNUAL RECERTIFICATION TO THE AUTHORITY NOT LATER THAN OCTOBER 1 OF EACH  
31 YEAR. THE AUTHORITY SHALL NOTIFY THE APPROPRIATE COUNTY ASSESSORS OF ALL  
32 QUALIFIED PROPERTIES LOCATED IN THE ASSESSOR'S COUNTY NOT LATER THAN DECEMBER  
33 1 OF EACH YEAR.

34 F. IF A BUSINESS MOVES FROM THE ORIGINALLY CERTIFIED LOCATION, IT  
35 LOSES ITS ELIGIBILITY, AND THE COUNTY ASSESSOR SHALL RECLASSIFY THE PROPERTY  
36 AS PROVIDED BY LAW.

37 G. IF A CERTIFIED BUSINESS IS PURCHASED BY ANOTHER ENTITY OR CHANGES  
38 BY MORE THAN TWENTY PER CENT OF THE OWNERSHIP INTEREST THROUGH  
39 REORGANIZATION, STOCK PURCHASE OR MERGER, THE CERTIFICATION IS TERMINATED.  
40 THE NEW BUSINESS MAY APPLY FOR CERTIFICATION ACCORDING TO ELIGIBILITY  
41 REQUIREMENTS OF THIS SECTION.

42 H. THE AUTHORITY SHALL NOTIFY THE DEPARTMENT OF REVENUE AND THE COUNTY  
43 ASSESSOR IF A CERTIFIED BUSINESS CLOSES, MOVES OR FAILS TO MAINTAIN ITS  
44 ELIGIBILITY, AND THE ASSESSOR SHALL MAKE THE APPROPRIATE CHANGES TO THE  
45 CLASSIFICATION OF THE PROPERTY ON TAX ROLL.

1 I. DOCUMENTS FILED WITH THE AUTHORITY UNDER THIS SECTION SHALL CONTAIN  
2 EITHER A SWORN STATEMENT OR CERTIFICATION, SIGNED BY AN OFFICER OF THE  
3 COMPANY UNDER PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED IS TRUE AND  
4 CORRECT ACCORDING TO THE BEST BELIEF AND KNOWLEDGE OF THE PERSON SUBMITTING  
5 THE INFORMATION AFTER A REASONABLE INVESTIGATION OF THE FACTS. IF THE  
6 DOCUMENT CONTAINS INFORMATION THAT IS MATERIALLY FALSE, THE TAXPAYER IS  
7 INELIGIBLE FOR THE TAX INCENTIVES DESCRIBED UNDER SUBSECTION A OF THIS  
8 SECTION.

9 J. THE AUTHORITY MAY MAKE SITE VISITS TO A DATA CENTER IF IT IS  
10 NECESSARY TO FURTHER DOCUMENT OR CLARIFY REPORTED INFORMATION. THE OWNER OF  
11 THE DATA CENTER MUST FREELY PROVIDE THE ACCESS.

12 K. FOR THE PURPOSES OF THIS SECTION:

13 1. "MODULAR DATA CENTER UNIT" OR "MODULAR UNIT" MEANS A DATA CENTER  
14 MODULE CHASSIS CONSISTING OF UNINTERRUPTED POWER SUPPLY, POWER DISTRIBUTION,  
15 COOLING, SERVER ENCLOSURES AND OTHER COMPONENTS AND FIXTURES CONTAINED WITHIN  
16 THE CHASSIS, INCLUDING COMPUTER SOFTWARE NECESSARY TO OPERATE THE MODULE.

17 2. "QUALIFIED EMPLOYMENT POSITION" MEANS EMPLOYMENT THAT MEETS THE  
18 FOLLOWING REQUIREMENTS:

19 (a) THE POSITION CONSISTS OF AT LEAST ONE THOUSAND SEVEN HUNDRED FIFTY  
20 HOURS PER YEAR OF FULL-TIME PERMANENT EMPLOYMENT.

21 (b) THE JOB DUTIES ARE PERFORMED PRIMARILY AT THE LOCATION OR  
22 LOCATIONS OF THE BUSINESS.

23 (c) THE EMPLOYMENT PROVIDES HEALTH INSURANCE COVERAGE FOR THE EMPLOYEE  
24 FOR WHICH THE EMPLOYER PAYS AT LEAST SIXTY-FIVE PER CENT OF THE PREMIUM OR  
25 MEMBERSHIP COST. IF THE BUSINESS IS SELF-INSURED, THE EMPLOYER PAYS AT LEAST  
26 SIXTY-FIVE PER CENT OF A PREDETERMINED FIXED COST PER EMPLOYEE FOR AN  
27 INSURANCE PROGRAM THAT IS PAYABLE WHETHER OR NOT THE EMPLOYEE HAS FILED  
28 CLAIMS.

29 (d) THE POSITION PAYS COMPENSATION AT LEAST EQUAL TO THE MEDIAN WAGE  
30 BY COUNTY AS COMPUTED ANNUALLY BY THE AUTHORITY.

31 3. "SERVER" MEANS BLADE OR RACK-MOUNT SERVER COMPUTERS USED IN A  
32 COMPUTED DATA CENTER EXCLUSIVELY TO PROVIDE ELECTRONIC DATA STORAGE AND DATA  
33 MANAGEMENT SERVICES FOR INTERNAL USE BY THE OWNER OF THE COMPUTER DATA  
34 CENTER, FOR CLIENTS OF THE OWNER OR BOTH. SERVER DOES NOT INCLUDE PERSONAL  
35 COMPUTERS.

36 4. "SERVER EQUIPMENT" MEANS THE SERVER CHASSIS AND ALL COMPUTER  
37 HARDWARE CONTAINED IN THE SERVER CHASSIS, INCLUDING COMPUTER SOFTWARE  
38 NECESSARY TO OPERATE THE SERVER. SERVER EQUIPMENT DOES NOT INCLUDE THE RACKS  
39 ON WHICH THE SERVER CHASSIS IS INSTALLED, AND COMPUTER PERIPHERALS SUCH AS  
40 KEYBOARDS, MONITORS, PRINTERS, MICE AND OTHER DEVICES THAT WORK OUTSIDE THE  
41 COMPUTER.

42 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:  
43 42-5061. Retail classification; definitions

44 A. The retail classification is comprised of the business of selling  
45 tangible personal property at retail. The tax base for the retail

1 classification is the gross proceeds of sales or gross income derived from  
2 the business. The tax imposed on the retail classification does not apply to  
3 the gross proceeds of sales or gross income from:

4 1. Professional or personal service occupations or businesses ~~which~~  
5 ~~THAT~~ involve sales or transfers of tangible personal property only as  
6 inconsequential elements.

7 2. Services rendered in addition to selling tangible personal property  
8 at retail.

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

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

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

19 6. Business activity ~~which~~ ~~THAT~~ is properly included in any other  
20 business classification ~~which~~ ~~THAT~~ is taxable under this article.

21 7. The sale of stocks and bonds.

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

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

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

29 11. Prescription eyeglasses or contact lenses.

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

31 13. Durable medical equipment which has a centers for medicare and  
32 medicaid services common procedure code, is designated reimbursable by  
33 medicare, is prescribed by a person who is licensed under title 32, chapter  
34 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
35 customarily used to serve a medical purpose, is generally not useful to a  
36 person in the absence of illness or injury and is appropriate for use in the  
37 home.

38 14. Sales to nonresidents of this state for use outside this state if  
39 the vendor ships or delivers the tangible personal property out of this  
40 state.

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

43 16. Items purchased with United States department of agriculture food  
44 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
45 958) or food instruments issued under section 17 of the child nutrition act

1 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
2 section 1786).

3 17. Textbooks by any bookstore that are required by any state  
4 university or community college.

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

9 19. Articles of food, drink or condiment and accessory tangible  
10 personal property to a school district or charter school if such articles and  
11 accessory tangible personal property are to be prepared and served to persons  
12 for consumption on the premises of a public school within the district or on  
13 the premises of the charter school during school hours.

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

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

20 (a) "Monetized bullion" means coins and other forms of money ~~which~~  
21 THAT are manufactured from gold, silver or other metals and ~~which~~ THAT have  
22 been or are used as a medium of exchange in this or another state, the United  
23 States or a foreign nation.

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

27 22. Motor vehicle fuel and use fuel that are subject to a tax imposed  
28 under title 28, chapter 16, article 1, sales of use fuel to a holder of a  
29 valid single trip use fuel tax permit issued under section 28-5739, sales of  
30 aviation fuel that are subject to the tax imposed under section 28-8344 and  
31 sales of jet fuel that are subject to the tax imposed under article 8 of this  
32 chapter.

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

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

39 25. Tangible personal property sold to:

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

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

44 (c) A qualifying health care organization as defined in section  
45 42-5001 if the organization is dedicated to providing educational,

1 therapeutic, rehabilitative and family medical education training for blind,  
2 visually impaired and multihandicapped children from the time of birth to age  
3 twenty-one.

4 (d) A qualifying community health center as defined in section  
5 42-5001.

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

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

17 26. Magazines or other periodicals or other publications by this state  
18 to encourage tourist travel.

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

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

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

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

33 28. The sale of a motor vehicle to:

34 (a) A nonresident of this state if the purchaser's state of residence  
35 does not allow a corresponding use tax exemption to the tax imposed by  
36 article 1 of this chapter and if the nonresident has secured a special ninety  
37 day nonresident registration permit for the vehicle as prescribed by sections  
38 28-2154 and 28-2154.01.

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

41 29. Tangible personal property purchased in this state by a nonprofit  
42 charitable organization that has qualified under section 501(c)(3) of the  
43 United States internal revenue code and that engages in and uses such  
44 property exclusively in programs for mentally or physically handicapped

- 1 persons if the programs are exclusively for training, job placement,  
2 rehabilitation or testing.
- 3 30. Sales of tangible personal property by a nonprofit organization  
4 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)  
5 of the internal revenue code if the organization is associated with a major  
6 league baseball team or a national touring professional golfing association  
7 and no part of the organization's net earnings inures to the benefit of any  
8 private shareholder or individual.
- 9 31. Sales of commodities, as defined by title 7 United States Code  
10 section 2, that are consigned for resale in a warehouse in this state in or  
11 from which the commodity is deliverable on a contract for future delivery  
12 subject to the rules of a commodity market regulated by the United States  
13 commodity futures trading commission.
- 14 32. Sales of tangible personal property by a nonprofit organization  
15 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
16 501(c)(7) or 501(c)(8) of the internal revenue code if the organization  
17 sponsors or operates a rodeo featuring primarily farm and ranch animals and  
18 no part of the organization's net earnings inures to the benefit of any  
19 private shareholder or individual.
- 20 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
21 propagative material to persons who use those items to commercially produce  
22 agricultural, horticultural, viticultural or floricultural crops in this  
23 state.
- 24 34. Machinery, equipment, technology or related supplies that are only  
25 useful to assist a person who is physically disabled as defined in section  
26 46-191, has a developmental disability as defined in section 36-551 or has a  
27 head injury as defined in section 41-3201 to be more independent and  
28 functional.
- 29 35. Sales of tangible personal property that is shipped or delivered  
30 directly to a destination outside the United States for use in that foreign  
31 country.
- 32 36. Sales of natural gas or liquefied petroleum gas used to propel a  
33 motor vehicle.
- 34 37. Paper machine clothing, such as forming fabrics and dryer felts,  
35 sold to a paper manufacturer and directly used or consumed in paper  
36 manufacturing.
- 37 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
38 sold to a qualified environmental technology manufacturer, producer or  
39 processor as defined in section 41-1514.02 and directly used or consumed in  
40 the generation or provision of on-site power or energy solely for  
41 environmental technology manufacturing, producing or processing or  
42 environmental protection. This paragraph shall apply for twenty full  
43 consecutive calendar or fiscal years from the date the first paper  
44 manufacturing machine is placed in service. In the case of an environmental  
45 technology manufacturer, producer or processor who does not manufacture

1 paper, the time period shall begin with the date the first manufacturing,  
2 processing or production equipment is placed in service.

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

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

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

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

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

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

38 43. Livestock and poultry feed, salts, vitamins and other additives for  
39 livestock or poultry consumption that are sold to persons who are engaged in  
40 producing livestock, poultry, or livestock or poultry products or who are  
41 engaged in feeding livestock or poultry commercially. For the purposes of  
42 this paragraph, "poultry" includes ratites.

43 44. Sales of implants used as growth promotants and injectable  
44 medicines, not already exempt under paragraph 8 of this subsection, for  
45 livestock or poultry owned by or in possession of persons who are engaged in

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

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

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

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

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

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

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

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

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

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

39 52. Sales of tangible personal property to be incorporated or installed  
40 as part of environmental response or remediation activities under section  
41 42-5075, subsection B, paragraph 6.

42 53. Sales of tangible personal property by a nonprofit organization  
43 that is exempt from taxation under section 501(c)(6) of the internal revenue  
44 code if the organization produces, organizes or promotes cultural or civic

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

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

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

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

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

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

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

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

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

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

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

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

3 7. Aircraft, navigational and communication instruments and other  
4 accessories and related equipment sold to:

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

11 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27           24. COMPUTER SERVER EQUIPMENT PURCHASED AND INSTALLED, WITHOUT  
28 INTERVENING USE, IN A QUALIFIED COMPUTER DATA CENTER THAT IS CERTIFIED BY THE  
29 ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519.

30           25. MODULAR DATA CENTER UNITS CONSISTING OF UNINTERRUPTED POWER SUPPLY,  
31 POWER DISTRIBUTION, SERVER ENCLOSURES, COOLING AND OTHER DATA CENTER MODULE  
32 COMPONENTS.

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

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

39           2. Janitorial equipment and hand tools.

40           3. Office equipment, furniture and supplies.

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

44           5. Motor vehicles required to be licensed by this state, except buses  
45 or other urban mass transit vehicles specifically exempted pursuant to

1 subsection B, paragraph 11 of this section, without regard to the use of such  
2 motor vehicles.

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

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

6 D. In addition to the deductions from the tax base prescribed by  
7 subsection A of this section, there shall be deducted from the tax base the  
8 gross proceeds of sales or gross income derived from sales of machinery,  
9 equipment, materials and other tangible personal property used directly and  
10 predominantly to construct a qualified environmental technology  
11 manufacturing, producing or processing facility as described in section  
12 41-1514.02. This subsection applies for ten full consecutive calendar or  
13 fiscal years after the start of initial construction.

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

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

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

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

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

- 42 1. Transporting classification.
- 43 2. Utilities classification.
- 44 3. Telecommunications classification.
- 45 4. Pipeline classification.

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

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

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

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

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

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

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

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

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

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

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

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

16           V. For the purposes of this section:

17           1. "Aircraft" includes:

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

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

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

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

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

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

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

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

42           4. "Overhead materials" means tangible personal property, the gross  
43 proceeds of sales or gross income derived from which would otherwise be  
44 included in the retail classification, and which are used or consumed in the  
45 performance of a contract, the cost of which is charged to an overhead

1 expense account and allocated to various contracts based upon generally  
2 accepted accounting principles and consistent with government contract  
3 accounting standards.

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

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

15 Sec. 3. Section 42-5075, Arizona Revised Statutes, is amended to read:

16 42-5075. Prime contracting classification; exemptions;  
17 definitions

18 A. The prime contracting classification is comprised of the business  
19 of prime contracting and dealership of manufactured buildings. Sales for  
20 resale to another dealership of manufactured buildings are not subject to  
21 tax. Sales for resale do not include sales to a lessor of manufactured  
22 buildings. The sale of a used manufactured building is not taxable under  
23 this chapter. The proceeds from alteration and repairs to a used  
24 manufactured building are taxable under this section.

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

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

31 2. Sales and installation of groundwater measuring devices required  
32 under section 45-604 and groundwater monitoring wells required by law,  
33 including monitoring wells installed for acquiring information for a permit  
34 required by law.

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

40 4. The gross proceeds of sales or gross income received from a  
41 contract entered into for the construction, alteration, repair, addition,  
42 subtraction, improvement, movement, wrecking or demolition of any building,  
43 highway, road, railroad, excavation, manufactured building or other  
44 structure, project, development or improvement located in a military reuse  
45 zone for providing aviation or aerospace services or for a manufacturer,

1 assembler or fabricator of aviation or aerospace products within an active  
2 military reuse zone after the zone is initially established or renewed under  
3 section 41-1531. To be eligible to qualify for this deduction, before  
4 beginning work under the contract, the prime contractor must have applied for  
5 a letter of qualification from the department of revenue.

6 5. The gross proceeds of sales or gross income derived from a contract  
7 to construct a qualified environmental technology manufacturing, producing or  
8 processing facility, as described in section 41-1514.02, and from subsequent  
9 construction and installation contracts that begin within ten years after the  
10 start of initial construction. To qualify for this deduction, before  
11 beginning work under the contract, the prime contractor must obtain a letter  
12 of qualification from the department of revenue. This paragraph shall apply  
13 for ten full consecutive calendar or fiscal years after the start of initial  
14 construction.

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

25 (a) Actions to monitor, assess and evaluate such a release or a  
26 suspected release.

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

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

32 (d) Pumping and treatment or in situ treatment of contaminated  
33 groundwater or surface water to reduce the concentration or toxicity of a  
34 contaminant.

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

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

44 7. The gross proceeds of sales or gross income that is derived from a  
45 contract entered into for the installation, assembly, repair or maintenance

1 of machinery, equipment or other tangible personal property that is deducted  
 2 from the tax base of the retail classification pursuant to section 42-5061,  
 3 subsection B, or that is exempt from use tax pursuant to section 42-5159,  
 4 subsection B, and that does not become a permanent attachment to a building,  
 5 highway, road, railroad, excavation or manufactured building or other  
 6 structure, project, development or improvement. If the ownership of the  
 7 realty is separate from the ownership of the machinery, equipment or tangible  
 8 personal property, the determination as to permanent attachment shall be made  
 9 as if the ownership were the same. The deduction provided in this paragraph  
 10 does not include gross proceeds of sales or gross income from that portion of  
 11 any contracting activity ~~which~~ THAT consists of the development of, or  
 12 modification to, real property in order to facilitate the installation,  
 13 assembly, repair, maintenance or removal of machinery, equipment or other  
 14 tangible personal property that is deducted from the tax base of the retail  
 15 classification pursuant to section 42-5061, subsection B or that is exempt  
 16 from use tax pursuant to section 42-5159, subsection B. For the purposes of  
 17 this paragraph, "permanent attachment" means at least one of the following:

18 (a) To be incorporated into real property.

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

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

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

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

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

36 (c) Any other information that the department considers to be  
 37 necessary.

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

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

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

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

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

1           10. The gross proceeds of sales or gross income received from a  
2 contract for the construction of an environmentally controlled facility for  
3 the raising of poultry for the production of eggs and the sorting, cooling  
4 and packaging of eggs.

5           11. The gross proceeds of sales or gross income that is derived from a  
6 contract entered into with a person who is engaged in the commercial  
7 production of livestock, livestock products or agricultural, horticultural,  
8 viticultural or floricultural crops or products in this state for the  
9 construction, alteration, repair, improvement, movement, wrecking or  
10 demolition or addition to or subtraction from any building, highway, road,  
11 excavation, manufactured building or other structure, project, development or  
12 improvement used directly and primarily to prevent, monitor, control or  
13 reduce air, water or land pollution.

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

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

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

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

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

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

41           18. The gross proceeds of sales or gross income received from contracts  
42 entered into before July 1, 2006 for constructing a state university research  
43 infrastructure project if the project has been reviewed by the joint  
44 committee on capital review before the university enters into the

1 construction contract for the project. For the purposes of this paragraph,  
2 "research infrastructure" has the same meaning prescribed in section 15-1670.

3 19. The gross proceeds of sales or gross income received from a  
4 contract for the construction of any building, or other structure, project,  
5 development or improvement owned by a qualified business under section  
6 41-1516 for harvesting or the initial processing of qualifying forest  
7 products removed from qualifying projects as defined in section 41-1516 if  
8 actual construction begins before January 1, 2010. To qualify for this  
9 deduction, the prime contractor must obtain a letter of qualification from  
10 the department of commerce before beginning work under the contract.

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

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

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

25 (b) The attributable amount is equal to the total amount of  
26 development fees paid by the prime contractor or subcontractor, and the total  
27 development fees credited in exchange for the construction of, contribution  
28 to or dedication of real property for providing public infrastructure, public  
29 safety or other public services necessary to the development. The real  
30 property must be the subject of the development fees.

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

35 22. THE GROSS INCOME RECEIVED FROM A CONTRACT FOR THE CONSTRUCTION OF A  
36 QUALIFIED COMPUTER DATA CENTER PURSUANT TO SECTION 41-1519, INCLUDING THE  
37 INSTALLATION, REPAIR, ALTERATION OR IMPROVEMENT OF ELIGIBLE SERVER EQUIPMENT,  
38 POWER INFRASTRUCTURE AND MODULAR DATA CENTER UNITS. THE DATA CENTER MAY  
39 CONSIST OF MODULAR UNITS, EACH INCLUDING UNINTERRUPTED POWER SUPPLY, POWER  
40 DISTRIBUTION, COOLING, SERVER ENCLOSURES AND OTHER DATA CENTER MODULE  
41 COMPONENTS. FOR THE PURPOSES OF THIS PARAGRAPH, "ELIGIBLE POWER  
42 INFRASTRUCTURE" MEANS ALL FIXTURES AND EQUIPMENT NECESSARY FOR THE  
43 TRANSFORMATION, DISTRIBUTION OR MANAGEMENT OF ELECTRICITY THAT IS REQUIRED TO  
44 OPERATE ELIGIBLE SERVER EQUIPMENT IN THE DATA CENTER, INCLUDING SUBSTATIONS,  
45 GENERATORS, WIRING AND COGENERATION EQUIPMENT.

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

3 1. A prime contractor may establish entitlement to the deduction by  
4 both:

5 (a) Marking the invoice for the transaction to indicate that the gross  
6 proceeds of sales or gross income derived from the transaction was deducted  
7 from the base.

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

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

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

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

40 D. Subcontractors or others who perform services in respect to any  
41 improvement, building, highway, road, railroad, excavation, manufactured  
42 building or other structure, project, development or improvement are not  
43 subject to tax if they can demonstrate that the job was within the control of  
44 a prime contractor or contractors or a dealership of manufactured buildings  
45 and that the prime contractor or dealership is liable for the tax on the

1 gross income, gross proceeds of sales or gross receipts attributable to the  
2 job and from which the subcontractors or others were paid.

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

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

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

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

37 I. The gross proceeds of sales or gross income derived from  
38 landscaping activities are subject to tax under this section. Landscaping  
39 includes installing lawns, grading or leveling ground, installing gravel or  
40 boulders, planting trees and other plants, felling trees, removing or  
41 mulching tree stumps, removing other imbedded plants, building or modifying  
42 irrigation berms, repairing sprinkler or watering systems, installing  
43 railroad ties and installing underground sprinkler or watering systems.

44 J. The portion of gross proceeds of sales or gross income attributable  
45 to the actual direct costs of providing architectural or engineering services

1 that are incorporated in a contract is not subject to tax under this section.  
2 For the purposes of this subsection, "direct costs" means the portion of the  
3 actual costs that are directly expended in providing architectural or  
4 engineering services.

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

11 L. The following apply to manufactured buildings:

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

15 2. For sales in this state where the dealership of manufactured  
16 buildings does not contract to deliver the building to a setup site or does  
17 not perform the setup, the taxable situs is the location of the dealership  
18 where the building is delivered to the buyer.

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

23 M. The gross proceeds of sales or gross income attributable to a  
24 separate, written design phase services contract or professional services  
25 contract, executed before modification begins, is not subject to tax under  
26 this section, regardless of whether the services are provided sequential to  
27 or concurrent with prime contracting activities that are subject to tax under  
28 this section. This subsection does not include the gross proceeds of sales  
29 or gross income attributable to construction phase services. For the  
30 purposes of this subsection:

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

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

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

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

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

3 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
4 price as set in the contract for modification work. For the purposes of this  
5 item, "guaranteed maximum price" means the amount guaranteed to be the  
6 maximum amount due to a prime contractor for the performance of all  
7 modification work for the project.

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

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

15 (e) Inspection to determine the dates of substantial completion or  
16 final completion.

17 (f) Preparation of any manuals, warranties, as-built drawings, spares  
18 or other items the prime contractor must furnish pursuant to the contract for  
19 modification work. For the purposes of this subdivision, "as-built drawing"  
20 means a drawing that indicates field changes made to adapt to field  
21 conditions, field changes resulting from change orders or buried and  
22 concealed installation of piping, conduit and utility services.

23 (g) Preparation of status reports after modification work has begun  
24 detailing the progress of work performed, including preparation of any of the  
25 following:

26 (i) Master schedule updates.

27 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

40 2. "Design phase services" means services for developing and  
41 completing a design for a project that are not construction phase services,  
42 including the following:

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

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

4 (c) Preparing drawings and specifications for architectural program  
5 documents, schematic design documents, design development documents,  
6 modification work documents or documents that identify the scope of or  
7 materials for the project.

8 (d) Preparing an initial schedule for the project, excluding the  
9 preparation of updates to the master schedule after modification work has  
10 begun.

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

14 (i) Labor, materials, machinery and equipment, tools, water, heat,  
15 utilities, transportation and other facilities and services used in the  
16 execution and completion of modification work, regardless of whether they are  
17 temporary or permanent or whether they are incorporated in the  
18 modifications.

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

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

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

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

28 (vi) Any bond and insurance premiums.

29 (vii) Any applicable taxes.

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

32 (f) Reviewing and evaluating cost estimates and project documents to  
33 prepare recommendations on site use, site improvements, selection of  
34 materials, building systems and equipment, modification feasibility,  
35 availability of materials and labor, local modification activity as related  
36 to schedules and time requirements for modification work.

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

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

44 N. Notwithstanding subsection O, paragraph 8 of this section, a person  
45 owning real property who enters into a contract for sale of the real

1 property, who is responsible to the new owner of the property for  
2 modifications made to the property in the period subsequent to the transfer  
3 of title and who receives a consideration for the modifications is considered  
4 a prime contractor solely for purposes of taxing the gross proceeds of sale  
5 or gross income received for the modifications made subsequent to the  
6 transfer of title. The original owner's gross proceeds of sale or gross  
7 income received for the modifications shall be determined according to the  
8 following methodology:

9 1. If any part of the contract for sale of the property specifies  
10 amounts to be paid to the original owner for the modifications to be made in  
11 the period subsequent to the transfer of title, the amounts are included in  
12 the original owner's gross proceeds of sale or gross income under this  
13 section. Proceeds from the sale of the property that are received after  
14 transfer of title and that are unrelated to the modifications made subsequent  
15 to the transfer of title are not considered gross proceeds of sale or gross  
16 income from the modifications.

17 2. If the original owner enters into an agreement separate from the  
18 contract for sale of the real property providing for amounts to be paid to  
19 the original owner for the modifications to be made in the period subsequent  
20 to the transfer of title to the property, the amounts are included in the  
21 original owner's gross proceeds of sale or gross income received for the  
22 modifications made subsequent to the transfer of title.

23 3. If the original owner is responsible to the new owner for  
24 modifications made to the property in the period subsequent to the transfer  
25 of title and derives any gross proceeds of sale or gross income from the  
26 project subsequent to the transfer of title other than a delayed disbursement  
27 from escrow unrelated to the modifications, it is presumed that the amounts  
28 are received for the modifications made subsequent to the transfer of title  
29 unless the contrary is established by the owner through its books, records  
30 and papers kept in the regular course of business.

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

33 0. For the purposes of this section:

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

35 2. "Contractor" is synonymous with the term "builder" and means any  
36 person or organization that undertakes to or offers to undertake to, or  
37 purports to have the capacity to undertake to, or submits a bid to, or does  
38 personally or by or through others, modify any building, highway, road,  
39 railroad, excavation, manufactured building or other structure, project,  
40 development or improvement, or to do any part of such a project, including  
41 the erection of scaffolding or other structure or works in connection with  
42 such a project, and includes subcontractors and specialty contractors. For  
43 all purposes of taxation or deduction, this definition shall govern without  
44 regard to whether or not such contractor is acting in fulfillment of a  
45 contract.

- 1           3. "Dealership of manufactured buildings" means a dealer who either:  
2           (a) Is licensed pursuant to title 41, chapter 16 and who sells  
3 manufactured buildings to the final consumer.  
4           (b) Supervises, performs or coordinates the excavation and completion  
5 of site improvements, setup or moving of a manufactured building including  
6 the contracting, if any, with any subcontractor or specialty contractor for  
7 the completion of the contract.  
8           4. "Manufactured building" means a manufactured home, mobile home or  
9 factory-built building, as defined in section 41-2142.  
10          5. "Modification" means construction, alteration, repair, addition,  
11 subtraction, improvement, movement, wreckage or demolition.  
12          6. "Modify" means to construct, alter, repair, add to, subtract from,  
13 improve, move, wreck or demolish.  
14          7. "Prime contracting" means engaging in business as a prime  
15 contractor.  
16          8. "Prime contractor" means a contractor who supervises, performs or  
17 coordinates the modification of any building, highway, road, railroad,  
18 excavation, manufactured building or other structure, project, development or  
19 improvement including the contracting, if any, with any subcontractors or  
20 specialty contractors and who is responsible for the completion of the  
21 contract. Except as provided in subsections E and N of this section, a  
22 person who owns real property, who engages one or more contractors to modify  
23 that real property and who does not itself modify that real property is not a  
24 prime contractor within the meaning of this paragraph regardless of the  
25 existence of a contract for sale or the subsequent sale of that real  
26 property.  
27          9. "Sale of a used manufactured building" does not include a lease of  
28 a used manufactured building.  
29          Sec. 4. Section 42-5159, Arizona Revised Statutes, is amended to read:  
30          42-5159. Exemptions  
31          A. The tax levied by this article does not apply to the storage, use  
32 or consumption in this state of the following described tangible personal  
33 property:  
34           1. Tangible personal property sold in this state, the gross receipts  
35 from the sale of which are included in the measure of the tax imposed by  
36 articles 1 and 2 of this chapter.  
37           2. Tangible personal property the sale or use of which has already  
38 been subjected to an excise tax at a rate equal to or exceeding the tax  
39 imposed by this article under the laws of another state of the United States.  
40 If the excise tax imposed by the other state is at a rate less than the tax  
41 imposed by this article, the tax imposed by this article is reduced by the  
42 amount of the tax already imposed by the other state.  
43           3. Tangible personal property, the storage, use or consumption of  
44 which the constitution or laws of the United States prohibit this state from

1 taxing or to the extent that the rate or imposition of tax is  
2 unconstitutional under the laws of the United States.

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

7 5. Motor vehicle fuel and use fuel, the sales, distribution or use of  
8 which in this state is subject to the tax imposed under title 28, chapter 16,  
9 article 1, use fuel ~~which~~ THAT is sold to or used by a person holding a valid  
10 single trip use fuel tax permit issued under section 28-5739, aviation fuel,  
11 the sales, distribution or use of which in this state is subject to the tax  
12 imposed under section 28-8344, and jet fuel, the sales, distribution or use  
13 of which in this state is subject to the tax imposed under article 8 of this  
14 chapter.

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

20 7. Purchases of implants used as growth promotants and injectable  
21 medicines, not already exempt under paragraph 16 of this subsection, for  
22 livestock and poultry owned by, or in possession of, persons who are engaged  
23 in producing livestock, poultry, or livestock or poultry products, or who are  
24 engaged in feeding livestock or poultry commercially. For the purposes of  
25 this paragraph, "poultry" includes ratites.

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

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

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

37 11. Advertising supplements ~~which~~ THAT are intended for sale with  
38 newspapers published in this state and ~~which~~ THAT have already been subjected  
39 to an excise tax under the laws of another state in the United States which  
40 equals or exceeds the tax imposed by this article.

41 12. Materials that are purchased by or for publicly funded libraries  
42 including school district libraries, charter school libraries, community  
43 college libraries, state university libraries or federal, state, county or  
44 municipal libraries for use by the public as follows:

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

- 1           (b) Electronic or digital media materials, beginning July 17, 1994.  
2           13. Tangible personal property purchased by:  
3           (a) A hospital organized and operated exclusively for charitable  
4 purposes, no part of the net earnings of which inures to the benefit of any  
5 private shareholder or individual.  
6           (b) A hospital operated by this state or a political subdivision of  
7 this state.  
8           (c) A licensed nursing care institution or a licensed residential care  
9 institution or a residential care facility operated in conjunction with a  
10 licensed nursing care institution or a licensed kidney dialysis center, which  
11 provides medical services, nursing services or health related services and is  
12 not used or held for profit.  
13           (d) A qualifying health care organization, as defined in section  
14 42-5001, if the tangible personal property is used by the organization solely  
15 to provide health and medical related educational and charitable services.  
16           (e) A qualifying health care organization as defined in section  
17 42-5001 if the organization is dedicated to providing educational,  
18 therapeutic, rehabilitative and family medical education training for blind,  
19 visually impaired and multihandicapped children from the time of birth to age  
20 twenty-one.  
21           (f) A nonprofit charitable organization that has qualified under  
22 section 501(c)(3) of the United States internal revenue code and that engages  
23 in and uses such property exclusively in programs for mentally or physically  
24 handicapped persons if the programs are exclusively for training, job  
25 placement, rehabilitation or testing.  
26           (g) A person that is subject to tax under article 1 of this chapter by  
27 reason of being engaged in business classified under the prime contracting  
28 classification under section 42-5075, or a subcontractor working under the  
29 control of a prime contractor, if the tangible personal property is any of  
30 the following:  
31           (i) Incorporated or fabricated by the contractor into a structure,  
32 project, development or improvement in fulfillment of a contract.  
33           (ii) Used in environmental response or remediation activities under  
34 section 42-5075, subsection B, paragraph 6.  
35           (iii) Incorporated or fabricated by the person into any lake facility  
36 development in a commercial enhancement reuse district under conditions  
37 prescribed for the deduction allowed by section 42-5075, subsection B,  
38 paragraph 8.  
39           (h) A nonprofit charitable organization that has qualified under  
40 section 501(c)(3) of the internal revenue code if the property is purchased  
41 from the parent or an affiliate organization that is located outside this  
42 state.  
43           (i) A qualifying community health center as defined in section  
44 42-5001.

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

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

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

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

22 15. Tangible personal property sold by:

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

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

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

36 16. 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 17. Prosthetic appliances, as defined in section 23-501, prescribed or  
40 recommended by a person who is licensed, registered or otherwise  
41 professionally credentialed as a physician, dentist, podiatrist,  
42 chiropractor, naturopath, homeopath, nurse or optometrist.

43 18. Prescription eyeglasses and contact lenses.

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

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

1           21. Durable medical equipment ~~which~~ THAT 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, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
5 used to serve a medical purpose, is generally not useful to a person in the  
6 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

25           27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,  
26 article 1.

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

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

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

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

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

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

5           (b) Public educational institutions.

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

9           33. Natural gas or liquefied petroleum gas used to propel a motor  
10 vehicle.

11           34. Machinery, equipment, technology or related supplies that are only  
12 useful to assist a person who is physically disabled as defined in section  
13 46-191, has a developmental disability as defined in section 36-551 or has a  
14 head injury as defined in section 41-3201 to be more independent and  
15 functional.

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

29           36. Food, drink and condiment purchased for consumption within the  
30 premises of any prison, jail or other institution under the jurisdiction of  
31 the state department of corrections, the department of public safety, the  
32 department of juvenile corrections or a county sheriff.

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

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

40           39. Overhead materials or other tangible personal property that is used  
41 in performing a contract between the United States government and a  
42 manufacturer, modifier, assembler or repairer, including property used in  
43 performing a subcontract with a government contractor who is a manufacturer,  
44 modifier, assembler or repairer, to which title passes to the government

1 under the terms of the contract or subcontract. For the purposes of this  
2 paragraph:

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

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

19 40. Through December 31, 1994, tangible personal property sold pursuant  
20 to a personal property liquidation transaction, as defined in section  
21 42-5061. From and after December 31, 1994, tangible personal property sold  
22 pursuant to a personal property liquidation transaction, as defined in  
23 section 42-5061, if the gross proceeds of the sales were included in the  
24 measure of the tax imposed by article 1 of this chapter or if the personal  
25 property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

30           (b) "Curriculum design or enhancement" means planning, implementing or  
31 reporting on courses of study, lessons, assignments or other learning  
32 activities.

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

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

43           2. Machinery, or equipment, used directly in the process of extracting  
44 ores or minerals from the earth for commercial purposes, including equipment  
45 required to prepare the materials for extraction and handling, loading or

1 transporting such extracted material to the surface. "Mining" includes  
2 underground, surface and open pit operations for extracting ores and  
3 minerals.

4 3. Tangible personal property sold to persons engaged in business  
5 classified under the telecommunications classification under section 42-5064  
6 and consisting of central office switching equipment, switchboards, private  
7 branch exchange equipment, microwave radio equipment and carrier equipment  
8 including optical fiber, coaxial cable and other transmission media which are  
9 components of carrier systems.

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

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

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

21 7. Aircraft, navigational and communication instruments and other  
22 accessories and related equipment sold to:

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

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

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

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

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

41 11. Buses or other urban mass transit vehicles which are used directly  
42 to transport persons or property for hire or pursuant to a governmentally  
43 adopted and controlled urban mass transportation program and which are sold  
44 to bus companies holding a federal certificate of convenience and necessity  
45 or operated by any city, town or other governmental entity or by any person

1 contracting with such governmental entity as part of a governmentally adopted  
2 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

41 (b) "Soundstage complex" means a facility of multiple stages including  
42 production offices, construction shops and related areas, prop and costume  
43 shops, storage areas, parking for production vehicles and areas that are  
44 leased to businesses that complement the production needs and orientation of  
45 the overall facility.

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

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

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

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

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

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

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

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

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

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

42           19. Machinery or equipment, including related structural components,  
43 that is employed in connection with manufacturing, processing, fabricating,  
44 job printing, refining, mining, natural gas pipelines, metallurgical  
45 operations, telecommunications, producing or transmitting electricity or

1 research and development and that is used directly to meet or exceed rules or  
2 regulations adopted by the federal energy regulatory commission, the United  
3 States environmental protection agency, the United States nuclear regulatory  
4 commission, the Arizona department of environmental quality or a political  
5 subdivision of this state to prevent, monitor, control or reduce land, water  
6 or air pollution.

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

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

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

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

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

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

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

38 24. COMPUTER SERVER EQUIPMENT PURCHASED AND INSTALLED, WITHOUT  
39 INTERVENING USE, IN A QUALIFIED COMPUTER DATA CENTER THAT IS CERTIFIED BY THE  
40 ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519.

41 25. MODULAR DATA CENTER UNITS CONSISTING OF UNINTERRUPTED POWER SUPPLY,  
42 POWER DISTRIBUTION, SERVER ENCLOSURES, COOLING AND OTHER DATA CENTER MODULE  
43 COMPONENTS.

44 C. The exemptions provided by subsection B of this section do not  
45 include:

- 1           1. Expendable materials. For the purposes of this paragraph,  
2 expendable materials do not include any of the categories of tangible  
3 personal property specified in subsection B of this section regardless of the  
4 cost or useful life of that property.
- 5           2. Janitorial equipment and hand tools.
- 6           3. Office equipment, furniture and supplies.
- 7           4. Tangible personal property used in selling or distributing  
8 activities, other than the telecommunications transmissions described in  
9 subsection B, paragraph 16 of this section.
- 10          5. Motor vehicles required to be licensed by this state, except buses  
11 or other urban mass transit vehicles specifically exempted pursuant to  
12 subsection B, paragraph 11 of this section, without regard to the use of such  
13 motor vehicles.
- 14          6. Shops, buildings, docks, depots and all other materials of whatever  
15 kind or character not specifically included as exempt.
- 16          7. Motors and pumps used in drip irrigation systems.
- 17          D. The following shall be deducted in computing the purchase price of  
18 electricity by a retail electric customer from a utility business:
- 19           1. Revenues received from sales of ancillary services, electric  
20 distribution services, electric generation services, electric transmission  
21 services and other services related to providing electricity to a retail  
22 electric customer who is located outside this state for use outside this  
23 state if the electricity is delivered to a point of sale outside this state.
- 24           2. Revenues received from providing electricity, including ancillary  
25 services, electric distribution services, electric generation services,  
26 electric transmission services and other services related to providing  
27 electricity with respect to which the transaction privilege tax imposed under  
28 section 42-5063 has been paid.
- 29          E. The tax levied by this article does not apply to:
- 30           1. The storage, use or consumption in Arizona of machinery, equipment,  
31 materials or other tangible personal property if used directly and  
32 predominantly to construct a qualified environmental technology  
33 manufacturing, producing or processing facility, as described in section  
34 41-1514.02. This paragraph applies for ten full consecutive calendar or  
35 fiscal years after the start of initial construction.
- 36           2. The purchase of electricity by a qualified environmental technology  
37 manufacturer, producer or processor as defined in section 41-1514.02 that is  
38 used directly in environmental technology manufacturing, producing or  
39 processing. This paragraph shall apply for twenty full consecutive calendar  
40 or fiscal years from the date the first paper manufacturing machine is placed  
41 in service. In the case of an environmental technology manufacturer,  
42 producer or processor who does not manufacture paper, the time period shall  
43 begin with the date the first manufacturing, processing or production  
44 equipment is placed in service.

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

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

6           1. Fees charged by a municipally owned utility to persons constructing  
7 residential, commercial or industrial developments or connecting residential,  
8 commercial or industrial developments to a municipal utility system or  
9 systems if the fees are segregated and used only for capital expansion,  
10 system enlargement or debt service of the utility system or systems.

11           2. Reimbursement or contribution compensation to any person or persons  
12 owning a utility system for property and equipment installed to provide  
13 utility access to, on or across the land of an actual utility consumer if the  
14 property and equipment become the property of the utility. This deduction  
15 shall not exceed the value of such property and equipment.

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

17           1. "Aircraft" includes:

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

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

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

27           H. For the purposes of subsection D of this section, "ancillary  
28 services", "electric distribution service", "electric generation service",  
29 "electric transmission service" and "other services" have the same meanings  
30 prescribed in section 42-5063.

31           Sec. 5. Section 42-12006, Arizona Revised Statutes, is amended to  
32 read:

33           42-12006. Class six property

34           For purposes of taxation, class six is established consisting of:

35           1. Noncommercial historic property as defined in section 42-12101 and  
36 valued at full cash value.

37           2. Real and personal property that is located within the area of a  
38 foreign trade zone or subzone established under 19 United States Code section  
39 81 and title 44, chapter 18, that is activated for foreign trade zone use by  
40 the district director of the United States customs service pursuant to  
41 19 Code of Federal Regulations section 146.6 and that is valued at full cash  
42 value. Property that is classified under this paragraph shall not thereafter  
43 be classified under paragraph 6 of this section.

44           3. Real and personal property and improvements that are located in a  
45 military reuse zone that is established under title 41, chapter 10, article 3

1 and that is devoted to providing aviation or aerospace services or to  
2 manufacturing, assembling or fabricating aviation or aerospace products,  
3 valued at full cash value and subject to the following terms and conditions:

4 (a) Property may not be classified under this paragraph for more than  
5 five tax years.

6 (b) Any new addition or improvement to property already classified  
7 under this paragraph qualifies separately for classification under this  
8 paragraph for not more than five tax years.

9 (c) If a military reuse zone is terminated, the property in that zone  
10 that was previously classified under this paragraph shall be reclassified as  
11 prescribed by this article.

12 (d) Property that is classified under this paragraph shall not  
13 thereafter be classified under paragraph 6 of this section.

14 4. Real and personal property and improvements or a portion of such  
15 property comprising an environmental technology manufacturing, producing or  
16 processing facility that qualified under section 41-1514.02, valued at full  
17 cash value and subject to the following terms and conditions:

18 (a) Property shall be classified under this paragraph for twenty tax  
19 years from the date placed in service.

20 (b) Any addition or improvement to property already classified under  
21 this paragraph qualifies separately for classification under this subdivision  
22 for an additional twenty tax years from the date placed in service.

23 (c) After revocation of certification under section 41-1514.02,  
24 property that was previously classified under this paragraph shall be  
25 reclassified as prescribed by this article.

26 (d) Property that is classified under this paragraph shall not  
27 thereafter be classified under paragraph 6 of this section.

28 5. That portion of real and personal property that is used on or after  
29 January 1, 1999 specifically and solely for remediation of the environment by  
30 an action that has been determined to be reasonable and necessary to respond  
31 to the release or threatened release of a hazardous substance by the  
32 department of environmental quality pursuant to section 49-282.06 or pursuant  
33 to its corrective action authority under rules adopted pursuant to section  
34 49-922, subsection B, paragraph 4 or by the United States environmental  
35 protection agency pursuant to the national contingency plan (40 Code of  
36 Federal Regulations part 300) and that is valued at full cash value.  
37 Property that is not being used specifically and solely for the remediation  
38 objectives described in this paragraph shall not be classified under this  
39 paragraph. For the purposes of this paragraph, "remediation of the  
40 environment" means one or more of the following actions:

41 (a) Monitoring, assessing or evaluating the release or threatened  
42 release.

43 (b) Excavating, removing, transporting, treating and disposing of  
44 contaminated soil.

45 (c) Pumping and treating contaminated water.

1 (d) Treatment, containment or removal of contaminants in groundwater  
2 or soil.

3 6. Real and personal property and improvements constructed or  
4 installed from and after December 31, 2004 through December 31, 2010 and  
5 owned by a qualified business under section 41-1516 and used solely for the  
6 purpose of harvesting, transporting or the initial processing of qualifying  
7 forest products removed from qualifying projects as defined in section  
8 41-1516. The classification under this paragraph is subject to the following  
9 terms and conditions:

10 (a) Property may be initially classified under this paragraph only in  
11 valuation years 2005 through 2010.

12 (b) Property may not be classified under this paragraph for more than  
13 five years.

14 (c) Any new addition or improvement, constructed or installed from and  
15 after December 31, 2004 through December 31, 2010, to property already  
16 classified under this paragraph qualifies separately for classification and  
17 assessment under this paragraph for not more than five years.

18 (d) Property that is classified under this paragraph shall not  
19 thereafter be classified under paragraph 2, 3 or 4 of this section.

20 7. Real and personal property and improvements to the property that  
21 are used specifically and solely to manufacture from and after December 31,  
22 2006 through December 31, 2016 biodiesel fuel that is one hundred per cent  
23 biodiesel and its by-products and that are valued at full cash value. This  
24 paragraph applies only to the portion of property that is used specifically  
25 for manufacturing and processing one hundred per cent biodiesel fuel, or its  
26 related by-products, from raw feedstock obtained from off-site sources,  
27 including necessary on-site storage facilities that are intrinsically  
28 associated with the manufacturing process. Any other commercial or  
29 industrial use disqualifies the entire property from classification under  
30 this paragraph.

31 8. Real and personal property and improvements that are certified  
32 pursuant to section 41-1511, subsection C, paragraph 2 and that are used for  
33 renewable energy manufacturing or headquarters operations as provided by  
34 section 42-12057. This paragraph applies only to property that is used in  
35 manufacturing and headquarters operations of renewable energy companies,  
36 including necessary on-site research and development, testing and storage  
37 facilities that are associated with the manufacturing process. Up to ten per  
38 cent of the aggregate full cash value of the property may be derived from  
39 uses that are ancillary to and intrinsically associated with the  
40 manufacturing process or headquarters operation. Any additional ancillary  
41 property is not qualified for classification under this paragraph. No new  
42 properties may be classified pursuant to this paragraph from and after  
43 December 31, 2014. Classification under this paragraph is limited to the  
44 time periods determined by the Arizona commerce authority pursuant to section  
45 41-1511, subsection C, paragraph 2, subdivision (a) or (b). Property that is

1 classified under this paragraph shall not thereafter be classified under any  
2 other paragraph of this section.

3 9. REAL PROPERTY, IMPROVEMENTS AND PERSONAL PROPERTY THAT ARE  
4 CONSTRUCTED FROM AND AFTER DECEMBER 31, 2012 THROUGH DECEMBER 31, 2017 AND  
5 THAT ARE OWNED AND USED BY A BUSINESS THAT MEETS THE REQUIREMENTS OF SECTION  
6 41-1519 AS A CERTIFIED COMPUTER DATA CENTER. THE DATA CENTER MAY CONSIST OF  
7 MODULAR UNITS, EACH INCLUDING UNINTERRUPTED POWER SUPPLY, POWER DISTRIBUTION,  
8 COOLING, SERVER ENCLOSURES AND OTHER DATA CENTER MODULE COMPONENTS, THE  
9 INSTALLATION OF WHICH IS COMPLETED FROM AND AFTER JUNE 30, 2012 THROUGH  
10 DECEMBER 31, 2017. PROPERTY MAY NOT BE CLASSIFIED UNDER THIS PARAGRAPH FOR  
11 MORE THAN FIVE TAX YEARS. PROPERTY THAT HAS BEEN CLASSIFIED UNDER THIS  
12 PARAGRAPH SHALL NOT THEREAFTER BE CLASSIFIED UNDER ANY OTHER PROVISION OF  
13 THIS SECTION.