

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 232
SENATE BILL 1229

AN ACT

AMENDING SECTIONS 42-5001, 42-5061, 42-5063 AND 42-5159, ARIZONA REVISED
STATUTES; RELATING TO TRANSACTION PRIVILEGE TAX AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5001, Arizona Revised Statutes, is amended to
3 read:

4 42-5001. Definitions

5 In this article and article 2 of this chapter, unless the context
6 otherwise requires:

7 1. "Business" includes all activities or acts, personal or corporate,
8 engaged in or caused to be engaged in with the object of gain, benefit or
9 advantage, either directly or indirectly, but DOES not INCLUDE EITHER:

10 (a) Casual activities or sales.

11 (b) THE TRANSFER OF ELECTRICITY FROM A SOLAR PHOTOVOLTAIC GENERATION
12 SYSTEM TO AN ELECTRIC UTILITY DISTRIBUTION SYSTEM.

13 2. "Distribution base" means the portion of the revenues derived from
14 the tax levied by this article and articles 5 and 8 of this chapter
15 designated for distribution to counties, municipalities and other purposes
16 according to section 42-5029, subsection D.

17 3. "Engaging", when used with reference to engaging or continuing in
18 business, includes the exercise of corporate or franchise powers.

19 4. "Gross income" means the gross receipts of a taxpayer derived from
20 trade, business, commerce or sales and the value proceeding or accruing from
21 the sale of tangible personal property or service, or both, and without any
22 deduction on account of losses.

23 5. "Gross proceeds of sales" means the value proceeding or accruing
24 from the sale of tangible personal property without any deduction on account
25 of the cost of property sold, expense of any kind or losses, but cash
26 discounts allowed and taken on sales are not included as gross income.

27 6. "Gross income" and "gross proceeds of sales" do not include goods,
28 wares or merchandise, or value thereof, returned by customers if the sale
29 price is refunded either in cash or by credit, nor the value of merchandise
30 traded in on the purchase of new merchandise when the trade-in allowance is
31 deducted from the sales price of the new merchandise before completion of the
32 sale.

33 7. "Gross receipts" means the total amount of the sale, lease or
34 rental price, as the case may be, of the retail sales of retailers, including
35 any services that are a part of the sales, valued in money, whether received
36 in money or otherwise, including all receipts, cash, credits and property of
37 every kind or nature, and any amount for which credit is allowed by the
38 seller to the purchaser without any deduction from the amount on account of
39 the cost of the property sold, materials used, labor or service performed,
40 interest paid, losses or any other expense. Gross receipts do not include
41 cash discounts allowed and taken nor the sale price of property returned by
42 customers if the full sale price is refunded either in cash or by credit.

43 8. "Person" or "company" includes an individual, firm, partnership,
44 joint venture, association, corporation, estate or trust, this state, any
45 county, city, town, district, other than a school district, or other

1 political subdivision and any other group or combination acting as a unit,
2 and the plural as well as the singular number.

3 9. "Qualifying community health center":

4 (a) Means an entity that is recognized as nonprofit under section
5 501(c)(3) of the United States internal revenue code, that is a
6 community-based, primary care clinic that has a community-based board of
7 directors and that is either:

8 (i) The sole provider of primary care in the community.

9 (ii) A nonhospital affiliated clinic that is located in a federally
10 designated medically underserved area in this state.

11 (b) Includes clinics that are being constructed as qualifying
12 community health centers.

13 10. "Qualifying health care organization" means an entity that is
14 recognized as nonprofit under section 501(c) of the United States internal
15 revenue code and that uses, saves or invests at least eighty per cent of all
16 monies that it receives from all sources each year only for health and
17 medical related educational and charitable services, as documented by annual
18 financial audits prepared by an independent certified public accountant,
19 performed according to generally accepted accounting standards and filed
20 annually with the department. Monies that are used, saved or invested to
21 lease, purchase or construct a facility for health and medical related
22 education and charitable services are included in the eighty per cent
23 requirement.

24 11. "Qualifying hospital" means any of the following:

25 (a) A licensed hospital which is organized and operated exclusively
26 for charitable purposes, no part of the net earnings of which inures to the
27 benefit of any private shareholder or individual.

28 (b) A licensed nursing care institution or a licensed residential care
29 institution or a residential care facility operated in conjunction with a
30 licensed nursing care institution or a licensed kidney dialysis center, which
31 provides medical services, nursing services or health related services and is
32 not used or held for profit.

33 (c) A hospital, nursing care institution or residential care
34 institution which is operated by the federal government, this state or a
35 political subdivision of this state.

36 (d) A facility that is under construction and that on completion will
37 be a facility under subdivision (a), (b) or (c) of this paragraph.

38 12. "Retailer" includes every person engaged in the business classified
39 under the retail classification pursuant to section 42-5061 and, when in the
40 opinion of the department it is necessary for the efficient administration of
41 this article, includes dealers, distributors, supervisors, employers and
42 salesmen, representatives, peddlers or canvassers as the agents of the
43 dealers, distributors, supervisors or employers under whom they operate or
44 from whom they obtain the tangible personal property sold by them, whether in
45 making sales on their own behalf or on behalf of the dealers, distributors,
46 supervisors or employers.

1 13. "Sale" means any transfer of title or possession, or both,
2 exchange, barter, lease or rental, conditional or otherwise, in any manner or
3 by any means whatever, including consignment transactions and auctions, of
4 tangible personal property or other activities taxable under this chapter,
5 for a consideration, and includes:

6 (a) Any transaction by which the possession of property is transferred
7 but the seller retains the title as security for the payment of the price.

8 (b) Fabricating tangible personal property for consumers who furnish
9 either directly or indirectly the materials used in the fabrication work.

10 (c) Furnishing, preparing or serving for a consideration any tangible
11 personal property consumed on the premises of the person furnishing,
12 preparing or serving the tangible personal property.

13 14. "Solar daylighting" means a device that is specifically designed to
14 capture and redirect the visible portion of the solar beam, while controlling
15 the infrared portion, for use in illuminating interior building spaces in
16 lieu of artificial lighting.

17 15. "Solar energy device" means a system or series of mechanisms
18 designed primarily to provide heating, to provide cooling, to produce
19 electrical power, to produce mechanical power, to provide solar daylighting
20 or to provide any combination of the foregoing by means of collecting and
21 transferring solar generated energy into such uses either by active or
22 passive means, including wind generator systems that produce electricity.
23 Solar energy systems may also have the capability of storing solar energy for
24 future use. Passive systems shall clearly be designed as a solar energy
25 device, such as a trombe wall, and not merely as a part of a normal
26 structure, such as a window.

27 16. "Tangible personal property" means personal property which may be
28 seen, weighed, measured, felt or touched or is in any other manner
29 perceptible to the senses.

30 17. "Tax year" or "taxable year" means either the calendar year or the
31 taxpayer's fiscal year, if permission is obtained from the department to use
32 a fiscal year as the tax period instead of the calendar year.

33 18. "Taxpayer" means any person who is liable for any tax which is
34 imposed by this article.

35 19. "Wholesaler" or "jobber" means any person who sells tangible
36 personal property for resale and not for consumption by the purchaser.

37 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:
38 42-5061. Retail classification; definitions

39 A. The retail classification is comprised of the business of selling
40 tangible personal property at retail. The tax base for the retail
41 classification is the gross proceeds of sales or gross income derived from
42 the business. The tax imposed on the retail classification does not apply to
43 the gross proceeds of sales or gross income from:

44 1. Professional or personal service occupations or businesses which
45 involve sales or transfers of tangible personal property only as
46 inconsequential elements.

- 1 2. Services rendered in addition to selling tangible personal property
2 at retail.
- 3 3. Sales of warranty or service contracts. The storage, use or
4 consumption of tangible personal property provided under the conditions of
5 such contracts is subject to tax under section 42-5156.
- 6 4. Sales of tangible personal property by any nonprofit organization
7 organized and operated exclusively for charitable purposes and recognized by
8 the United States internal revenue service under section 501(c)(3) of the
9 internal revenue code.
- 10 5. Sales to persons engaged in business classified under the
11 restaurant classification of articles used by human beings for food, drink or
12 condiment, whether simple, mixed or compounded.
- 13 6. Business activity which is properly included in any other business
14 classification which is taxable under this article.
- 15 7. The sale of stocks and bonds.
- 16 8. Drugs and medical oxygen, including delivery hose, mask or tent,
17 regulator and tank, on the prescription of a member of the medical, dental or
18 veterinarian profession who is licensed by law to administer such substances.
- 19 9. Prosthetic appliances as defined in section 23-501 prescribed or
20 recommended by a health professional who is licensed pursuant to title 32,
21 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 22 10. Insulin, insulin syringes and glucose test strips.
- 23 11. Prescription eyeglasses or contact lenses.
- 24 12. Hearing aids as defined in section 36-1901.
- 25 13. Durable medical equipment which has a centers for medicare and
26 medicaid services common procedure code, is designated reimbursable by
27 medicare, is prescribed by a person who is licensed under title 32, chapter
28 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
29 customarily used to serve a medical purpose, is generally not useful to a
30 person in the absence of illness or injury and is appropriate for use in the
31 home.
- 32 14. Sales to nonresidents of this state for use outside this state if
33 the vendor ships or delivers the tangible personal property out of this
34 state.
- 35 15. Food, as provided in and subject to the conditions of article 3 of
36 this chapter and section 42-5074.
- 37 16. Items purchased with United States department of agriculture food
38 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
39 958) or food instruments issued under section 17 of the child nutrition act
40 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
41 section 1786).
- 42 17. Textbooks by any bookstore that are required by any state
43 university or community college.
- 44 18. Food and drink to a person who is engaged in business which is
45 classified under the restaurant classification and which provides such food

1 and drink without monetary charge to its employees for their own consumption
2 on the premises during the employees' hours of employment.

3 19. Articles of food, drink or condiment and accessory tangible
4 personal property to a school district or charter school if such articles and
5 accessory tangible personal property are to be prepared and served to persons
6 for consumption on the premises of a public school within the district or on
7 the premises of the charter school during school hours.

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

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

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

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

21 22. Motor vehicle fuel and use fuel that are subject to a tax imposed
22 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
23 valid single trip use fuel tax permit issued under section 28-5739, sales of
24 aviation fuel that are subject to the tax imposed under section 28-8344 and
25 sales of jet fuel that are subject to the tax imposed under article 8 of this
26 chapter.

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

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

33 25. Tangible personal property sold to:

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

35 (b) A qualifying health care organization as defined in section
36 42-5001 if the tangible personal property is used by the organization solely
37 to provide health and medical related educational and charitable services.

38 (c) A qualifying health care organization as defined in section
39 42-5001 if the organization is dedicated to providing educational,
40 therapeutic, rehabilitative and family medical education training for blind,
41 visually impaired and multihandicapped children from the time of birth to age
42 twenty-one.

43 (d) A qualifying community health center as defined in section
44 42-5001.

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

12 26. Magazines or other periodicals or other publications by this state
13 to encourage tourist travel.

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

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

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

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

28 28. The sale of a motor vehicle to:

29 (a) A nonresident of this state if the purchaser's state of residence
30 does not allow a corresponding use tax exemption to the tax imposed by
31 article 1 of this chapter and if the nonresident has secured a special ninety
32 day nonresident registration permit for the vehicle as prescribed by sections
33 28-2154 and 28-2154.01.

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

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

42 30. Sales of tangible personal property by a nonprofit organization
43 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
44 of the internal revenue code if the organization is associated with a major
45 league baseball team or a national touring professional golfing association

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

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

8 32. Sales of tangible personal property by a nonprofit organization
9 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
10 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
11 sponsors or operates a rodeo featuring primarily farm and ranch animals and
12 no part of the organization's net earnings inures to the benefit of any
13 private shareholder or individual.

14 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
15 propagative material to persons who use those items to commercially produce
16 agricultural, horticultural, viticultural or floricultural crops in this
17 state.

18 34. Machinery, equipment, technology or related supplies that are only
19 useful to assist a person who is physically disabled as defined in section
20 46-191, has a developmental disability as defined in section 36-551 or has a
21 head injury as defined in section 41-3201 to be more independent and
22 functional.

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

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

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

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

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

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

9 40. Through December 31, 1994, personal property liquidation
10 transactions, conducted by a personal property liquidator. From and after
11 December 31, 1994, personal property liquidation transactions shall be
12 taxable under this section provided that nothing in this subsection shall be
13 construed to authorize the taxation of casual activities or transactions
14 under this chapter. For the purposes of this paragraph:

15 (a) "Personal property liquidation transaction" means a sale of
16 personal property made by a personal property liquidator acting solely on
17 behalf of the owner of the personal property sold at the dwelling of the
18 owner or upon the death of any owner, on behalf of the surviving spouse, if
19 any, any devisee or heir or the personal representative of the estate of the
20 deceased, if one has been appointed.

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

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

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

31 43. Livestock and poultry feed, salts, vitamins and other additives for
32 livestock or poultry consumption that are sold to persons who are engaged in
33 producing livestock, poultry, or livestock or poultry products or who are
34 engaged in feeding livestock or poultry commercially. For the purposes of
35 this paragraph, "poultry" includes ratites.

36 44. Sales of implants used as growth promotants and injectable
37 medicines, not already exempt under paragraph 8 of this subsection, for
38 livestock or poultry owned by or in possession of persons who are engaged in
39 producing livestock, poultry, or livestock or poultry products or who are
40 engaged in feeding livestock or poultry commercially. For the purposes of
41 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

24 50. Sales of alternative fuel vehicles if the vehicle was manufactured
25 as a diesel fuel vehicle and converted to operate on alternative fuel and
26 equipment that is installed in a conventional diesel fuel motor vehicle to
27 convert the vehicle to operate on an alternative fuel, as defined in section
28 1-215.

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

32 52. Sales of tangible personal property to be incorporated or installed
33 as part of environmental response or remediation activities under section
34 42-5075, subsection B, paragraph 6.

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

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

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

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

3 (b) "Curriculum design or enhancement" means planning, implementing or
4 reporting on courses of study, lessons, assignments or other learning
5 activities.

6 56. SALES OR OTHER TRANSFERS OF RENEWABLE ENERGY CREDITS OR ANY OTHER
7 UNIT CREATED TO TRACK ENERGY DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR
8 THE PURPOSES OF THIS PARAGRAPH, "RENEWABLE ENERGY CREDIT" MEANS A UNIT
9 CREATED ADMINISTRATIVELY BY THE CORPORATION COMMISSION OR GOVERNING BODY OF A
10 PUBLIC POWER UTILITY TO TRACK KILOWATT HOURS OF ELECTRICITY DERIVED FROM A
11 RENEWABLE ENERGY RESOURCE OR THE KILOWATT HOUR EQUIVALENT OF CONVENTIONAL
12 ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.

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

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

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

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

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

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

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

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

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

9 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 21. Machinery or equipment that enables a television station to
42 originate and broadcast or to receive and broadcast digital television
43 signals and that was purchased to facilitate compliance with the
44 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
45 Code section 336) and the federal communications commission order issued

1 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
2 not exempt any of the following:

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

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

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

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

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

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

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

28 2. Janitorial equipment and hand tools.

29 3. Office equipment, furniture and supplies.

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

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

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

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

40 D. In addition to the deductions from the tax base prescribed by
41 subsection A of this section, there shall be deducted from the tax base the
42 gross proceeds of sales or gross income derived from sales of machinery,
43 equipment, materials and other tangible personal property used directly and
44 predominantly to construct a qualified environmental technology
45 manufacturing, producing or processing facility as described in section

1 41-1514.02. This subsection applies for ten full consecutive calendar or
2 fiscal years after the start of initial construction.

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

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

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

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

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

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

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

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

45 2. Sales made directly to a manufacturer, modifier, assembler or
46 repairer if such sales are of any ingredient or component part of products

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

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

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

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

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

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

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

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

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

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

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

45 Q. Retail sales of prepaid calling cards or prepaid authorization
46 numbers for telecommunications services, including sales of reauthorization

1 of a prepaid card or authorization number, are subject to tax under this
2 section.

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

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

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

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

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

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

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

34 U. In computing the tax base for the sale of a motor vehicle to a
35 nonresident of this state, if the purchaser's state of residence allows a
36 corresponding use tax exemption to the tax imposed by article 1 of this
37 chapter and the rate of the tax in the purchaser's state of residence is
38 lower than the rate prescribed in article 1 of this chapter or if the
39 purchaser's state of residence does not impose an excise tax, and the
40 nonresident has secured a special ninety day nonresident registration permit
41 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
42 be deducted from the tax base a portion of the gross proceeds or gross income
43 from the sale so that the amount of transaction privilege tax that is paid in
44 this state is equal to the excise tax that is imposed by the purchaser's
45 state of residence on the nonexempt sale or use of the motor vehicle.

1 V. For the purposes of this section:

2 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

45 Sec. 3. Section 42-5063, Arizona Revised Statutes, is amended to read:

46 42-5063. Utilities classification; definitions

1 A. The utilities classification is comprised of the business of:
2 1. Producing and furnishing or furnishing to consumers natural or
3 artificial gas and water.

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

7 B. The utilities classification does not include:

8 1. Sales of ancillary services, electric distribution services,
9 electric generation services, electric transmission services and other
10 services related to providing electricity, gas or water to a person who
11 resells the services.

12 2. Sales of natural gas or liquefied petroleum gas used to propel a
13 motor vehicle.

14 3. 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 4. Sales of ancillary services, electric distribution services,
18 electric generation services, electric transmission services and other
19 services that are related to providing electricity to a retail electric
20 customer who is located outside this state for use outside this state if the
21 electricity is delivered to a point of sale outside this state.

22 5. SALES OR OTHER TRANSFERS OF RENEWABLE ENERGY CREDITS OR ANY OTHER
23 UNIT CREATED TO TRACK ENERGY DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR
24 THE PURPOSES OF THIS PARAGRAPH, "RENEWABLE ENERGY CREDIT" MEANS A UNIT
25 CREATED ADMINISTRATIVELY BY THE CORPORATION COMMISSION OR GOVERNING BODY OF A
26 PUBLIC POWER UTILITY TO TRACK KILOWATT HOURS OF ELECTRICITY DERIVED FROM A
27 RENEWABLE ENERGY RESOURCE OR THE KILOWATT HOUR EQUIVALENT OF CONVENTIONAL
28 ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.

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

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

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

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

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

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

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

14 5. THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE
15 TO TRANSFERS OF ELECTRICITY BY ANY RETAIL ELECTRIC CUSTOMER OWNING A SOLAR
16 PHOTOVOLTAIC ENERGY GENERATING SYSTEM TO AN ELECTRIC DISTRIBUTION SYSTEM, IF
17 THE ELECTRICITY TRANSFERRED IS GENERATED BY THE CUSTOMER'S SYSTEM.

18 D. For the purposes of this section:

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

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

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

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

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

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

39 Sec. 4. Section 42-5159, Arizona Revised Statutes, is amended to read:

40 42-5159. Exemptions

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

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

1 2. Tangible personal property the sale or use of which has already
2 been subjected to an excise tax at a rate equal to or exceeding the tax
3 imposed by this article under the laws of another state of the United States.
4 If the excise tax imposed by the other state is at a rate less than the tax
5 imposed by this article, the tax imposed by this article is reduced by the
6 amount of the tax already imposed by the other state.

7 3. Tangible personal property, the storage, use or consumption of
8 which the constitution or laws of the United States prohibit this state from
9 taxing or to the extent that the rate or imposition of tax is
10 unconstitutional under the laws of the United States.

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

14 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
15 which in this state is subject to the tax imposed under title 28, chapter 16,
16 article 1, use fuel which is sold to or used by a person holding a valid
17 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
18 the sales, distribution or use of which in this state is subject to the tax
19 imposed under section 28-8344, and jet fuel, the sales, distribution or use
20 of which in this state is subject to the tax imposed under article 8 of this
21 chapter.

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

27 7. Purchases of implants used as growth promotants and injectable
28 medicines, not already exempt under paragraph 16 of this subsection, for
29 livestock and poultry owned by, or in possession of, persons who are engaged
30 in producing livestock, poultry, or livestock or poultry products, or who are
31 engaged in feeding livestock or poultry commercially. For the purposes of
32 this paragraph, "poultry" includes ratites.

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

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

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

44 11. Advertising supplements which are intended for sale with newspapers
45 published in this state and which have already been subjected to an excise

1 tax under the laws of another state in the United States which equals or
2 exceeds the tax imposed by this article.

3 12. Materials that are purchased by or for publicly funded libraries
4 including school district libraries, charter school libraries, community
5 college libraries, state university libraries or federal, state, county or
6 municipal libraries for use by the public as follows:

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

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

9 13. Tangible personal property purchased by:

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

13 (b) A hospital operated by this state or a political subdivision of
14 this state.

15 (c) A licensed nursing care institution or a licensed residential care
16 institution or a residential care facility operated in conjunction with a
17 licensed nursing care institution or a licensed kidney dialysis center, which
18 provides medical services, nursing services or health related services and is
19 not used or held for profit.

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

23 (e) A qualifying health care organization as defined in section
24 42-5001 if the organization is dedicated to providing educational,
25 therapeutic, rehabilitative and family medical education training for blind,
26 visually impaired and multihandicapped children from the time of birth to age
27 twenty-one.

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

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

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

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

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

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

5 (i) A qualifying community health center as defined in section
6 42-5001.

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

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

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

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

28 15. Tangible personal property sold by:

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

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

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

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

45 17. Prosthetic appliances, as defined in section 23-501, prescribed or
46 recommended by a person who is licensed, registered or otherwise

1 professionally credentialed as a physician, dentist, podiatrist,
2 chiropractor, naturopath, homeopath, nurse or optometrist.

3 18. Prescription eyeglasses and contact lenses.

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

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

6 21. Durable medical equipment which has a centers for medicare and
7 medicaid services common procedure code, is designated reimbursable by
8 medicare, is prescribed by a person who is licensed under title 32, chapter
9 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
10 used to serve a medical purpose, is generally not useful to a person in the
11 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

30 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
31 article 1.

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

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

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

39 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
40 purchased by a qualified environmental technology manufacturer, producer or
41 processor as defined in section 41-1514.02 and directly used or consumed in
42 the generation or provision of on-site power or energy solely for
43 environmental technology manufacturing, producing or processing or
44 environmental protection. This paragraph shall apply for twenty full
45 consecutive calendar or fiscal years from the date the first paper
46 manufacturing machine is placed in service. In the case of an environmental

1 technology manufacturer, producer or processor who does not manufacture
2 paper, the time period shall begin with the date the first manufacturing,
3 processing or production equipment is placed in service.

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

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

8 (b) Public educational institutions.

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

12 33. Natural gas or liquefied petroleum gas used to propel a motor
13 vehicle.

14 34. Machinery, equipment, technology or related supplies that are only
15 useful to assist a person who is physically disabled as defined in section
16 46-191, has a developmental disability as defined in section 36-551 or has a
17 head injury as defined in section 41-3201 to be more independent and
18 functional.

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

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

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

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

43 39. Overhead materials or other tangible personal property that is used
44 in performing a contract between the United States government and a
45 manufacturer, modifier, assembler or repairer, including property used in
46 performing a subcontract with a government contractor who is a manufacturer,

1 modifier, assembler or repairer, to which title passes to the government
2 under the terms of the contract or subcontract. For the purposes of this
3 paragraph:

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

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

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

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

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

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

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

1 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 51. RENEWABLE ENERGY CREDITS OR ANY OTHER UNIT CREATED TO TRACK ENERGY
34 DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR THE PURPOSES OF THIS PARAGRAPH,
35 "RENEWABLE ENERGY CREDIT" MEANS A UNIT CREATED ADMINISTRATIVELY BY THE
36 CORPORATION COMMISSION OR GOVERNING BODY OF A PUBLIC POWER ENTITY TO TRACK
37 KILOWATT HOURS OF ELECTRICITY DERIVED FROM A RENEWABLE ENERGY RESOURCE OR THE
38 KILOWATT HOUR EQUIVALENT OF CONVENTIONAL ENERGY RESOURCES DISPLACED BY
39 DISTRIBUTED RENEWABLE ENERGY RESOURCES.

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

43 1. Machinery, or equipment, used directly in manufacturing,
44 processing, fabricating, job printing, refining or metallurgical operations.
45 The terms "manufacturing", "processing", "fabricating", "job printing",
46 "refining" and "metallurgical" as used in this paragraph refer to and include

1 those operations commonly understood within their ordinary meaning.
2 "Metallurgical operations" includes leaching, milling, precipitating,
3 smelting and refining.

4 2. Machinery, or equipment, used directly in the process of extracting
5 ores or minerals from the earth for commercial purposes, including equipment
6 required to prepare the materials for extraction and handling, loading or
7 transporting such extracted material to the surface. "Mining" includes
8 underground, surface and open pit operations for extracting ores and
9 minerals.

10 3. Tangible personal property sold to persons engaged in business
11 classified under the telecommunications classification under section 42-5064
12 and consisting of central office switching equipment, switchboards, private
13 branch exchange equipment, microwave radio equipment and carrier equipment
14 including optical fiber, coaxial cable and other transmission media which are
15 components of carrier systems.

16 4. Machinery, equipment or transmission lines used directly in
17 producing or transmitting electrical power, but not including distribution.
18 Transformers and control equipment used at transmission substation sites
19 constitute equipment used in producing or transmitting electrical power.

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

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

27 7. Aircraft, navigational and communication instruments and other
28 accessories and related equipment sold to:

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

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

38 8. Machinery, tools, equipment and related supplies used or consumed
39 directly in repairing, remodeling or maintaining aircraft, aircraft engines
40 or aircraft component parts by or on behalf of a certificated or licensed
41 carrier of persons or property.

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

44 10. Machinery or equipment used directly to drill for oil or gas or
45 used directly in the process of extracting oil or gas from the earth for
46 commercial purposes.

1 11. Buses or other urban mass transit vehicles which are used directly
2 to transport persons or property for hire or pursuant to a governmentally
3 adopted and controlled urban mass transportation program and which are sold
4 to bus companies holding a federal certificate of convenience and necessity
5 or operated by any city, town or other governmental entity or by any person
6 contracting with such governmental entity as part of a governmentally adopted
7 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

1 (b) "Soundstage complex" means a facility of multiple stages including
2 production offices, construction shops and related areas, prop and costume
3 shops, storage areas, parking for production vehicles and areas that are
4 leased to businesses that complement the production needs and orientation of
5 the overall facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 C. The exemptions provided by subsection B of this section do not
43 include:

44 1. Expendable materials. For the purposes of this paragraph,
45 expendable materials do not include any of the categories of tangible

1 personal property specified in subsection B of this section regardless of the
2 cost or useful life of that property.

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

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

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

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

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

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

17 1. Revenues received from sales of ancillary services, electric
18 distribution services, electric generation services, electric transmission
19 services and other services related to providing electricity to a retail
20 electric customer who is located outside this state for use outside this
21 state if the electricity is delivered to a point of sale outside this state.

22 2. Revenues received from providing electricity, including ancillary
23 services, electric distribution services, electric generation services,
24 electric transmission services and other services related to providing
25 electricity with respect to which the transaction privilege tax imposed under
26 section 42-5063 has been paid.

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

28 1. The storage, use or consumption in Arizona of machinery, equipment,
29 materials or other tangible personal property if used directly and
30 predominantly to construct a qualified environmental technology
31 manufacturing, producing or processing facility, as described in section
32 41-1514.02. This paragraph applies for ten full consecutive calendar or
33 fiscal years after the start of initial construction.

34 2. The purchase of electricity by a qualified environmental technology
35 manufacturer, producer or processor as defined in section 41-1514.02 that is
36 used directly in environmental technology manufacturing, producing or
37 processing. This paragraph shall apply for twenty full consecutive calendar
38 or fiscal years from the date the first paper manufacturing machine is placed
39 in service. In the case of an environmental technology manufacturer,
40 producer or processor who does not manufacture paper, the time period shall
41 begin with the date the first manufacturing, processing or production
42 equipment is placed in service.

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

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

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

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

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

14 1. "Aircraft" includes:

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

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

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

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

28 Sec. 5. Retroactivity

29 This act applies retroactively to taxable periods beginning from and
30 after December 31, 2006.

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