

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

# HOUSE BILL 2111

AN ACT

AMENDING SECTIONS 42-1004, 42-2003, 42-2059, 42-2075, 42-5009, 42-5010 AND 42-5014, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5015; AMENDING SECTIONS 42-5029, 42-5032.01 AND 42-5032.02, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5039; AMENDING SECTIONS 42-5061, 42-5071 AND 42-5075, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5076, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5159, 42-6001, 42-6002, 42-6004, 42-6005, 42-6105, 42-6106 AND 42-6107, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-1004, Arizona Revised Statutes, is amended to  
3 read:

4 42-1004. General powers and duties of the department: res  
5 judicata: remedies: enforcement: special collections  
6 account

7 A. The department shall administer and enforce this title, title 43  
8 and other laws assigned to it and has all the powers and duties prescribed by  
9 law for such purposes. In all proceedings prescribed by law the department  
10 may act on behalf of this state. In addition, the department shall:

11 1. Formulate policies, plans and programs to effectuate the missions  
12 and purposes of the department.

13 2. Employ and remove personnel subject to title 41, chapter 4, article  
14 4 and, as applicable, articles 5 and 6, determine the conditions of  
15 employment and prescribe the duties and powers of administrative,  
16 professional, technical, secretarial, clerical and other personnel as may be  
17 necessary in the performance of its duties, and contract for the services of  
18 outside advisors, consultants and aides as may be reasonably necessary.

19 3. Make contracts and incur obligations within the general scope of  
20 its activities and operations subject to the availability of its funds.

21 4. Contract with or assist other departments, agencies or institutions  
22 of the state, local, Indian tribal and federal governments in the furtherance  
23 of its purposes, objectives and programs.

24 5. Accept grants, matching funds and direct payments from public or  
25 private agencies for the conduct of programs which are consistent with the  
26 overall purposes and objectives of the department.

27 6. Provide information and advice within the scope of its duties  
28 subject to the laws on confidentiality of information and departmental rules  
29 adopted pursuant to such laws.

30 7. Advise with and make recommendations to the governor and the  
31 legislature on all matters concerning its objectives.

32 8. Have an official seal which shall be judicially noticed.

33 9. Provide an integrated, coordinated and uniform system of tax  
34 administration and revenue collection for the state, **INCLUDING A COORDINATED**  
35 **ELECTRONIC METHOD OF COLLECTING STATE AND MUNICIPAL TRANSACTION PRIVILEGE AND**  
36 **AFFILIATED EXCISE TAXES.**

37 B. The department may:

38 1. With the approval of the attorney general:

39 (a) Abate any balance owed by a taxpayer if the balance is  
40 uncollectible. Related liens, if any, are extinguished on abatement.

41 (b) Abate all or part of the unpaid portion of any tax if the director  
42 determines that the administration and collection costs involved would exceed  
43 the amount of the tax.

44 2. Offer publications relating to the administration of state taxes  
45 for sale at a price equal to the pro rata cost of publication and

1 distribution. Monies received from the sale of publications shall be placed  
2 in a revenue publications revolving fund. Monies in the fund:

3 (a) Shall be used to meet publication and distribution expenses.

4 (b) Are exempt from the provisions of section 35-190 relating to  
5 lapsing of appropriations.

6 3. Enter into contingent fee contracts to collect delinquent state  
7 taxes, penalties, interest and other amounts owed to the department under  
8 title 43 and chapter 5, article 1 of this title, consistent with the  
9 requirements of chapter 2, article 1 of this title. No contract may be  
10 entered into for the hiring of auditors on a contingent fee basis except  
11 auditors that are hired to enforce title 44, chapter 3.

12 C. In the determination of any issue of law or fact under this title  
13 or title 43, neither the department, nor any officer or agency having any  
14 administrative duties under this title or title 43, nor any court is bound by  
15 the determination of any other executive officer or administrative agency of  
16 this state. In the determination of any case arising under this title or  
17 title 43, the rule of res judicata is applicable only if the liability  
18 involved is for the same year or period as was involved in another case  
19 previously determined under this title or title 43.

20 D. The remedies of this state provided for in this title and title 43  
21 are cumulative, and no action taken by the department constitutes an election  
22 by this state to pursue any remedy to the exclusion of any other remedy  
23 provided by law.

24 E. The attorney general shall prosecute in the name of this state all  
25 actions necessary to enforce this title and title 43. The attorney general  
26 may defend all actions brought against this state or an officer or agency of  
27 this state arising under this title and title 43. The attorney general may  
28 delegate the prosecuting authority to any county attorney for prosecution in  
29 that county.

30 F. A special collections account is established in the state general  
31 fund. All monies collected pursuant to contracts authorized by subsection B,  
32 paragraph 3 of this section shall be deposited in the special collections  
33 account. The department shall pay from the account all fees and court costs  
34 provided for in the contracts authorized under subsection B, paragraph 3 of  
35 this section. The department shall allocate the remainder of the amounts  
36 collected under subsection B, paragraph 3 of this section to the state or the  
37 political subdivision in the proportion that the monies would have been  
38 distributed pursuant to chapter 5 of this title or section 43-206,  
39 respectively.

40 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:

41 42-2003. Authorized disclosure of confidential information

42 A. Confidential information relating to:

43 1. A taxpayer may be disclosed to the taxpayer, its successor in  
44 interest or a designee of the taxpayer who is authorized in writing by the

1 taxpayer. A principal corporate officer of a parent corporation may execute  
2 a written authorization for a controlled subsidiary.

3 2. A corporate taxpayer may be disclosed to any principal officer, any  
4 person designated by a principal officer or any person designated in a  
5 resolution by the corporate board of directors or other similar governing  
6 body.

7 3. A partnership may be disclosed to any partner of the partnership.  
8 This exception does not include disclosure of confidential information of a  
9 particular partner unless otherwise authorized.

10 4. An estate may be disclosed to the personal representative of the  
11 estate and to any heir, next of kin or beneficiary under the will of the  
12 decedent if the department finds that the heir, next of kin or beneficiary  
13 has a material interest which will be affected by the confidential  
14 information.

15 5. A trust may be disclosed to the trustee or trustees, jointly or  
16 separately, and to the grantor or any beneficiary of the trust if the  
17 department finds that the grantor or beneficiary has a material interest that  
18 will be affected by the confidential information.

19 6. Any taxpayer may be disclosed if the taxpayer has waived any rights  
20 to confidentiality either in writing or on the record in any administrative  
21 or judicial proceeding.

22 7. The name and taxpayer identification numbers of persons issued  
23 direct payment permits may be publicly disclosed.

24 B. Confidential information may be disclosed to:

25 1. Any employee of the department whose official duties involve tax  
26 administration.

27 2. The office of the attorney general solely for its use in  
28 preparation for, or in an investigation that may result in, any proceeding  
29 involving tax administration before the department or any other agency or  
30 board of this state, or before any grand jury or any state or federal court.

31 3. The department of liquor licenses and control for its use in  
32 determining whether a spirituous liquor licensee has paid all transaction  
33 privilege taxes and affiliated excise taxes incurred as a result of the sale  
34 of spirituous liquor, as defined in section 4-101, at the licensed  
35 establishment and imposed on the licensed establishments by this state and  
36 its political subdivisions.

37 4. Other state tax officials whose official duties require the  
38 disclosure for proper tax administration purposes if the information is  
39 sought in connection with an investigation or any other proceeding conducted  
40 by the official. Any disclosure is limited to information of a taxpayer who  
41 is being investigated or who is a party to a proceeding conducted by the  
42 official.

43 5. The following agencies, officials and organizations, if they grant  
44 substantially similar privileges to the department for the type of  
45 information being sought, pursuant to statute and a written agreement between

1 the department and the foreign country, agency, state, Indian tribe or  
2 organization:

3 (a) The United States internal revenue service, alcohol and tobacco  
4 tax and trade bureau of the United States treasury, United States bureau of  
5 alcohol, tobacco, firearms and explosives of the United States department of  
6 justice, United States drug enforcement agency and federal bureau of  
7 investigation.

8 (b) A state tax official of another state.

9 (c) An organization of states, federation of tax administrators or  
10 multistate tax commission that operates an information exchange for tax  
11 administration purposes.

12 (d) An agency, official or organization of a foreign country with  
13 responsibilities that are comparable to those listed in subdivision (a), (b)  
14 or (c) of this paragraph.

15 (e) An agency, official or organization of an Indian tribal government  
16 with responsibilities comparable to the responsibilities of the agencies,  
17 officials or organizations identified in subdivision (a), (b) or (c) of this  
18 paragraph.

19 6. The auditor general, in connection with any audit of the department  
20 subject to the restrictions in section 42-2002, subsection D.

21 7. Any person to the extent necessary for effective tax administration  
22 in connection with:

23 (a) The processing, storage, transmission, destruction and  
24 reproduction of the information.

25 (b) The programming, maintenance, repair, testing and procurement of  
26 equipment for purposes of tax administration.

27 (c) The collection of the taxpayer's civil liability.

28 8. The office of administrative hearings relating to taxes  
29 administered by the department pursuant to section 42-1101, but the  
30 department shall not disclose any confidential information:

31 (a) Regarding income tax or withholding tax.

32 (b) On any tax issue relating to information associated with the  
33 reporting of income tax or withholding tax.

34 9. The United States treasury inspector general for tax administration  
35 for the purpose of reporting a violation of internal revenue code section  
36 7213A (26 United States Code section 7213A), unauthorized inspection of  
37 returns or return information.

38 10. The financial management service of the United States treasury  
39 department for use in the treasury offset program.

40 11. The United States treasury department or its authorized agent for  
41 use in the state income tax levy program and in the electronic federal tax  
42 payment system.

43 12. The Arizona commerce authority for its use in:

44 (a) Qualifying renewable energy operations for the tax incentives  
45 under sections 42-12006, 43-1083.01 and 43-1164.01.

1 (b) Qualifying businesses with a qualified facility for income tax  
2 credits under sections 43-1083.03 and 43-1164.04.

3 (c) Fulfilling its annual reporting responsibility pursuant to section  
4 41-1511, subsections U and V and section 41-1512, subsections U and V.

5 13. A prosecutor for purposes of section 32-1164, subsection C.

6 14. The state fire marshal for use in determining compliance with and  
7 enforcing title 41, chapter 16, article 3.1.

8 15. The department of transportation for its use in administering taxes  
9 and surcharges prescribed by title 28.

10 C. Confidential information may be disclosed in any state or federal  
11 judicial or administrative proceeding pertaining to tax administration  
12 pursuant to the following conditions:

13 1. One or more of the following circumstances must apply:

14 (a) The taxpayer is a party to the proceeding.

15 (b) The proceeding arose out of, or in connection with, determining  
16 the taxpayer's civil or criminal liability, or the collection of the  
17 taxpayer's civil liability, with respect to any tax imposed under this title  
18 or title 43.

19 (c) The treatment of an item reflected on the taxpayer's return is  
20 directly related to the resolution of an issue in the proceeding.

21 (d) Return information directly relates to a transactional  
22 relationship between a person who is a party to the proceeding and the  
23 taxpayer and directly affects the resolution of an issue in the proceeding.

24 2. Confidential information may not be disclosed under this subsection  
25 if the disclosure is prohibited by section 42-2002, subsection C or D.

26 D. Identity information may be disclosed for purposes of notifying  
27 persons entitled to tax refunds if the department is unable to locate the  
28 persons after reasonable effort.

29 E. The department, on the request of any person, shall provide the  
30 names and addresses of bingo licensees as defined in section 5-401, verify  
31 whether or not a person has a privilege license and number, a distributor's  
32 license and number or a withholding license and number or disclose the  
33 information to be posted on the department's website or otherwise publicly  
34 accessible pursuant to section 42-1124, subsection F and section 42-3201,  
35 subsection A.

36 F. A department employee, in connection with the official duties  
37 relating to any audit, collection activity or civil or criminal  
38 investigation, may disclose return information to the extent that disclosure  
39 is necessary to obtain information that is not otherwise reasonably  
40 available. These official duties include the correct determination of and  
41 liability for tax, the amount to be collected or the enforcement of other  
42 state tax revenue laws.

43 G. If an organization is exempt from this state's income tax as  
44 provided in section 43-1201 for any taxable year, the name and address of the  
45 organization and the application filed by the organization on which the

1 department made its determination for exemption together with any papers  
2 submitted in support of the application and any letter or document issued by  
3 the department concerning the application are open to public inspection.

4 H. Confidential information relating to transaction privilege tax, use  
5 tax, severance tax, jet fuel excise and use tax and ~~and~~ any other tax  
6 collected by the department on behalf of ~~the county~~ ANY JURISDICTION may be  
7 disclosed to any county, city or town tax official if the information relates  
8 to a taxpayer who is or may be taxable by the county, city or town OR WHO MAY  
9 BE SUBJECT TO AUDIT BY THE DEPARTMENT PURSUANT TO SECTION 42-6002. Any  
10 taxpayer information released by the department to the county, city or town:

11 1. May only be used for internal purposes, INCLUDING AUDITS.

12 2. May not be disclosed to the public in any manner that does not  
13 comply with confidentiality standards established by the department. The  
14 county, city or town shall agree in writing with the department that any  
15 release of confidential information that violates the confidentiality  
16 standards adopted by the department will result in the immediate suspension  
17 of any rights of the county, city or town to receive taxpayer information  
18 under this subsection.

19 I. The department may disclose statistical information gathered from  
20 confidential information if it does not disclose confidential information  
21 attributable to any one taxpayer. The department may disclose statistical  
22 information gathered from confidential information, even if it discloses  
23 confidential information attributable to a taxpayer, to:

24 1. The state treasurer in order to comply with the requirements of  
25 section 42-5029, subsection A, paragraph 3.

26 2. The joint legislative income tax credit review committee and the  
27 joint legislative budget committee staff in order to comply with the  
28 requirements of section 43-221.

29 J. The department may disclose the aggregate amounts of any tax  
30 credit, tax deduction or tax exemption enacted after January 1, 1994.  
31 Information subject to disclosure under this subsection shall not be  
32 disclosed if a taxpayer demonstrates to the department that such information  
33 would give an unfair advantage to competitors.

34 K. Except as provided in section 42-2002, subsection C, confidential  
35 information, described in section 42-2001, paragraph 1, subdivision (a), item  
36 (ii), may be disclosed to law enforcement agencies for law enforcement  
37 purposes.

38 L. The department may provide transaction privilege tax license  
39 information to property tax officials in a county for the purpose of  
40 identification and verification of the tax status of commercial property.

41 M. The department may provide transaction privilege tax, luxury tax,  
42 use tax, property tax and severance tax information to the ombudsman-citizens  
43 aide pursuant to title 41, chapter 8, article 5.

44 N. Except as provided in section 42-2002, subsection D, a court may  
45 order the department to disclose confidential information pertaining to a

1 party to an action. An order shall be made only upon a showing of good cause  
2 and that the party seeking the information has made demand upon the taxpayer  
3 for the information.

4 O. This section does not prohibit the disclosure by the department of  
5 any information or documents submitted to the department by a bingo licensee.  
6 Before disclosing the information the department shall obtain the name and  
7 address of the person requesting the information.

8 P. If the department is required or permitted to disclose confidential  
9 information, it may charge the person or agency requesting the information  
10 for the reasonable cost of its services.

11 Q. Except as provided in section 42-2002, subsection D, the department  
12 of revenue shall release confidential information as requested by the  
13 department of economic security pursuant to section 42-1122 or 46-291.  
14 Information disclosed under this subsection is limited to the same type of  
15 information that the United States internal revenue service is authorized to  
16 disclose under section 6103(1)(6) of the internal revenue code.

17 R. Except as provided in section 42-2002, subsection D, the department  
18 of revenue shall release confidential information as requested by the courts  
19 and clerks of the court pursuant to section 42-1122.

20 S. To comply with the requirements of section 42-5031, the department  
21 may disclose to the state treasurer, to the county stadium district board of  
22 directors and to any city or town tax official that is part of the county  
23 stadium district confidential information attributable to a taxpayer's  
24 business activity conducted in the county stadium district.

25 T. The department shall release confidential information as requested  
26 by the attorney general for purposes of determining compliance with and  
27 enforcing section 44-7101, the master settlement agreement referred to  
28 therein and subsequent agreements to which the state is a party that amend or  
29 implement the master settlement agreement. Information disclosed under this  
30 subsection is limited to luxury tax information relating to tobacco  
31 manufacturers, distributors, wholesalers and retailers and information  
32 collected by the department pursuant to section 44-7101(2)(j).

33 U. For proceedings before the department, the office of administrative  
34 hearings, the board of tax appeals or any state or federal court involving  
35 penalties that were assessed against a return preparer, an electronic return  
36 preparer or a payroll service company pursuant to section 42-1103.02,  
37 42-1125.01 or 43-419, confidential information may be disclosed only before  
38 the judge or administrative law judge adjudicating the proceeding, the  
39 parties to the proceeding and the parties' representatives in the proceeding  
40 prior to its introduction into evidence in the proceeding. The confidential  
41 information may be introduced as evidence in the proceeding only if the  
42 taxpayer's name, the names of any dependents listed on the return, all social  
43 security numbers, the taxpayer's address, the taxpayer's signature and any  
44 attachments containing any of the foregoing information are redacted and if  
45 either:

1           1. The treatment of an item reflected on such return is or may be  
2 related to the resolution of an issue in the proceeding.

3           2. Such return or return information relates or may relate to a  
4 transactional relationship between a person who is a party to the proceeding  
5 and the taxpayer which directly affects the resolution of an issue in the  
6 proceeding.

7           3. The method of payment of the taxpayer's withholding tax liability  
8 or the method of filing the taxpayer's withholding tax return is an issue for  
9 the period.

10          V. The department may disclose to the attorney general confidential  
11 information received under section 44-7111 and requested by the attorney  
12 general for purposes of determining compliance with and enforcing section  
13 44-7111. The department and attorney general shall share with each other the  
14 information received under section 44-7111, and may share the information  
15 with other federal, state or local agencies only for the purposes of  
16 enforcement of section 36-798.06, 44-7101, ~~OR~~ 44-7111 or corresponding laws  
17 of other states.

18          W. The department may provide the name and address of qualifying  
19 hospitals and qualifying health care organizations, as defined in section  
20 42-5001, to a business classified and reporting transaction privilege tax  
21 under the utilities classification.

22          X. The department may disclose to the attorney general confidential  
23 information requested by the attorney general for the purposes of determining  
24 compliance with and enforcing section 36-798.06.

25          Y. The department may disclose to an official of any city, town or  
26 county in a current agreement or considering a prospective agreement with the  
27 department as described in section 42-5032.02, subsection F any information  
28 relating to amounts subject to distribution required by section 42-5032.02.  
29 Information disclosed by the department under this subsection:

30           1. May only be used by the city, town or county for internal purposes.

31           2. May not be disclosed to the public in any manner that does not  
32 comply with confidentiality standards established by the department. The  
33 city, town or county must agree with the department in writing that any  
34 release of confidential information that violates the confidentiality  
35 standards will result in the immediate suspension of any rights of the city,  
36 town or county to receive information under this subsection.

37          Sec. 3. Section 42-2059, Arizona Revised Statutes, is amended to read:  
38 42-2059. No additional audits or proposed assessments;  
39 exceptions

40          A. When the department completes an audit or the findings of a managed  
41 audit are accepted by the director or approved on appeal and a deficiency has  
42 been completely determined under section 42-1108 or chapter 1, article 6 of  
43 this title, the taxpayer's liability for the particular tax for the period  
44 subjected to the audit is fixed and determined, and no additional audit may  
45 be conducted except under the following circumstances:

1           1. If a taxpayer files a claim for refund under section 42-1251,  
2 subsection B or any other provision authorizing a claim for refund. Any  
3 departmental audit of the claim is limited to the issues presented on the  
4 claim for refund.

5           2. Changes or corrections required to be reported to the department by  
6 section 43-327. The department may audit any such reports or any periods for  
7 which a report was required notwithstanding this section and may determine a  
8 tax deficiency or a refund.

9           ~~3. An audit of state transaction privilege or use tax does not  
10 preclude a subsequent audit for a city or town. An audit of transaction  
11 privilege or use tax for a city or town does not preclude a subsequent audit  
12 for this state.~~

13           ~~4.~~ 3. If the taxpayer failed to disclose material information during  
14 the audit, or has falsified books or records or otherwise engaged in an  
15 action that prevented the department from conducting an accurate audit, the  
16 applicability of this subsection may be part of a subsequent protest and may  
17 be contested by the taxpayer pursuant to chapter 1, article 6 of this title.

18           ~~5.~~ 4. If a managed audit is completed under the terms of a limited  
19 managed audit agreement, the department may audit the issues not covered by  
20 the limited managed audit agreement within the statute of limitations  
21 prescribed by section 42-1104.

22           B. If the department issues a notice of proposed assessment of taxes  
23 imposed by chapter 5, article 1 or 4 of this title or title 43, chapter 10,  
24 the department may not increase the amount of the proposed assessment except  
25 in one or more of the following circumstances:

- 26           1. The taxpayer has made a material misrepresentation of facts.  
27           2. The taxpayer has failed to disclose a material fact to the auditor.  
28           3. The department has requested information and the taxpayer fails to  
29 provide that information to the department.

30           4. After issuing the notice of proposed assessment but before the  
31 assessment becomes final the tax court, court of appeals or supreme court  
32 issues a decision, the application of which causes the tax initially proposed  
33 to increase.

34           C. Subsection B of this section does not apply to changes or  
35 corrections that are required to be reported to the department by section  
36 43-327.

37           Sec. 4. Section 42-2075, Arizona Revised Statutes, is amended to read:  
38 42-2075. Audit duration; definition

39           A. An audit of a taxpayer's return or claim for refund shall not  
40 exceed two years from the date of initial audit contact to the issuance of a  
41 notice of proposed deficiency assessment or proposed overpayment, except:

- 42           1. An audit of a fraudulent tax return.  
43           2. An audit delayed as the result of the taxpayer's bankruptcy  
44 proceeding.



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

4 C. The department may prescribe a form for the certificate described  
5 in subsection A of this section. Under such rules as it may prescribe, the  
6 department may also describe transactions with respect to which a person is  
7 not entitled to rely solely on the information contained in the certificate  
8 provided for in subsection A of this section but must instead obtain such  
9 additional information as required by the rules in order to be entitled to  
10 the deduction.

11 D. If a seller is entitled to a deduction by complying with subsection  
12 A of this section, the department may require the purchaser that caused the  
13 execution of the certificate to establish the accuracy and completeness of  
14 the information required to be contained in the certificate that would  
15 entitle the seller to the deduction. If the purchaser cannot establish the  
16 accuracy and completeness of the information, the purchaser is liable in an  
17 amount equal to any tax, penalty and interest that the seller would have been  
18 required to pay under this article if the seller had not complied with  
19 subsection A of this section. Payment of the amount under this subsection  
20 exempts the purchaser from liability for any tax imposed under article 4 of  
21 this chapter. The amount shall be treated as tax revenues collected from the  
22 seller in order to designate the distribution base for purposes of section  
23 42-5029.

24 E. If a seller is entitled to a deduction by complying with subsection  
25 B of this section, the department may require the purchaser to establish the  
26 accuracy and completeness of the information provided to the seller that  
27 entitled the seller to the deduction. If the purchaser cannot establish the  
28 accuracy and completeness of the information, the purchaser is liable in an  
29 amount equal to any tax, penalty and interest that the seller would have been  
30 required to pay under this article if the seller had not complied with  
31 subsection B of this section. Payment of the amount under this subsection  
32 exempts the purchaser from liability for any tax imposed under article 4 of  
33 this chapter. The amount shall be treated as tax revenues collected from the  
34 seller in order to designate the distribution base for purposes of section  
35 42-5029.

36 F. The department may prescribe a form for a certificate used to  
37 establish entitlement to the deductions described in section 42-5061,  
38 subsection A, paragraph ~~47~~ 46 and section 42-5063, subsection B, paragraph 3.  
39 Under rules the department may prescribe, the department may also require  
40 additional information for the seller to be entitled to the deduction. If a  
41 seller is entitled to the deductions described in section 42-5061, subsection  
42 A, paragraph ~~47~~ 46 and section 42-5063, subsection B, paragraph 3, the  
43 department may require the purchaser who executed the certificate to  
44 establish the accuracy and completeness of the information contained in the  
45 certificate that would entitle the seller to the deduction. If the purchaser

1 cannot establish the accuracy and completeness of the information, the  
2 purchaser is liable in an amount equal to any tax, penalty and interest that  
3 the seller would have been required to pay under this article. Payment of  
4 the amount under this subsection exempts the purchaser from liability for any  
5 tax imposed under article 4 of this chapter. The amount shall be treated as  
6 tax revenues collected from the seller in order to designate the distribution  
7 base for purposes of section 42-5029.

8 G. If a seller claims a deduction under section 42-5061, subsection A,  
9 paragraph 25 and establishes entitlement to the deduction with an exemption  
10 letter that the purchaser received from the department and the exemption  
11 letter was based on a contingent event, the department may require the  
12 purchaser that received the exemption letter to establish the satisfaction of  
13 the contingent event within a reasonable time. If the purchaser cannot  
14 establish the satisfaction of the event, the purchaser is liable in an amount  
15 equal to any tax, penalty and interest that the seller would have been  
16 required to pay under this article if the seller had not been furnished the  
17 exemption letter. Payment of the amount under this subsection exempts the  
18 purchaser from liability for any tax imposed under article 4 of this chapter.  
19 The amount shall be treated as tax revenues collected from the seller in  
20 order to designate the distribution base for purposes of section 42-5029.  
21 For the purposes of this subsection, "reasonable time" means a time  
22 limitation that the department determines and that does not exceed the time  
23 limitations pursuant to section 42-1104.

24 H. The department shall prescribe forms for certificates used to  
25 establish the satisfaction of the criteria necessary to qualify the sale of a  
26 motor vehicle for the deductions described in section 42-5061, subsection A,  
27 paragraph 14, paragraph 28, subdivision (a) and paragraph ~~45~~ 44 and  
28 subsection U. To establish entitlement to these deductions, a motor vehicle  
29 dealer shall retain:

30 1. A valid certificate as prescribed by this subsection completed by  
31 the purchaser and obtained prior to the issuance of the nonresident  
32 registration permit authorized by section 28-2154.

33 2. A copy of the nonresident registration permit authorized by section  
34 28-2154.

35 3. A legible copy of a current valid driver license issued to the  
36 purchaser by another state or foreign country that indicates an address  
37 outside of this state. For the sale of a motor vehicle to a nonresident  
38 entity, the entity's representative must have a current valid driver license  
39 issued by the same jurisdiction as that in which the entity is located.

40 4. For the purposes of the deduction provided by section 42-5061,  
41 subsection A, paragraph 14, a certificate documenting the delivery of the  
42 motor vehicle to an out-of-state location.

43 I. Notwithstanding subsection A, paragraph 2 of this section, if a  
44 motor vehicle dealer has established entitlement to a deduction by complying  
45 with subsection H of this section, the department may require the purchaser

1 who executed the certificate to establish the accuracy and completeness of  
2 the information contained in the certificate that entitled the motor vehicle  
3 dealer to the deduction. If the purchaser cannot establish the accuracy and  
4 completeness of the information, the purchaser is liable in an amount equal  
5 to any tax, penalty and interest that the motor vehicle dealer would have  
6 been required to pay under this article and under articles IV and V of the  
7 model city tax code as defined in section 42-6051. Payment of the amount  
8 under this subsection exempts the purchaser from liability for any tax  
9 imposed under article 4 of this chapter and any tax imposed under article VI  
10 of the model city tax code as defined in section 42-6051. The amount shall  
11 be treated as tax revenues collected from the motor vehicle dealer in order  
12 to designate the distribution base for purposes of section 42-5029.

13 J. Notwithstanding any other law, compliance with subsection H of this  
14 section by a motor vehicle dealer entitles the motor vehicle dealer to the  
15 exemption provided in section 42-6004, subsection A, paragraph 4.

16 K. THE DEPARTMENT SHALL PRESCRIBE A FORM FOR A CERTIFICATE TO BE USED  
17 BY A CONTRACTOR THAT IS NOT OTHERWISE SUBJECT TO TAX UNDER SECTION 42-5075  
18 WHEN PURCHASING TANGIBLE PERSONAL PROPERTY TO BE INCORPORATED OR FABRICATED  
19 BY THE PERSON INTO ANY REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR  
20 IMPROVEMENT. THE CONTRACTOR SHALL OBTAIN A NEW CERTIFICATE FOR EACH PROJECT  
21 AND IS SUBJECT TO THE FOLLOWING CONDITIONS:

22 1. THE CONTRACTOR IS NOT WORKING FOR THE OWNER OF THE REAL PROPERTY  
23 BUT IS WORKING ON A JOB THAT IS IN THE CONTROL OF A PRIME CONTRACTOR AND THAT  
24 THE PRIME CONTRACTOR IS LIABLE FOR THE TAX ON THE GROSS INCOME, GROSS  
25 PROCEEDS OF SALES OR GROSS RECEIPTS ATTRIBUTABLE TO THE JOB AND FROM WHICH  
26 THE CONTRACTOR IS PAID.

27 2. THE CONTRACTOR MAY USE THE CERTIFICATE ISSUED PURSUANT TO THIS  
28 SUBSECTION ONLY WITH RESPECT TO MATERIALS THAT WILL BE INCORPORATED INTO A  
29 PROJECT THE GROSS RECEIPTS OF WHICH ARE SUBJECT TO TAX UNDER SECTION 42-5075.

30 3. THE DEPARTMENT SHALL ISSUE THE CERTIFICATE TO THE CONTRACTOR ON  
31 RECEIVING SUFFICIENT DOCUMENTATION TO ESTABLISH THAT THE CONTRACTOR MEETS THE  
32 REQUIREMENTS OF THIS SUBSECTION.

33 4. THE DEPARTMENT SHALL NOT ISSUE A CERTIFICATE TO A CONTRACTOR THAT  
34 HAS A DELINQUENT TAX BALANCE OWING THE DEPARTMENT UNDER THIS TITLE OR  
35 TITLE 43.

36 5. IF THE DEPARTMENT DETERMINES THAT THE CONTRACTOR HAS FAILED TO MEET  
37 ANY OF THE REQUIREMENTS OF THIS SUBSECTION, ANY DEDUCTIONS FROM TAXATION FROM  
38 THE USE OF THE CERTIFICATE ARE SUBJECT TO RECAPTURE AND PAYMENT BY THE  
39 CONTRACTOR.

40 Sec. 6. Section 42-5010, Arizona Revised Statutes, is amended to read:  
41 42-5010. Rates; distribution base

42 A. The tax imposed by this article is levied and shall be collected at  
43 the following rates:

1           1. Five per cent of the tax base as computed for the business of every  
2 person engaging or continuing in this state in the following business  
3 classifications described in article 2 of this chapter:

- 4           (a) Transporting classification.
- 5           (b) Utilities classification.
- 6           (c) Telecommunications classification.
- 7           (d) Pipeline classification.
- 8           (e) Private car line classification.
- 9           (f) Publication classification.
- 10          (g) Job printing classification.
- 11          (h) Prime contracting classification.
- 12          ~~(i) Owner-builder sales classification.~~
- 13          ~~(j)~~ (i) Amusement classification.
- 14          ~~(k)~~ (j) Restaurant classification.
- 15          ~~(l)~~ (k) Personal property rental classification.
- 16          ~~(m)~~ (l) Retail classification.

17           2. Five and one-half per cent of the tax base as computed for the  
18 business of every person engaging or continuing in this state in the  
19 transient lodging classification described in section 42-5070.

20           3. Three and one-eighth per cent of the tax base as computed for the  
21 business of every person engaging or continuing in this state in the mining  
22 classification described in section 42-5072.

23           4. Zero per cent of the tax base as computed for the business of every  
24 person engaging or continuing in this state in the commercial lease  
25 classification described in section 42-5069.

26           B. Except as provided by subsection J of this section, twenty per cent  
27 of the tax revenues collected at the rate prescribed by subsection A,  
28 paragraph 1 of this section from persons on account of engaging in business  
29 under the business classifications listed in subsection A, paragraph 1,  
30 subdivisions (a) through ~~(i)~~ (h) of this section is designated as  
31 distribution base for purposes of section 42-5029.

32           C. Forty per cent of the tax revenues collected at the rate prescribed  
33 by subsection A, paragraph 1 of this section from persons on account of  
34 engaging in business under the business classifications listed in subsection  
35 A, paragraph 1, subdivisions ~~(j)~~ (i) through ~~(m)~~ (l) of this section is  
36 designated as distribution base for purposes of section 42-5029.

37           D. Thirty-two per cent of the tax revenues collected from persons on  
38 account of engaging in business under the business classification listed in  
39 subsection A, paragraph 3 of this section is designated as distribution base  
40 for purposes of section 42-5029.

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

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

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

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

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

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

37 2. The provisions of this subsection apply without regard to the  
38 accounting method used by the taxpayer to report the taxes imposed under  
39 article 2 of this chapter.

40 3. The provisions of this subsection shall not be considered in  
41 determining the rate of tax imposed under chapter 6, article 3 of this title.

42 J. Zero per cent of the tax revenues that are collected at the rate  
43 prescribed by subsection A, paragraph 1 of this section from persons on  
44 account of engaging in business under the business classification listed in  
45 subsection A, paragraph 1, subdivision ~~(h)~~ (l) of this section, and that are

1 subject to any distribution required by section 42-5032.02, is designated as  
2 distribution base for the purposes of section 42-5029 until the total amount  
3 subject to distribution pursuant to section 42-5032.02 has reached the  
4 maximum amount prescribed by section 42-5032.02, subsection C. Thereafter,  
5 twenty per cent of the remaining tax revenues is designated as distribution  
6 base for the purposes of section 42-5029 as provided by subsection B of this  
7 section.

8 Sec. 7. Section 42-5014, Arizona Revised Statutes, is amended to read:  
9 42-5014. Return and payment of tax; estimated tax; extensions;  
10 abatements

11 A. Except as provided in subsection B, C or D of this section, the  
12 taxes levied under this article:

13 1. Are due and payable monthly in the form required by section 42-5018  
14 for the amount of the tax, to the department, on or before the twentieth day  
15 of the month next succeeding the month in which the tax accrues.

16 2. Are delinquent as follows:

17 (a) For taxpayers electing to file by mail, if not postmarked on or  
18 before the twenty-fifth day of that month or if not received by the  
19 department on or before the business day preceding the last business day of  
20 the month.

21 (b) For taxpayers electing to file and pay electronically in any  
22 month, if not received by the department on or before the last business day  
23 of the month.

24 (c) For all other taxpayers, if not received by the department on or  
25 before the business day preceding the last business day of the month.

26 B. The department, for any taxpayer whose estimated annual liability  
27 for taxes imposed by this article is between five hundred dollars and one  
28 thousand two hundred fifty dollars, may authorize such taxpayer to pay such  
29 taxes on a quarterly basis. The department, for any taxpayer whose estimated  
30 annual liability for taxes imposed by this article is five hundred dollars or  
31 less, may authorize such taxpayer to pay such taxes on an annual basis.

32 C. The department may require a taxpayer whose business is of a  
33 transient character to file the return and remit the taxes imposed by this  
34 article on a daily, a weekly or a transaction by transaction basis, and those  
35 returns and payments are due and payable on the date fixed by the department  
36 without a grace period otherwise allowed by this section. For the purposes  
37 of this subsection, "business of a transient character" means sales activity  
38 by a taxpayer not regularly engaged in selling within the state conducted  
39 from vehicles, portable stands, rented spaces, structures or booths, or  
40 concessions at fairs, carnivals, circuses, festivals or similar activities  
41 for not more than thirty consecutive days.

42 D. In 2010, 2011 and 2012, if a business entity under which a taxpayer  
43 reports and pays income tax under title 43 has an annual total tax liability  
44 under this article, article 6 of this chapter and chapter 6, article 3 of  
45 this title in calendar year 2010, 2011 or 2012 of one hundred thousand

1 dollars or more, based on the actual tax liability in calendar year 2009,  
2 2010 or 2011, regardless of the number of offices at which the taxes imposed  
3 by this article, article 6 of this chapter or chapter 6, article 3 of this  
4 title are collected, or if the taxpayer can reasonably anticipate such  
5 liability in calendar year 2010, 2011 or 2012, the taxpayer shall report on a  
6 form prescribed by the department and pay an estimated tax payment in June,  
7 2010, 2011 or 2012. Thereafter, if the business entity under which a  
8 taxpayer reports and pays income tax under title 43 has an annual total tax  
9 liability under this article, article 6 of this chapter and chapter 6,  
10 article 3 of this title of one million dollars or more, based on the actual  
11 tax liability in the preceding calendar year, regardless of the number of  
12 offices at which the taxes imposed by this article, article 6 of this chapter  
13 or chapter 6, article 3 of this title are collected, or if the taxpayer can  
14 reasonably anticipate such liability in the current year, the taxpayer shall  
15 report on a form prescribed by the department and pay an estimated tax  
16 payment each June. Any other taxpayer may voluntarily elect to pay the  
17 estimated tax payment pursuant to this subsection. The payment shall be made  
18 on or before June 20 and is delinquent if not postmarked on or before that  
19 date or if not received by the department on or before the business day  
20 preceding the last business day of June for those taxpayers electing to file  
21 by mail, or delinquent if not received by the department on the business day  
22 preceding the last business day of June for those taxpayers electing to file  
23 in person. The estimated tax paid shall be credited against the taxpayer's  
24 tax liability under this article, article 6 of this chapter and chapter 6,  
25 article 3 of this title for the month of June for the current calendar year.  
26 The estimated tax payment shall equal either:

27 1. One-half of the actual tax liability under this article plus  
28 one-half of any tax liability under article 6 of this chapter and chapter 6,  
29 article 3 of this title for May of the current calendar year.

30 2. The actual tax liability under this article plus any tax liability  
31 under article 6 of this chapter and chapter 6, article 3 of this title for  
32 the first fifteen days of June of the current calendar year.

33 E. The taxpayer shall prepare a return showing the amount of the tax  
34 for which the taxpayer is liable for the preceding month, and shall mail or  
35 deliver the return to the department in the same manner and time as  
36 prescribed for the payment of taxes in subsection A of this section. If the  
37 taxpayer fails to file the return in the manner and time as prescribed for  
38 the payment of taxes in subsection A of this section, the amount of the tax  
39 required to be shown on the return is subject to the penalty imposed pursuant  
40 to section 42-1125, subsection A, without any reduction for taxes paid on or  
41 before the due date of the return. The return shall be verified by the oath  
42 of the taxpayer or an authorized agent or as prescribed by the department  
43 pursuant to section 42-1105, subsection B.

44 F. Any person who is taxable under this article and who makes cash and  
45 credit sales shall report such cash and credit sales separately and upon

1 making application may obtain from the department an extension of time for  
2 payment of taxes due on the credit sales. The extension shall be granted by  
3 the department under such rules as the department prescribes. When the  
4 extension is granted, the taxpayer shall thereafter include in each monthly  
5 report all collections made on such credit sales during the month next  
6 preceding and shall pay the taxes due at the time of filing such report.

7 G. The returns required under this article shall be made upon forms  
8 prescribed by the department **AND SHALL CAPTURE DATA WITH SUFFICIENT**  
9 **SPECIFICITY TO MEET THE NEEDS OF ALL TAXING JURISDICTIONS.**

10 H. The department, for good cause, may extend the time for making any  
11 return required by this article and may grant such reasonable additional time  
12 within which to make the return as it deems proper, but the time for filing  
13 the return shall not be extended beyond the first day of the third month next  
14 succeeding the regular due date of the return.

15 I. The department, with the approval of the attorney general, may  
16 abate small tax balances if the administration costs exceed the amount of tax  
17 due.

18 J. For the purposes of subsection D of this section, "taxpayer" means  
19 the business entity under which the business reports and pays state income  
20 taxes regardless of the number of offices at which the taxes imposed by this  
21 article, article 6 of this chapter or chapter 6, article 3 of this title are  
22 collected.

23 Sec. 8. Title 42, chapter 5, article 1, Arizona Revised Statutes, is  
24 amended by adding section 42-5015, to read:

25 **42-5015. Online portal**

26 **ON OR BEFORE JANUARY 1, 2015, THE ONLINE PORTAL PRESCRIBED BY SECTION**  
27 **42-6001 SHALL BE MODIFIED SO THAT A TAXPAYER WHO IS REQUIRED TO PAY ANY**  
28 **TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAXES TO THIS STATE OR A COUNTY**  
29 **OR MUNICIPALITY MAY REPORT AND PAY THE REQUIRED TAX THROUGH THE ONLINE**  
30 **PORTAL. THE ONLINE PORTAL SHALL BE ADMINISTERED BY THE DEPARTMENT OF**  
31 **REVENUE. THE COSTS OF THE ONLINE PORTAL SHALL BE PAID BY THE CITIES AND**  
32 **TOWNS THAT DID NOT HAVE AN INTERGOVERNMENTAL CONTRACT OR AGREEMENT IN EFFECT**  
33 **AS OF JANUARY 1, 2013 WITH THE DEPARTMENT TO PROVIDE FOR UNIFIED OR**  
34 **COORDINATED LICENSING, COLLECTION AND AUDITING PROGRAMS. THE EXPANDED ONLINE**  
35 **PORTAL SHALL:**

36 **1. INCLUDE A SINGLE POINT FOR LICENSING, FILING A SINGLE RETURN AND**  
37 **PAYING TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAXES FOR ALL STATE,**  
38 **COUNTY AND MUNICIPAL TAXING JURISDICTIONS.**

39 **2. CONSOLIDATE DATA IN A MANNER COMPATIBLE WITH THE DATA SYSTEMS OF**  
40 **THE DEPARTMENT OF REVENUE.**

41 **3. CAPTURE DATA WITH SUFFICIENT SPECIFICITY TO MEET THE NEEDS OF THE**  
42 **TAXING JURISDICTIONS.**

43 **4. ALLOW FOR IDENTIFICATION OF THE CORRECT TAXING JURISDICTIONS AND**  
44 **TAX RATES BASED ON THE PLACE WHERE THE TRANSACTION IS SOURCED.**

1           Sec. 9. Section 42-5029, Arizona Revised Statutes, is amended to read:  
2           42-5029. Remission and distribution of monies; definition  
3           A. The department shall deposit, pursuant to sections 35-146 and  
4           35-147, all revenues collected under this article and articles 4, 5 and 8 of  
5           this chapter pursuant to section 42-1116, separately accounting for:  
6           1. Payments of estimated tax under section 42-5014, subsection D.  
7           2. Revenues collected pursuant to section 42-5070.  
8           3. Revenues collected under this article and article 5 of this chapter  
9           from and after June 30, 2000 from sources located on Indian reservations in  
10          this state.  
11          4. Revenues collected pursuant to section 42-5010, subsection G and  
12          section 42-5155, subsection D.  
13          B. The department shall credit payments of estimated tax to an  
14          estimated tax clearing account and each month shall transfer all monies in  
15          the estimated tax clearing account to a fund designated as the transaction  
16          privilege and severance tax clearing account. The department shall credit  
17          all other payments to the transaction privilege and severance tax clearing  
18          account, separately accounting for the monies designated as distribution base  
19          under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the  
20          department shall report to the state treasurer the amount of monies collected  
21          pursuant to this article and articles 4, 5 and 8 of this chapter.  
22          C. On notification by the department, the state treasurer shall  
23          distribute the monies deposited in the transaction privilege and severance  
24          tax clearing account in the manner prescribed by this section and by sections  
25          42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the  
26          account pursuant to sections 42-1118 and 42-1254.  
27          D. Of the monies designated as distribution base the department shall:  
28          1. Pay twenty-five per cent to the various incorporated municipalities  
29          in this state in proportion to their population to be used by the  
30          municipalities for any municipal purpose.  
31          2. Pay 38.08 per cent to the counties in this state by averaging the  
32          following proportions:  
33               (a) The proportion that the population of each county bears to the  
34               total state population.  
35               (b) The proportion that the distribution base monies collected during  
36               the calendar month in each county under this article, section 42-5164,  
37               subsection B, section 42-5205, subsection B and section 42-5353 bear to the  
38               total distribution base monies collected under this article, section 42-5164,  
39               subsection B, section 42-5205, subsection B and section 42-5353 throughout  
40               the state for the calendar month.  
41          3. Pay an additional 2.43 per cent to the counties in this state as  
42          follows:  
43               (a) Average the following proportions:  
44                   (i) The proportion that the assessed valuation used to determine  
45                   secondary property taxes of each county, after deducting that part of the

1 assessed valuation that is exempt from taxation at the beginning of the month  
2 for which the amount is to be paid, bears to the total assessed valuations  
3 used to determine secondary property taxes of all the counties after  
4 deducting that portion of the assessed valuations that is exempt from  
5 taxation at the beginning of the month for which the amount is to be paid.  
6 Property of a city or town that is not within or contiguous to the municipal  
7 corporate boundaries and from which water is or may be withdrawn or diverted  
8 and transported for use on other property is considered to be taxable  
9 property in the county for purposes of determining assessed valuation in the  
10 county under this item.

11 (ii) The proportion that the distribution base monies collected during  
12 the calendar month in each county under this article, section 42-5164,  
13 subsection B, section 42-5205, subsection B and section 42-5353 bear to the  
14 total distribution base monies collected under this article, section 42-5164,  
15 subsection B, section 42-5205, subsection B and section 42-5353 throughout  
16 the state for the calendar month.

17 (b) If the proportion computed under subdivision (a) of this paragraph  
18 for any county is greater than the proportion computed under paragraph 2 of  
19 this subsection, the department shall compute the difference between the  
20 amount distributed to that county under paragraph 2 of this subsection and  
21 the amount that would have been distributed under paragraph 2 of this  
22 subsection using the proportion computed under subdivision (a) of this  
23 paragraph and shall pay that difference to the county from the amount  
24 available for distribution under this paragraph. Any monies remaining after  
25 all payments under this subdivision shall be distributed among the counties  
26 according to the proportions computed under paragraph 2 of this subsection.

27 4. After any distributions required by sections 42-5030, 42-5030.01,  
28 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to  
29 the water quality assurance revolving fund as required by section 49-282,  
30 subsection B, credit the remainder of the monies designated as distribution  
31 base to the state general fund. From this amount the legislature shall  
32 annually appropriate to:

33 (a) The department of revenue sufficient monies to administer and  
34 enforce this article and articles 5 and 8 of this chapter.

35 (b) The department of economic security monies to be used for the  
36 purposes stated in title 46, chapter 1.

37 (c) The firearms safety and ranges fund established by section 17-273,  
38 fifty thousand dollars derived from the taxes collected from the retail  
39 classification pursuant to section 42-5061 for the current fiscal year.

40 E. If approved by the qualified electors voting at a statewide general  
41 election, all monies collected pursuant to section 42-5010, subsection G and  
42 section 42-5155, subsection D shall be distributed each fiscal year pursuant  
43 to this subsection. The monies distributed pursuant to this subsection are  
44 in addition to any other appropriation, transfer or other allocation of  
45 public or private monies from any other source and shall not supplant,

1 replace or cause a reduction in other school district, charter school,  
2 university or community college funding sources. The monies shall be  
3 distributed as follows:

4 1. If there are outstanding state school facilities revenue bonds  
5 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the  
6 amount that is necessary to pay the fiscal year's debt service on outstanding  
7 state school improvement revenue bonds for the current fiscal year shall be  
8 transferred each month to the school improvement revenue bond debt service  
9 fund established by section 15-2084. The total amount of bonds for which  
10 these monies may be allocated for the payment of debt service shall not  
11 exceed a principal amount of eight hundred million dollars exclusive of  
12 refunding bonds and other refinancing obligations.

13 2. After any transfer of monies pursuant to paragraph 1 of this  
14 subsection, twelve per cent of the remaining monies collected during the  
15 preceding month shall be transferred to the technology and research  
16 initiative fund established by section 15-1648 to be distributed among the  
17 universities for the purpose of investment in technology and research-based  
18 initiatives.

19 3. After the transfer of monies pursuant to paragraph 1 of this  
20 subsection, three per cent of the remaining monies collected during the  
21 preceding month shall be transferred to the workforce development account  
22 established in each community college district pursuant to section 15-1472  
23 for the purpose of investment in workforce development programs.

24 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
25 subsection, one-twelfth of the amount a community college that is owned,  
26 operated or chartered by a qualifying Indian tribe on its own Indian  
27 reservation would receive pursuant to section 15-1472, subsection D,  
28 paragraph 2 if it were a community college district shall be distributed each  
29 month to the treasurer or other designated depository of a qualifying Indian  
30 tribe. Monies distributed pursuant to this paragraph are for the exclusive  
31 purpose of providing support to one or more community colleges owned,  
32 operated or chartered by a qualifying Indian tribe and shall be used in a  
33 manner consistent with section 15-1472, subsection B. For the purposes of  
34 this paragraph, "qualifying Indian tribe" has the same meaning as defined in  
35 section 42-5031.01, subsection D.

36 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
37 subsection, one-twelfth of the following amounts shall be transferred each  
38 month to the department of education for the increased cost of basic state  
39 aid under section 15-971 due to added school days and associated teacher  
40 salary increases enacted in 2000:

- 41 (a) In fiscal year 2001-2002, \$15,305,900.
- 42 (b) In fiscal year 2002-2003, \$31,530,100.
- 43 (c) In fiscal year 2003-2004, \$48,727,700.
- 44 (d) In fiscal year 2004-2005, \$66,957,200.

1 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
2 \$86,280,500.

3 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
4 subsection, seven million eight hundred thousand dollars is appropriated each  
5 fiscal year, to be paid in monthly installments, to the department of  
6 education to be used for school safety as provided in section 15-154 and two  
7 hundred thousand dollars is appropriated each fiscal year, to be paid in  
8 monthly installments to the department of education to be used for the  
9 character education matching grant program as provided in section 15-154.01.

10 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
11 subsection, no more than seven million dollars may be appropriated by the  
12 legislature each fiscal year to the department of education to be used for  
13 accountability purposes as described in section 15-241 and title 15, chapter  
14 9, article 8.

15 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
16 subsection, one million five hundred thousand dollars is appropriated each  
17 fiscal year, to be paid in monthly installments, to the failing schools  
18 tutoring fund established by section 15-241.

19 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
20 subsection, twenty-five million dollars shall be transferred each fiscal year  
21 to the state general fund to reimburse the general fund for the cost of the  
22 income tax credit allowed by section 43-1072.01.

23 10. After the payment of monies pursuant to paragraphs 1 through 9 of  
24 this subsection, the remaining monies collected during the preceding month  
25 shall be transferred to the classroom site fund established by section  
26 15-977. The monies shall be allocated as follows in the manner prescribed by  
27 section 15-977:

28 (a) Forty per cent shall be allocated for teacher compensation based  
29 on performance.

30 (b) Twenty per cent shall be allocated for increases in teacher base  
31 compensation and employee related expenses.

32 (c) Forty per cent shall be allocated for maintenance and operation  
33 purposes.

34 F. The department shall credit the remainder of the monies in the  
35 transaction privilege and severance tax clearing account to the state general  
36 fund, subject to any distribution required by section 42-5030.01.

37 G. Notwithstanding subsection D of this section, if a court of  
38 competent jurisdiction finally determines that tax monies distributed under  
39 this section were illegally collected under this article or articles 5 and 8  
40 of this chapter and orders the monies to be refunded to the taxpayer, the  
41 department shall compute the amount of such monies that was distributed to  
42 each city, town and county under this section. ~~The department shall notify~~  
43 ~~the state treasurer of that amount plus the proportionate share of additional~~  
44 ~~allocated costs required to be paid to the taxpayer.~~ Each city's, town's and  
45 county's proportionate share of the costs shall be based on the amount of the

1 original tax payment each municipality and county received. Each month the  
2 state treasurer shall reduce the amount otherwise distributable to the city,  
3 town and county under this section by one thirty-sixth of the total amount to  
4 be recovered from the city, town or county until the total amount has been  
5 recovered, but the monthly reduction for any city, town or county shall not  
6 exceed ten per cent of the full monthly distribution to that entity. The  
7 reduction shall begin for the first calendar month after the final  
8 disposition of the case and shall continue until the total amount, including  
9 interest and costs, has been recovered.

10 H. On receiving a certificate of default from the greater Arizona  
11 development authority pursuant to section 41-2257 or 41-2258 and to the  
12 extent not otherwise expressly prohibited by law, the state treasurer shall  
13 withhold from the next succeeding distribution of monies pursuant to this  
14 section due to the defaulting political subdivision the amount specified in  
15 the certificate of default and immediately deposit the amount withheld in the  
16 greater Arizona development authority revolving fund. The state treasurer  
17 shall continue to withhold and deposit the monies until the greater Arizona  
18 development authority certifies to the state treasurer that the default has  
19 been cured. In no event may the state treasurer withhold any amount that the  
20 defaulting political subdivision certifies to the state treasurer and the  
21 authority as being necessary to make any required deposits then due for the  
22 payment of principal and interest on bonds of the political subdivision that  
23 were issued before the date of the loan repayment agreement or bonds and that  
24 have been secured by a pledge of distributions made pursuant to this section.

25 I. Except as provided by sections 42-5033 and 42-5033.01, the  
26 population of a county, city or town as determined by the most recent United  
27 States decennial census plus any revisions to the decennial census certified  
28 by the United States bureau of the census shall be used as the basis for  
29 apportioning monies pursuant to subsection D of this section.

30 J. Except as otherwise provided by this subsection, on notice from the  
31 department of revenue pursuant to section 42-6010, subsection B, the state  
32 treasurer shall withhold from the distribution of monies pursuant to this  
33 section to the affected city or town the amount of the penalty for business  
34 location municipal tax incentives provided by the city or town to a business  
35 entity that locates a retail business facility in the city or town. The  
36 state treasurer shall continue to withhold monies pursuant to this subsection  
37 until the entire amount of the penalty has been withheld. The state  
38 treasurer shall credit any monies withheld pursuant to this subsection to the  
39 state general fund as provided by subsection D, paragraph 4 of this section.  
40 The state treasurer shall not withhold any amount that the city or town  
41 certifies to the department of revenue and the state treasurer as being  
42 necessary to make any required deposits or payments for debt service on bonds  
43 or other long-term obligations of the city or town that were issued or  
44 incurred before the location incentives provided by the city or town.

1 K. On notice from the auditor general pursuant to section 9-626,  
2 subsection D, the state treasurer shall withhold from the distribution of  
3 monies pursuant to this section to the affected city the amount computed  
4 pursuant to section 9-626, subsection D. The state treasurer shall continue  
5 to withhold monies pursuant to this subsection until the entire amount  
6 specified in the notice has been withheld. The state treasurer shall credit  
7 any monies withheld pursuant to this subsection to the state general fund as  
8 provided by subsection D, paragraph 4 of this section.

9 L. For the purposes of this section, "community college district"  
10 means a community college district that is established pursuant to sections  
11 15-1402 and 15-1403 and that is a political subdivision of this state and,  
12 unless otherwise specified, includes a community college district established  
13 pursuant to section 15-1402.01 and a provisional community college district  
14 established pursuant to section 15-1409.

15 Sec. 10. Section 42-5032.01, Arizona Revised Statutes, is amended to  
16 read:

17 42-5032.01. Distribution of revenues for tourism and sports  
18 authority

19 A. Each month the state treasurer shall pay, from the amount  
20 designated as distribution base pursuant to section 42-5029, subsection D,  
21 the amount determined under subsection B of this section to the tourism and  
22 sports authority for deposit in the authority's facility revenue clearing  
23 account established by section 5-834.

24 B. The amount to be paid under subsection A of this section is the  
25 total amount of state transaction privilege tax revenues received from  
26 persons conducting business under:

27 1. The retail, amusement and restaurant classifications at, or with  
28 respect to events held at, a multipurpose facility that is owned or operated  
29 by the authority pursuant to title 5, chapter 8.

30 2. The retail, amusement and restaurant classifications at, or with  
31 respect to, professional football contests that are held beginning July,~~2001~~  
32 in a stadium located on the campus of an institution under the  
33 jurisdiction of the Arizona board of regents.

34 C. Each month the state treasurer shall pay, from the amount  
35 designated as distribution base pursuant to section 42-5029, subsection D,  
36 the total amount of state transaction privilege tax revenues received from  
37 persons conducting business under the prime contracting classification at a  
38 multipurpose facility that is owned or operated by the tourism and sports  
39 authority pursuant to title 5, chapter 8 for deposit in the authority's  
40 construction account established by section 5-833.

41 ~~D. The department shall report the amounts under subsections B and C~~  
42 ~~of this section to the state treasurer on or before the fifteenth day of each~~  
43 ~~month for payment in the following month.~~

1           Sec. 11. Section 42-5032.02, Arizona Revised Statutes, is amended to  
2 read:

3           42-5032.02. Distribution of revenues for city, town or county  
4                           infrastructure improvements related to  
5                           manufacturing facilities; definitions

6           A. Subject to subsection B of this section, from and after September  
7 30, 2013 through September 30, 2023, each month the state treasurer shall pay  
8 a city, town or county the amount determined under subsection C of this  
9 section for the purpose of funding up to eighty per cent of the cost of  
10 public infrastructure improvements for the benefit of a manufacturing  
11 facility.

12           B. The state treasurer shall not make any payments under subsection C  
13 of this section until both of the following apply:

14           1. Twenty-five per cent of the capital investment that is certified  
15 under subsection D of this section and that constitutes construction phase  
16 services, as defined in section 42-5075, has been made by the manufacturing  
17 facility.

18           2. From and after June 30, 2014.

19           C. The amount to be paid to a city, town or county under subsection A  
20 of this section is the total amount of state transaction privilege tax  
21 revenues collected under section 42-5010, subsection A from persons  
22 conducting business under section 42-5075 derived from contracts to construct  
23 buildings and associated improvements for the benefit of a manufacturing  
24 facility. The total amount paid to all cities, towns and counties under this  
25 subsection shall not exceed a maximum of fifty million dollars.

26           D. Before the commencement of the construction of buildings and  
27 associated improvements for the benefit of a manufacturing facility that will  
28 require a city, town or county to make infrastructure improvements, the  
29 manufacturing facility shall file a sworn certification with the Arizona  
30 commerce authority, and submit a copy of this sworn certification to the  
31 applicable city, town or county, that the manufacturing facility agrees to  
32 either:

33           1. Make at least five hundred million dollars in capital investment if  
34 the manufacturing facility is located in a county that has a population of  
35 eight hundred thousand persons or more.

36           2. Make at least fifty million dollars in capital investment if the  
37 manufacturing facility is located in a county that has a population of less  
38 than eight hundred thousand persons.

39           E. The certification under subsection D of this section shall contain  
40 a sworn statement or certification, signed by an officer of the manufacturing  
41 facility under penalty of perjury, that the information contained is true and  
42 correct according to the best belief and knowledge of the person submitting  
43 the information to the department after a reasonable investigation of the  
44 facts.

1 F. On receipt of a sworn certification from a manufacturing facility  
2 pursuant to subsection D of this section and before the commencement of the  
3 construction of buildings and associated improvements for the benefit of a  
4 manufacturing facility that will require a city, town or county to make  
5 infrastructure improvements, the city, town or county shall enter into a  
6 written agreement with the department. This agreement and any amendments or  
7 changes to the agreement shall:

8 1. State the cost of the public infrastructure improvements and  
9 separately identify the particular improvements that will be made.

10 2. State that the monies received under this section will be used  
11 exclusively to pay for public infrastructure improvements that are necessary  
12 to support the activities of the manufacturing facility.

13 3. State that the city, town or county will pay a minimum of twenty  
14 per cent of the cost of the public infrastructure improvements with its own  
15 monies or with monies from the manufacturing facility.

16 4. State that the city, town or county will immediately notify the  
17 department when monies received under this section exceed eighty per cent of  
18 the cost of the infrastructure improvements and will return the amount of the  
19 excess to the state treasurer for deposit to the state general fund.

20 5. Stipulate the actual amount of the construction funding that will  
21 be derived from sources other than the state.

22 6. Identify the persons who will be prime contractors on the  
23 construction of buildings and associated improvements for the benefit of a  
24 manufacturing facility and state that each prime contractor has been notified  
25 as to which portion of the contractor's income shall be separately identified  
26 to the department pursuant to section 42-5075, subsection H.

27 7. State that the city, town or county agrees that any amounts paid by  
28 the department to a prime contractor as identified under paragraph 6 of this  
29 subsection resulting from an audit adjustment or claim for credit or refund  
30 of taxes described in subsection C of this section shall be recovered by the  
31 department from the city, town or county by reducing the amount paid to the  
32 city, town or county under section 42-5029 from monies designated as  
33 distribution base in the month next succeeding the month in which the  
34 adjustment or claim is paid.

35 8. State that the city, town or county agrees that the department will  
36 use the amounts subject to any distribution required under subsection A of  
37 this section in calculating the maximum amount set by subsection C of this  
38 section.

39 9. State that the city, town or county agrees that if, on notification  
40 by the department, the state treasurer ceases payments because of the  
41 condition described in subsection G of this section, the city, town or county  
42 has no claim to additional payments if the department subsequently pays  
43 amounts to a prime contractor identified in an agreement with any city, town  
44 or county, as described in paragraph 6 of this subsection, due to an audit

1 adjustment or claim for credit or refund of taxes described in subsection C  
2 of this section.

3 10. Provide any other information deemed necessary by the department.

4 G. On notification by the department, the state treasurer shall cease  
5 payments under subsection A of this section if either of the following  
6 occurs:

7 1. A city, town or county has received monies that meet or exceed  
8 eighty per cent of the cost of the public infrastructure improvements that  
9 are necessary to support the activities related to the manufacturing facility  
10 as described in the written agreement pursuant to subsection ~~E~~ F of this  
11 section.

12 2. The total amount subject to any distribution required under  
13 subsection A of this section has met the maximum amount set by subsection C  
14 of this section.

15 H. For the purposes of this section:

16 1. "Associated improvement" includes any public infrastructure  
17 improvement that is made for the benefit of the manufacturing facility  
18 outside of the parcel or parcels of real property where the manufacturing  
19 facility is located.

20 2. "Capital investment" means an expenditure to acquire, lease or  
21 improve property that is used for the benefit of a manufacturing facility,  
22 including land, buildings, machinery and fixtures.

23 3. "Manufacturing facility":

24 (a) Means an establishment ~~THAT IS~~ engaged in the mechanical, physical  
25 or chemical transformation or fabrication of materials, substances or  
26 components into new products in this state, ~~and~~ that is classified within  
27 sections 31 through 33 inclusive of the 2007 edition of the north American  
28 industry classification system as published by the national technical  
29 information service of the United States department of commerce and ~~the~~  
30 ~~establishment~~ THAT agrees to either:

31 ~~(a)~~ (i) Make at least five hundred million dollars in capital  
32 investment if the manufacturing facility is located in a county that has a  
33 population of eight hundred thousand persons or more.

34 ~~(b)~~ (ii) Make at least fifty million dollars in capital investment if  
35 the manufacturing facility is located in a county that has a population of  
36 less than eight hundred thousand persons.

37 ~~Manufacturing facility~~

38 (b) Does not include mining, milling or smelting mineral ore or  
39 generating electricity.

40 4. "Population" means the population determined in the most recent  
41 United States decennial census or the most recent special census as provided  
42 in section 28-6532.

43 5. "Public infrastructure" means water facilities, wastewater  
44 facilities and roads that are necessary to support the activities of the  
45 manufacturing facility.

1           Sec. 12. Title 42, chapter 5, article 1, Arizona Revised Statutes, is  
2 amended by adding section 42-5039, to read:

3           42-5039. Sourcing of certain transactions involving tangible  
4                                   personal property; definitions

5           A. EXCEPT AS PROVIDED IN SECTION 42-5075, RETAIL SALES OF TANGIBLE  
6 PERSONAL PROPERTY SHALL BE SOURCED AS FOLLOWS:

7           1. TO THE SELLER'S BUSINESS LOCATION IF THE SELLER RECEIVES THE ORDER  
8 AT A BUSINESS LOCATION IN THIS STATE.

9           2. TO THE PURCHASER'S LOCATION IN THIS STATE IF THE SELLER RECEIVES  
10 THE ORDER AT A BUSINESS LOCATION OUTSIDE THIS STATE.

11           B. FOR THE PURPOSES OF THIS SECTION, AN ORDER IS RECEIVED WHEN ALL OF  
12 THE INFORMATION NECESSARY TO ACCEPT THE ORDER HAS BEEN RECEIVED BY OR ON  
13 BEHALF OF THE SELLER, REGARDLESS OF WHERE THE ORDER IS ACCEPTED OR APPROVED.  
14 THE PLACE OF BUSINESS OR RESIDENCE OF THE PURCHASER DOES NOT DETERMINE WHERE  
15 THE ORDER IS RECEIVED.

16           C. THE GROSS RECEIPTS FROM LEASING OR RENTING TANGIBLE PERSONAL  
17 PROPERTY SHALL BE SOURCED AS FOLLOWS:

18           1. TO THE LESSOR'S BUSINESS LOCATION IF THE LESSOR HAS A BUSINESS  
19 LOCATION IN THIS STATE.

20           2. TO THE LESSEE'S ADDRESS IF THE LESSOR DOES NOT HAVE A BUSINESS  
21 LOCATION IN THIS STATE. THE GROSS RECEIPTS ARE TAXABLE WHEN THE PROPERTY IS  
22 SHIPPED, DELIVERED OR OTHERWISE BROUGHT INTO THIS STATE FOR USE IN THIS  
23 STATE.

24           D. FOR THE PURPOSES OF THIS SECTION:

25           1. "LESSEE'S ADDRESS" MEANS THE RESIDENTIAL ADDRESS OF AN INDIVIDUAL  
26 LESSEE AND THE PRIMARY BUSINESS ADDRESS OF ANY OTHER LESSEE.

27           2. "LESSOR'S BUSINESS LOCATION" MEANS THE BUSINESS ADDRESS THAT  
28 APPEARS ON THE LESSOR'S TRANSACTION PRIVILEGE TAX LICENSE.

29           Sec. 13. Section 42-5061, Arizona Revised Statutes, is amended to  
30 read:

31           42-5061. Retail classification; definitions

32           A. The retail classification is comprised of the business of selling  
33 tangible personal property at retail. The tax base for the retail  
34 classification is the gross proceeds of sales or gross income derived from  
35 the business. The tax imposed on the retail classification does not apply to  
36 the gross proceeds of sales or gross income from:

37           1. Professional or personal service occupations or businesses that  
38 involve sales or transfers of tangible personal property only as  
39 inconsequential elements.

40           2. Services rendered in addition to selling tangible personal property  
41 at retail.

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

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

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

8           6. Business activity that is properly included in any other business  
9 classification that is taxable under this article.

10          7. The sale of stocks and bonds.

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

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

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

18          11. Prescription eyeglasses or contact lenses.

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

20          13. Durable medical equipment ~~which~~ **THAT** has a center for medicare and  
21 medicaid services common procedure code, is designated reimbursable by  
22 medicare, is prescribed by a person who is licensed under title 32, chapter  
23 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
24 customarily used to serve a medical purpose, is generally not useful to a  
25 person in the absence of illness or injury and is appropriate for use in the  
26 home.

27          14. Sales **OF MOTOR VEHICLES** to nonresidents of this state for use  
28 outside this state if the ~~vendor~~ **MOTOR VEHICLE DEALER** ships or delivers the  
29 ~~tangible personal property~~ **MOTOR VEHICLE TO A DESTINATION** out of this state.

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

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

37          17. Textbooks by any bookstore that are required by any state  
38 university or community college.

39          18. Food and drink to a person ~~who~~ **THAT** is engaged in **A** business that is  
40 classified under the restaurant classification and that provides such food  
41 and drink without monetary charge to its employees for their own consumption  
42 on the premises during the employees' hours of employment.

43          19. Articles of food, drink or condiment and accessory tangible  
44 personal property to a school district or charter school if such articles and  
45 accessory tangible personal property are to be prepared and served to persons

1 for consumption on the premises of a public school within the district or on  
2 the premises of the charter school during school hours.

3 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,  
4 article 1.

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

9 (a) "Monetized bullion" means coins and other forms of money that are  
10 manufactured from gold, silver or other metals and that have been or are used  
11 as a medium of exchange in this or another state, the United States or a  
12 foreign nation.

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

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

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

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

28 25. Tangible personal property sold to:

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

30 (b) A qualifying health care organization as defined in section  
31 42-5001 if the tangible personal property is used by the organization solely  
32 to provide health and medical related educational and charitable services.

33 (c) A qualifying health care organization as defined in section  
34 42-5001 if the organization is dedicated to providing educational,  
35 therapeutic, rehabilitative and family medical education training for blind,  
36 visually impaired and multihandicapped children from the time of birth to age  
37 twenty-one.

38 (d) A qualifying community health center as defined in section  
39 42-5001.

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

43 (f) For taxable periods beginning from and after June 30, 2001, a  
44 nonprofit charitable organization that has qualified under section 501(c)(3)  
45 of the internal revenue code and that provides residential apartment housing

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

6 26. Magazines or other periodicals or other publications by this state  
7 to encourage tourist travel.

8 27. Tangible personal property sold to a person that is subject to tax  
9 under this article by reason of being engaged in business classified under  
10 the prime contracting classification under section 42-5075, ~~or~~ or to a  
11 subcontractor working under the control of a prime contractor that is subject  
12 to tax under article 1 of this chapter, if the property so sold is any of the  
13 following:

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

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

18 28. The sale of a motor vehicle to:

19 (a) A nonresident of this state if the purchaser's state of residence  
20 does not allow a corresponding use tax exemption to the tax imposed by  
21 article 1 of this chapter and if the nonresident has secured a special ninety  
22 day nonresident registration permit for the vehicle as prescribed by sections  
23 28-2154 and 28-2154.01.

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

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

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

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

43 32. Sales of tangible personal property by a nonprofit organization  
44 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
45 501(c)(7) or 501(c)(8) of the internal revenue code if the organization

1 sponsors or operates a rodeo featuring primarily farm and ranch animals and  
2 no part of the organization's net earnings inures to the benefit of any  
3 private shareholder or individual.

4 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
5 propagative material to persons who use those items to commercially produce  
6 agricultural, horticultural, viticultural or floricultural crops in this  
7 state.

8 34. Machinery, equipment, technology or related supplies that are only  
9 useful to assist a person who is physically disabled as defined in section  
10 46-191, has a developmental disability as defined in section 36-551 or has a  
11 head injury as defined in section 41-3201 to be more independent and  
12 functional.

13 ~~35. Sales of tangible personal property that is shipped or delivered~~  
14 ~~directly to a destination outside the United States for use in that foreign~~  
15 ~~country.~~

16 ~~36.~~ 35. Sales of natural gas or liquefied petroleum gas used to propel  
17 a motor vehicle.

18 ~~37.~~ 36. Paper machine clothing, such as forming fabrics and dryer  
19 felts, sold to a paper manufacturer and directly used or consumed in paper  
20 manufacturing.

21 ~~38.~~ 37. Coal, petroleum, coke, natural gas, virgin fuel oil and  
22 electricity sold to a qualified environmental technology manufacturer,  
23 producer or processor as defined in section 41-1514.02 and directly used or  
24 consumed in the generation or provision of on-site power or energy solely for  
25 environmental technology manufacturing, producing or processing or  
26 environmental protection. This paragraph shall apply for twenty full  
27 consecutive calendar or fiscal years from the date the first paper  
28 manufacturing machine is placed in service. In the case of an environmental  
29 technology manufacturer, producer or processor who does not manufacture  
30 paper, the time period shall begin with the date the first manufacturing,  
31 processing or production equipment is placed in service.

32 ~~39.~~ 38. Sales of liquid, solid or gaseous chemicals used in  
33 manufacturing, processing, fabricating, mining, refining, metallurgical  
34 operations, research and development and, beginning on January 1, 1999,  
35 printing, if using or consuming the chemicals, alone or as part of an  
36 integrated system of chemicals, involves direct contact with the materials  
37 from which the product is produced for the purpose of causing or permitting a  
38 chemical or physical change to occur in the materials as part of the  
39 production process. This paragraph does not include chemicals that are used  
40 or consumed in activities such as packaging, storage or transportation but  
41 does not affect any deduction for such chemicals that is otherwise provided  
42 by this section. For the purposes of this paragraph, "printing" means a  
43 commercial printing operation and includes job printing, engraving,  
44 embossing, copying and bookbinding.

1       ~~40-~~ 39. Through December 31, 1994, personal property liquidation  
2 transactions, conducted by a personal property liquidator. From and after  
3 December 31, 1994, personal property liquidation transactions shall be  
4 taxable under this section provided that nothing in this subsection shall be  
5 construed to authorize the taxation of casual activities or transactions  
6 under this chapter. For the purposes of this paragraph:

7       (a) "Personal property liquidation transaction" means a sale of  
8 personal property made by a personal property liquidator acting solely on  
9 behalf of the owner of the personal property sold at the dwelling of the  
10 owner or on the death of any owner, on behalf of the surviving spouse, if  
11 any, any devisee or heir or the personal representative of the estate of the  
12 deceased, if one has been appointed.

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

15       ~~41-~~ 40. Sales of food, drink and condiment for consumption within the  
16 premises of any prison, jail or other institution under the jurisdiction of  
17 the state department of corrections, the department of public safety, the  
18 department of juvenile corrections or a county sheriff.

19       ~~42-~~ 41. A motor vehicle and any repair and replacement parts and  
20 tangible personal property becoming a part of such motor vehicle sold to a  
21 motor carrier who is subject to a fee prescribed in title 28, chapter 16,  
22 article 4 and who is engaged in the business of leasing or renting such  
23 property.

24       ~~43-~~ 42. Livestock and poultry feed, salts, vitamins and other  
25 additives for livestock or poultry consumption that are sold to persons who  
26 are engaged in producing livestock, poultry, or livestock or poultry products  
27 or who are engaged in feeding livestock or poultry commercially. For the  
28 purposes of this paragraph, "poultry" includes ratites.

29       ~~44-~~ 43. Sales of implants used as growth promotants and injectable  
30 medicines, not already exempt under paragraph 8 of this subsection, for  
31 livestock or poultry owned by or in possession of persons who are engaged in  
32 producing livestock, poultry, or livestock or poultry products or who are  
33 engaged in feeding livestock or poultry commercially. For the purposes of  
34 this paragraph, "poultry" includes ratites.

35       ~~45-~~ 44. Sales of motor vehicles at auction to nonresidents of this  
36 state for use outside this state if the vehicles are shipped or delivered out  
37 of this state, regardless of where title to the motor vehicles passes or its  
38 free on board point.

39       ~~46-~~ 45. Tangible personal property sold to a person engaged in  
40 business and subject to tax under the transient lodging classification if the  
41 tangible personal property is a personal hygiene item or articles used by  
42 human beings for food, drink or condiment, except alcoholic beverages, that  
43 are furnished without additional charge to and intended to be consumed by the  
44 transient during the transient's occupancy.

1           ~~47.~~ 46. Sales of alternative fuel, as defined in section 1-215, to a  
2 used oil fuel burner who has received a permit to burn used oil or used oil  
3 fuel under section 49-426 or 49-480.

4           ~~48.~~ 47. Sales of materials that are purchased by or for publicly  
5 funded libraries including school district libraries, charter school  
6 libraries, community college libraries, state university libraries or  
7 federal, state, county or municipal libraries for use by the public as  
8 follows:

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

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

11           ~~49.~~ 48. Tangible personal property sold to a commercial airline and  
12 consisting of food, beverages and condiments and accessories used for serving  
13 the food and beverages, if those items are to be provided without additional  
14 charge to passengers for consumption in flight. For the purposes of this  
15 paragraph, "commercial airline" means a person holding a federal certificate  
16 of public convenience and necessity or foreign air carrier permit for air  
17 transportation to transport persons, property or United States mail in  
18 intrastate, interstate or foreign commerce.

19           ~~50.~~ 49. Sales of alternative fuel vehicles if the vehicle was  
20 manufactured as a diesel fuel vehicle and converted to operate on alternative  
21 fuel and equipment that is installed in a conventional diesel fuel motor  
22 vehicle to convert the vehicle to operate on an alternative fuel, as defined  
23 in section 1-215.

24           ~~51.~~ 50. Sales of any spirituous, vinous or malt liquor by a person  
25 that is licensed in this state as a wholesaler by the department of liquor  
26 licenses and control pursuant to title 4, chapter 2, article 1.

27           ~~52.~~ 51. Sales of tangible personal property to be incorporated or  
28 installed as part of environmental response or remediation activities under  
29 section 42-5075, subsection B, paragraph 6.

30           ~~53.~~ 52. Sales of tangible personal property by a nonprofit  
31 organization that is exempt from taxation under section 501(c)(6) of the  
32 internal revenue code if the organization produces, organizes or promotes  
33 cultural or civic related festivals or events and no part of the  
34 organization's net earnings inures to the benefit of any private shareholder  
35 or individual.

36           ~~54.~~ 53. Through August 31, 2014, sales of Arizona centennial  
37 medallions by the historical advisory commission.

38           ~~55.~~ 54. Application services that are designed to assess or test  
39 student learning or to promote curriculum design or enhancement purchased by  
40 or for any school district, charter school, community college or state  
41 university. For the purposes of this paragraph:

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

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

4 ~~56.~~ 55. Sales of motor vehicle fuel and use fuel to a qualified  
5 business under section 41-1516 for off-road use in harvesting, processing or  
6 transporting qualifying forest products removed from qualifying projects as  
7 defined in section 41-1516.

8 ~~57.~~ 56. Sales of repair parts installed in equipment used directly by  
9 a qualified business under section 41-1516 in harvesting, processing or  
10 transporting qualifying forest products removed from qualifying projects as  
11 defined in section 41-1516.

12 ~~58.~~ 57. Sales or other transfers of renewable energy credits or any  
13 other unit created to track energy derived from renewable energy resources.  
14 For the purposes of this paragraph, "renewable energy credit" means a unit  
15 created administratively by the corporation commission or governing body of a  
16 public power utility to track kilowatt hours of electricity derived from a  
17 renewable energy resource or the kilowatt hour equivalent of conventional  
18 energy resources displaced by distributed renewable energy resources.

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

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

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

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

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

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

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

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

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

16           (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 16. Clean rooms that are used for manufacturing, processing,  
43 fabrication or research and development, as defined in paragraph 14 of this  
44 subsection, of semiconductor products. For the purposes of this paragraph,  
45 "clean room" means all property that comprises or creates an environment

1 where humidity, temperature, particulate matter and contamination are  
2 precisely controlled within specified parameters, without regard to whether  
3 the property is actually contained within that environment or whether any of  
4 the property is affixed to or incorporated into real property. Clean room:

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

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

13 17. Machinery and equipment used directly in the feeding of poultry,  
14 the environmental control of housing for poultry, the movement of eggs within  
15 a production and packaging facility or the sorting or cooling of eggs. This  
16 exemption does not apply to vehicles used for transporting eggs.

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

27 19. Machinery and equipment that are sold to a person engaged in the  
28 commercial production of livestock, livestock products or agricultural,  
29 horticultural, viticultural or floricultural crops or products in this state  
30 and that are used directly and primarily to prevent, monitor, control or  
31 reduce air, water or land pollution.

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

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

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

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

1           21. Qualifying equipment that is purchased from and after June 30, 2004  
2 through June 30, 2024 by a qualified business under section 41-1516 for  
3 harvesting or processing qualifying forest products removed from qualifying  
4 projects as defined in section 41-1516. To qualify for this deduction, the  
5 qualified business at the time of purchase must present its certification  
6 approved by the department.

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

9           1. Expendable materials. For the purposes of this paragraph,  
10 expendable materials do not include any of the categories of tangible  
11 personal property specified in subsection B of this section regardless of the  
12 cost or useful life of that property.

13           2. Janitorial equipment and hand tools.

14           3. Office equipment, furniture and supplies.

15           4. Tangible personal property used in selling or distributing  
16 activities, other than the telecommunications transmissions described in  
17 subsection B, paragraph ~~16~~ 15 of this section.

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

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

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

25           8. **MACHINERY AND EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY USED BY**  
26 **A CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.**

27           D. In addition to the deductions from the tax base prescribed by  
28 subsection A of this section, there shall be deducted from the tax base the  
29 gross proceeds of sales or gross income derived from sales of machinery,  
30 equipment, materials and other tangible personal property used directly and  
31 predominantly to construct a qualified environmental technology  
32 manufacturing, producing or processing facility as described in section  
33 41-1514.02. This subsection applies for ten full consecutive calendar or  
34 fiscal years after the start of initial construction.

35           E. In computing the tax base, gross proceeds of sales or gross income  
36 from retail sales of heavy trucks and trailers does not include any amount  
37 attributable to federal excise taxes imposed by 26 United States Code section  
38 4051.

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

43           G. If a person is engaged in an occupation or business to which  
44 subsection A of this section applies, the person's books shall be kept so as  
45 to show separately the gross proceeds of sales of tangible personal property

1 and the gross income from sales of services, and if not so kept the tax shall  
2 be imposed on the total of the person's gross proceeds of sales of tangible  
3 personal property and gross income from services.

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

10 I. A person who engages in manufacturing, baling, crating, boxing,  
11 barreling, canning, bottling, sacking, preserving, processing or otherwise  
12 preparing for sale or commercial use any livestock, agricultural or  
13 horticultural product or any other product, article, substance or commodity  
14 and who sells the product of such business at retail in this state is deemed,  
15 as to such sales, to be engaged in business classified under the retail  
16 classification. This subsection does not apply to businesses classified  
17 under the:

- 18 1. Transporting classification.
- 19 2. Utilities classification.
- 20 3. Telecommunications classification.
- 21 4. Pipeline classification.
- 22 5. Private car line classification.
- 23 6. Publication classification.
- 24 7. Job printing classification.
- 25 8. Prime contracting classification.
- 26 ~~9. Owner builder sales classification.~~
- 27 ~~10.~~ 9. Restaurant classification.

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

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

32 2. Sales made directly to a manufacturer, modifier, assembler or  
33 repairer if such sales are of any ingredient or component part of products  
34 sold directly to the United States government or its departments or agencies  
35 by the manufacturer, modifier, assembler or repairer.

36 3. Overhead materials or other tangible personal property that is used  
37 in performing a contract between the United States government and a  
38 manufacturer, modifier, assembler or repairer, including property used in  
39 performing a subcontract with a government contractor who is a manufacturer,  
40 modifier, assembler or repairer, to which title passes to the government  
41 under the terms of the contract or subcontract.

42 4. Sales of overhead materials or other tangible personal property to  
43 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
44 sales or gross income derived from the property by the manufacturer,

1 modifier, assembler or repairer will be exempt under paragraph 3 of this  
2 subsection.

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

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

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

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

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

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

22 O. In computing the tax base in the case of the sale or transfer of  
23 wireless telecommunications equipment as an inducement to a customer to enter  
24 into or continue a contract for telecommunications services that are taxable  
25 under section 42-5064, gross proceeds of sales or gross income does not  
26 include any sales commissions or other compensation received by the retailer  
27 as a result of the customer entering into or continuing a contract for the  
28 telecommunications services.

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

34 Q. Retail sales of prepaid calling cards or prepaid authorization  
35 numbers for telecommunications services, including sales of reauthorization  
36 of a prepaid card or authorization number, are subject to tax under this  
37 section.

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

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

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

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

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

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

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

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

36           V. For the purposes of this section:

37           1. "Aircraft" includes:

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

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

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

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

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

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

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

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

19          4. "Overhead materials" means tangible personal property, the gross  
20 proceeds of sales or gross income derived from that would otherwise be  
21 included in the retail classification, and that are used or consumed in the  
22 performance of a contract, the cost of which is charged to an overhead  
23 expense account and allocated to various contracts based on generally  
24 accepted accounting principles and consistent with government contract  
25 accounting standards.

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

28          6. "Subcontract" means an agreement between a contractor and any  
29 person who is not an employee of the contractor for furnishing of supplies or  
30 services that, in whole or in part, are necessary to the performance of one  
31 or more government contracts, or under which any portion of the contractor's  
32 obligation under one or more government contracts is performed, undertaken or  
33 assumed and that includes provisions causing title to overhead materials or  
34 other tangible personal property used in the performance of the subcontract  
35 to pass to the government or that includes provisions incorporating such  
36 title passing clauses in a government contract into the subcontract. **FOR THE  
37 PURPOSES OF THIS PARAGRAPH, "CONTRACTOR" HAS ITS ORDINARY AND COMMON MEANING  
38 AND DOES NOT HAVE THE MEANING PRESCRIBED BY SECTION 42-5001.**

39          Sec. 14. Section 42-5071, Arizona Revised Statutes, is amended to  
40 read:

41          42-5071. Personal property rental classification

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

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

4           2. Activities engaged in by the Arizona exposition and state fair  
5 board or county fair commissions in connection with events sponsored by such  
6 entities.

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

14           4. Operating coin-operated washing, drying and dry cleaning machines  
15 or coin-operated car washing machines at establishments for the use of such  
16 machines.

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

22           6. Leasing or renting aircraft, flight simulators or similar training  
23 equipment to students or staff by nonprofit, accredited educational  
24 institutions that offer associate or baccalaureate degrees in aviation or  
25 aerospace related fields.

26           7. Leasing or renting photographs, transparencies or other creative  
27 works used by this state on internet ~~web-sites~~ WEBSITES, in magazines or in  
28 other publications that encourage tourism.

29           B. The tax base for the personal property rental classification is the  
30 gross proceeds of sales or gross income derived from the business, but the  
31 gross proceeds of sales or gross income derived from the following shall be  
32 deducted from the tax base:

33           1. Reimbursements by the lessee to the lessor of a motor vehicle for  
34 payments by the lessor of the applicable fees and taxes imposed by sections  
35 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,  
36 article 2 and article IX, section 11, Constitution of Arizona, to the extent  
37 such amounts are separately identified as such fees and taxes and are billed  
38 to the lessee.

39           2. Leases or rentals of tangible personal property ~~which~~ THAT, if it  
40 had been purchased instead of leased or rented by the lessee, would have been  
41 exempt under:

42           (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, ~~50~~  
43 ~~49~~ or ~~55~~ 54.

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

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

3 (ii) Section 42-5061, subsection B, paragraph 21.

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

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

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

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

12 5. Amounts received by a motor vehicle dealer for the first month of a  
13 lease payment if the lease and the lease payment for the first month of the  
14 lease are transferred to a third-party leasing company.

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

18 D. In computing the tax base, the gross proceeds of sales or gross  
19 income from the lease or rental of a motor vehicle does not include any  
20 amount attributable to the car rental surcharge under section 28-5810 or  
21 48-4234.

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

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

32 42-5075. Prime contracting classification; exemptions;  
33 definitions

34 A. The prime contracting classification is comprised of the business  
35 of prime contracting and dealership of manufactured buildings. Sales for  
36 resale to another dealership of manufactured buildings are not subject to  
37 tax. Sales for resale do not include sales to a lessor of manufactured  
38 buildings. The sale of a used manufactured building is not taxable under  
39 this chapter. The proceeds from alteration and repairs to a used  
40 manufactured building are taxable under this section.

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

- 1           1. The sales price of land, which shall not exceed the fair market  
2 value.
- 3           2. Sales and installation of groundwater measuring devices required  
4 under section 45-604 and groundwater monitoring wells required by law,  
5 including monitoring wells installed for acquiring information for a permit  
6 required by law.
- 7           3. The sales price of furniture, furnishings, fixtures, appliances and  
8 attachments that are not incorporated as component parts of or attached to a  
9 manufactured building or the setup site. The sale of such items may be  
10 subject to the taxes imposed by article 1 of this chapter separately and  
11 distinctly from the sale of the manufactured building.
- 12           4. The gross proceeds of sales or gross income received from a  
13 contract entered into for the construction, ~~alteration, repair,~~ addition,  
14 subtraction, improvement, movement, wrecking or demolition of any building,  
15 highway, road, railroad, excavation, manufactured building or other  
16 structure, project, development or improvement located in a military reuse  
17 zone for providing aviation or aerospace services or for a manufacturer,  
18 assembler or fabricator of aviation or aerospace products within an active  
19 military reuse zone after the zone is initially established or renewed under  
20 section 41-1531. To be eligible to qualify for this deduction, before  
21 beginning work under the contract, the prime contractor must have applied for  
22 a letter of qualification from the department of revenue.
- 23           5. The gross proceeds of sales or gross income derived from a contract  
24 to construct a qualified environmental technology manufacturing, producing or  
25 processing facility, as described in section 41-1514.02, and from subsequent  
26 construction and installation contracts that begin within ten years after the  
27 start of initial construction. To qualify for this deduction, before  
28 beginning work under the contract, the prime contractor must obtain a letter  
29 of qualification from the department of revenue. This paragraph shall apply  
30 for ten full consecutive calendar or fiscal years after the start of initial  
31 construction.
- 32           6. The gross proceeds of sales or gross income from a contract to  
33 provide for one or more of the following actions, or a contract for site  
34 preparation, constructing, furnishing or installing machinery, equipment or  
35 other tangible personal property, including structures necessary to protect  
36 exempt incorporated materials or installed machinery or equipment, and  
37 tangible personal property incorporated into the project, to perform one or  
38 more of the following actions in response to a release or suspected release  
39 of a hazardous substance, pollutant or contaminant from a facility to the  
40 environment, unless the release was authorized by a permit issued by a  
41 governmental authority:
- 42           (a) Actions to monitor, assess and evaluate such a release or a  
43 suspected release.
- 44           (b) Excavation, removal and transportation of contaminated soil and  
45 its treatment or disposal.

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

4 (d) Pumping and treatment or in situ treatment of contaminated  
5 groundwater or surface water to reduce the concentration or toxicity of a  
6 contaminant.

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

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

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

35 (a) To be incorporated into real property.

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

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

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

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

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

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

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

4 9. The gross proceeds of sales or gross income received from a  
5 contract for the construction of an environmentally controlled facility for  
6 the raising of poultry for the production of eggs and the sorting, cooling  
7 and packaging of eggs.

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

17 11. The gross proceeds of sales or gross income that is derived from  
18 the installation, assembly, repair or maintenance of clean rooms that are  
19 deducted from the tax base of the retail classification pursuant to section  
20 42-5061, subsection B, paragraph 16.

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

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

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

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

41 16. The gross proceeds of sales or gross income derived from contracts  
42 to perform postconstruction treatment of real property for termite and  
43 general pest control, including wood destroying organisms.

44 17. The gross proceeds of sales or gross income received from contracts  
45 entered into before July 1, 2006 for constructing a state university research

1 infrastructure project if the project has been reviewed by the joint  
2 committee on capital review before the university enters into the  
3 construction contract for the project. For the purposes of this paragraph,  
4 "research infrastructure" has the same meaning prescribed in section 15-1670.

5 18. The gross proceeds of sales or gross income received from a  
6 contract for the construction of any building, or other structure, project,  
7 development or improvement owned by a qualified business under section  
8 41-1516 for harvesting or processing qualifying forest products removed from  
9 qualifying projects as defined in section 41-1516 if actual construction  
10 begins before January 1, 2024. To qualify for this deduction, the prime  
11 contractor must obtain a letter of qualification from the Arizona commerce  
12 authority before beginning work under the contract.

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

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

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

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

30 20. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
31 WITH THE OWNER OF REAL PROPERTY FOR THE MAINTENANCE, REPAIR OR REPLACEMENT OF  
32 EXISTING PROPERTY IF THE CONTRACT DOES NOT INCLUDE MODIFICATION ACTIVITIES.  
33 FOR THE PURPOSES OF THIS PARAGRAPH, EACH CONTRACT OR PROJECT IS INDEPENDENT  
34 OF ANOTHER CONTRACT. A CONTRACTOR THAT HAS GROSS PROCEEDS OF SALES OR GROSS  
35 INCOME DERIVED FROM A CONTRACT THAT IS NOT SUBJECT TO TAX UNDER THIS  
36 PARAGRAPH IS SUBJECT TO TAX ON A CONTRACT THAT INCLUDES MODIFICATION  
37 ACTIVITIES.

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

40 1. A prime contractor may establish entitlement to the deduction by  
41 both:

42 (a) Marking the invoice for the transaction to indicate that the gross  
43 proceeds of sales or gross income derived from the transaction was deducted  
44 from the base.

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

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

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

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

33 D. Subcontractors or others who perform services in respect to any  
34 improvement, building, highway, road, railroad, excavation, manufactured  
35 building or other structure, project, development or improvement are not  
36 subject to tax if they can demonstrate that the job was within the control of  
37 a prime contractor or contractors or a dealership of manufactured buildings  
38 and that the prime contractor or dealership is liable for the tax on the  
39 gross income, gross proceeds of sales or gross receipts attributable to the  
40 job and from which the subcontractors or others were paid.

41 E. Amounts received by a contractor for a project are excluded from  
42 the contractor's gross proceeds of sales or gross income derived from the  
43 business if the person who hired the contractor executes and provides a  
44 certificate to the contractor stating that the person providing the  
45 certificate is a prime contractor and is liable for the tax under article 1

1 of this chapter. The department shall prescribe the form of the certificate.  
2 If the contractor has reason to believe that the information contained on the  
3 certificate is erroneous or incomplete, the department may disregard the  
4 certificate. If the person who provides the certificate is not liable for  
5 the tax as a prime contractor, that person is nevertheless deemed to be the  
6 prime contractor in lieu of the contractor and is subject to the tax under  
7 this section on the gross receipts or gross proceeds received by the  
8 contractor.

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

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

20 H. For the purposes of section 42-5032.02, from and after September  
21 30, 2013, the department shall separately account for revenues reported and  
22 collected under the prime contracting classification from any prime  
23 contractor engaged in the construction of any buildings and associated  
24 improvements that are for the benefit of a manufacturing facility. For the  
25 purposes of this subsection, "associated improvements" and "manufacturing  
26 facility" have the same meanings prescribed in section 42-5032.02.

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

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

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

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

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

11 M. The following apply ~~to~~ IN DETERMINING THE TAXABLE SITUS OF SALES OF  
12 manufactured buildings:

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

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

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

24 N. The gross proceeds of sales or gross income attributable to a  
25 ~~separate~~, written CONTRACT FOR design phase services ~~contract~~ or professional  
26 services ~~contract~~, executed before modification begins AND WITH TERMS,  
27 CONDITIONS AND PRICING OF ALL OF THESE SERVICES SEPARATELY STATED IN THE  
28 CONTRACT FROM THOSE FOR CONSTRUCTION PHASE SERVICES, is not subject to tax  
29 under this section, regardless of whether the services are provided  
30 sequential to or concurrent with prime contracting activities that are  
31 subject to tax under this section. This subsection does not include the  
32 gross proceeds of sales or gross income attributable to construction phase  
33 services. For the purposes of this subsection:

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

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

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

44 (c) Administration or supervision of any modification performed  
45 pursuant to change orders. For the purposes of this subdivision, "change

1 order" means a written instrument issued after execution of a contract for  
2 modification work, providing for all of the following:

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

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

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

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

17 (e) Inspection to determine the dates of substantial completion or  
18 final completion.

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

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

28 (i) Master schedule updates.

29 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

11 (d) Preparing an initial schedule for the project, excluding the  
12 preparation of updates to the master schedule after modification work has  
13 begun.

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

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

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

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

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

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

31 (vi) Any bond and insurance premiums.

32 (vii) Any applicable taxes.

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

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

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

42 3. "Professional services" means architect services, assayer services,  
43 engineer services, geologist services, land surveying services or landscape  
44 architect services that are within the scope of those services as provided in

1 title 32, chapter 1 and for which gross proceeds of sales or gross income has  
2 not otherwise been deducted under subsection K of this section.

3 0. Notwithstanding subsection P, paragraph 8 of this section, a person  
4 owning real property who enters into a contract for sale of the real  
5 property, who is responsible to the new owner of the property for  
6 modifications made to the property in the period subsequent to the transfer  
7 of title and who receives a consideration for the modifications is considered  
8 a prime contractor solely for purposes of taxing the gross proceeds of sale  
9 or gross income received for the modifications made subsequent to the  
10 transfer of title. The original owner's gross proceeds of sale or gross  
11 income received for the modifications shall be determined according to the  
12 following methodology:

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

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

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

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

37 P. For the purposes of this section:

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

39 2. "Contractor" is synonymous with the term "builder" and means any  
40 person or organization that undertakes to or offers to undertake to, or  
41 purports to have the capacity to undertake to, or submits a bid to, or does  
42 personally or by or through others, modify any building, highway, road,  
43 railroad, excavation, manufactured building or other structure, project,  
44 development or improvement, or to do any part of such a project, including  
45 the erection of scaffolding or other structure or works in connection with

1 such a project, and includes subcontractors and specialty contractors. For  
2 all purposes of taxation or deduction, this definition shall govern without  
3 regard to whether or not such contractor is acting in fulfillment of a  
4 contract.

5 ~~4-~~ 3. "Manufactured building" means a manufactured home, mobile home  
6 or factory-built building, as defined in section 41-2142.

7 ~~3-~~ 4. "~~Dealership of~~ Manufactured ~~buildings~~ BUILDING DEALER" means a  
8 dealer who either:

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

11 (b) Supervises, performs or coordinates the excavation and completion  
12 of site improvements, ~~OR THE~~ setup or moving of a manufactured building  
13 including the contracting, if any, with any subcontractor or specialty  
14 contractor for the completion of the contract.

15 5. "Modification" means construction, ~~alteration, repair,~~ addition,  
16 subtraction, improvement, movement, wreckage or demolition.

17 6. "Modify" means to construct, ~~alter, repair,~~ add to, subtract from,  
18 improve, move, wreck or demolish.

19 7. "Prime contracting" means engaging in business as a prime  
20 contractor.

21 8. "Prime contractor" means a contractor who supervises, performs or  
22 coordinates the modification of any building, highway, road, railroad,  
23 excavation, manufactured building or other structure, project, development or  
24 improvement including the contracting, if any, with any subcontractors or  
25 specialty contractors and who is responsible for the completion of the  
26 contract. Except as provided in subsections E and O of this section, a  
27 person who owns real property, who engages one or more contractors to modify  
28 that real property and who does not itself modify that real property is not a  
29 prime contractor within the meaning of this paragraph regardless of the  
30 existence of a contract for sale or the subsequent sale of that real  
31 property.

32 9. "Sale of a used manufactured building" does not include a lease of  
33 a used manufactured building.

34 Sec. 16. Repeal

35 Section ~~42-5076~~, Arizona Revised Statutes, is repealed from and after  
36 December 31, 2014.

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

39 ~~42-5159~~. Exemptions

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

43 1. Tangible personal property sold in this state, the gross receipts  
44 from the sale of which are included in the measure of the tax imposed by  
45 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~~ THAT directly enters into and  
12 becomes an ingredient or component part of any manufactured, fabricated or  
13 processed article, substance or commodity for sale in the regular course of  
14 business.

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

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

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

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

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

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

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

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

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

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

11           13. Tangible personal property purchased by:

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

15           (b) A hospital operated by this state or a political subdivision of  
16 this state.

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

22           (d) A qualifying health care organization, as defined in section  
23 42-5001, if the tangible personal property is used by the organization solely  
24 to provide health and medical related educational and charitable services.

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

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

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

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

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

44           (h) A nonprofit charitable organization that has qualified under  
45 section 501(c)(3) of the internal revenue code if the property is purchased

1 from the parent or an affiliate organization that is located outside this  
2 state.

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

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

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

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

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

26 15. Tangible personal property sold by:

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

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

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

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

43 17. Prosthetic appliances, as defined in section 23-501, prescribed or  
44 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~~ THAT 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 THAT is subject to section 42-5074 to its employees for their own consumption  
21 on 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  
31 5.1, 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

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

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

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

9 (b) Public educational institutions.

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

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

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

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

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

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

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

44 39. Overhead materials or other tangible personal property that is used  
45 in performing a contract between the United States government and a

1 manufacturer, modifier, assembler or repairer, including property used in  
2 performing a subcontract with a government contractor who is a manufacturer,  
3 modifier, assembler or repairer, to which title passes to the government  
4 under the terms of the contract or subcontract. For the purposes of this  
5 paragraph:

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

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

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

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

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

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

43 44. Alternative fuel vehicles if the vehicle was manufactured as a  
44 diesel fuel vehicle and converted to operate on alternative fuel and  
45 equipment that is installed in a conventional diesel fuel motor vehicle to

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

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

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

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

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

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

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

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

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

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

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

35 51. Motor vehicle fuel and use fuel to a qualified business under  
36 section 41-1516 for off-road use in harvesting, processing or transporting  
37 qualifying forest products removed from qualifying projects as defined in  
38 section 41-1516.

39 52. Repair parts installed in equipment used directly by a qualified  
40 business under section 41-1516 in harvesting, processing or transporting  
41 qualifying forest products removed from qualifying projects as defined in  
42 section 41-1516.

43 53. Renewable energy credits or any other unit created to track energy  
44 derived from renewable energy resources. For the purposes of this paragraph,  
45 "renewable energy credit" means a unit created administratively by the

1 corporation commission or governing body of a public power entity to track  
2 kilowatt hours of electricity derived from a renewable energy resource or the  
3 kilowatt hour equivalent of conventional energy resources displaced by  
4 distributed renewable energy resources.

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

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

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

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

27 4. Machinery, equipment or transmission lines used directly in  
28 producing or transmitting electrical power, but not including distribution.  
29 Transformers and control equipment used at transmission substation sites  
30 constitute equipment used in producing or transmitting electrical power.

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

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

38 7. Aircraft, navigational and communication instruments and other  
39 accessories and related equipment sold to:

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

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

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

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

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

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

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

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

29 (a) "New machinery and equipment" means machinery or equipment ~~which~~  
30 THAT has never been sold at retail except pursuant to leases or rentals ~~which~~  
31 THAT do not total two years or more.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 21. Qualifying equipment that is purchased from and after June 30, 2004  
27 through June 30, 2024 by a qualified business under section 41-1516 for  
28 harvesting or processing qualifying forest products removed from qualifying  
29 projects as defined in section 41-1516. To qualify for this exemption, the  
30 qualified business must obtain and present its certification from the Arizona  
31 commerce authority at the time of purchase.

32 C. The exemptions provided by subsection B of this section do not  
33 include:

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

38 2. Janitorial equipment and hand tools.

39 3. Office equipment, furniture and supplies.

40 4. Tangible personal property used in selling or distributing  
41 activities, other than the telecommunications transmissions described in  
42 subsection B, paragraph ~~16~~ 15 of this section.

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

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

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

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

6 8. MACHINERY AND EQUIPMENT OR TANGIBLE PERSONAL PROPERTY USED BY A  
7 CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.

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

10 1. Revenues received from sales of ancillary services, electric  
11 distribution services, electric generation services, electric transmission  
12 services and other services related to providing electricity to a retail  
13 electric customer who is located outside this state for use outside this  
14 state if the electricity is delivered to a point of sale outside this state.

15 2. Revenues received from providing electricity, including ancillary  
16 services, electric distribution services, electric generation services,  
17 electric transmission services and other services related to providing  
18 electricity with respect to which the transaction privilege tax imposed under  
19 section 42-5063 has been paid.

20 E. The tax levied by this article does not apply to the purchase of  
21 solar energy devices from a retailer that is registered with the department  
22 as a solar energy retailer or a solar energy contractor.

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

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

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

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

36 1. "Aircraft" includes:

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

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

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

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

5 Sec. 18. Section 42-6001, Arizona Revised Statutes, is amended to  
6 read:

7 42-6001. Collection and administration of transaction privilege  
8 tax and affiliated excise taxes; committee

9 A. The department ~~may~~ SHALL collect and administer any transaction  
10 privilege and affiliated excise taxes, including use tax, severance tax, jet  
11 fuel excise and use tax, and rental occupancy tax, imposed by any city or  
12 town, and the department and any city or town ~~may~~ SHALL enter into  
13 intergovernmental contracts or agreements to provide a uniform method of  
14 administration, collection, audit and licensing of transaction privilege and  
15 affiliated excise taxes imposed by the state or cities or towns pursuant to  
16 title 11, chapter 7, article 3. **THE CONTRACT OR AGREEMENT SHALL INCLUDE**  
17 **CRITERIA FOR THE DENIAL OF A REQUEST FROM A CITY OR TOWN FOR AN AUDIT OF A**  
18 **TAXPAYER THAT IS ENGAGED IN BUSINESS IN MORE THAN ONE CITY OR TOWN.**

19 B. The director ~~may~~ SHALL enter into agreements with cities and towns  
20 of this state that levy transaction privilege and affiliated excise taxes to  
21 provide for unified or coordinated licensing, collection and auditing  
22 programs for such taxes levied by cities and towns and taxes levied pursuant  
23 to chapter 5 of this title. ~~Such~~ Cities and towns ~~may~~ SHALL enter into  
24 agreements with the department to provide for unified or coordinated  
25 licensing, collection and auditing programs for ~~such~~ transaction privilege  
26 and affiliated excise taxes levied by ~~such~~ cities and towns and for taxes  
27 levied pursuant to chapter 5 of this title.

28 ~~C. A city or town that does not enter into an agreement with the~~  
29 ~~department for the collection of municipal transaction privilege and~~  
30 ~~affiliated excise taxes shall report to the department on or before September~~  
31 ~~1 of each year the total amount of those taxes collected by the city or town~~  
32 ~~in the preceding fiscal year.~~

33 ~~D.~~ C. The director shall establish with ~~such~~ THE cities and towns a  
34 uniform licensing, collection and audit committee to direct such unified or  
35 coordinated functions.

36 ~~E.~~ D. A taxpayer who is required to pay any municipal transaction  
37 privilege and affiliated excise taxes to a city or town that ~~has~~ DID not  
38 ~~entered into~~ HAVE an intergovernmental contract or agreement with the  
39 department of revenue ~~under subsection B of this section~~ **IN EFFECT AS OF**  
40 **JANUARY 1, 2013** to provide a coordinated method of collecting municipal  
41 transaction privilege and affiliated excise taxes may instead report and pay  
42 the required tax to that city or town through an online portal. The online  
43 portal shall be procured by the department of administration pursuant to a  
44 public-private partnership entered into pursuant to section 41-2559, shall  
45 include access to a single point of filing and paying the tax and shall

1 provide security measures to protect taxpayer information. ~~The taxpayer may~~  
2 ~~be charged a fee to use the online portal.~~ THE DEPARTMENT OF REVENUE SHALL  
3 ADMINISTER THE PORTAL.

4 E. A TAXPAYER THAT DOES NOT REPORT AND PAY THE REQUIRED TAX TO A CITY  
5 OR TOWN THROUGH THE PORTAL SHALL FILE AND PAY THE TAX TO THE DEPARTMENT OF  
6 REVENUE IF THE DEPARTMENT HAS DEVELOPED THE ELECTRONIC AND NONELECTRONIC  
7 TOOLS NECESSARY TO CAPTURE DATA WITH SUFFICIENT SPECIFICITY TO MEET THE NEEDS  
8 OF ALL TAXING JURISDICTIONS, INCLUDING SPECIFIC DATA REGARDING EACH TAX  
9 CLASSIFICATION AND ANY CORRESPONDING DEDUCTIONS AT EACH BUSINESS LOCATION OF  
10 THE TAXPAYER.

11 Sec. 19. Section 42-6002, Arizona Revised Statutes, is amended to  
12 read:

13 42-6002. Procedures for levy, collection and enforcement  
14 applicable to cities and towns

15 A. The procedures for levy, collection and enforcement of payment of  
16 transaction privilege and affiliated excise taxes, including use tax,  
17 severance tax, jet fuel excise and use tax, and rental occupancy tax, levied  
18 by a city or town ~~by such city or town~~ shall be in the same manner as  
19 authorized by chapter 5 of this title ~~unless otherwise provided by the~~  
20 ~~ordinance of such city or town. The department, when acting on behalf of a~~  
21 ~~city or town in levying and collecting transaction privilege and affiliated~~  
22 ~~taxes for such city or town, shall utilize the procedures for levying,~~  
23 ~~collecting and enforcing the payment of such taxes on behalf of the city or~~  
24 ~~town.~~

25 ~~B. A city or town shall not:~~

26 ~~1. Employ auditors on a contingent fee basis or enter into contingent~~  
27 ~~fee contracts for auditing any transaction privilege or affiliated tax levied~~  
28 ~~by the city or town.~~

29 ~~2. Enter into contracts with a third party, other than this state or a~~  
30 ~~political subdivision of this state, for the collection, administration or~~  
31 ~~processing of transaction privilege or affiliated taxes levied by the city or~~  
32 ~~town. This paragraph does not apply to a city or town that does not contract~~  
33 ~~with the department for the collection, administration or processing of~~  
34 ~~transaction privilege or affiliated taxes levied by the city or town and that~~  
35 ~~enters into a contract with a third party solely for the collection of~~  
36 ~~delinquent city or town transaction privilege or affiliated taxes for which a~~  
37 ~~liability has been established.~~

38 B. AN INTERGOVERNMENTAL CONTRACT OR AGREEMENT ENTERED INTO PURSUANT TO  
39 SECTION 42-6001, SUBSECTION A SHALL INCLUDE THE FOLLOWING PROVISIONS:

40 1. ALL AUDITS SHALL BE CONDUCTED IN ACCORDANCE WITH STANDARD AUDIT  
41 PROCEDURES DEFINED IN THE DEPARTMENT OF REVENUE AUDIT MANUAL.

42 2. ALL AUDITORS SHALL BE TRAINED IN ACCORDANCE WITH THE POLICIES OF  
43 THE DEPARTMENT.

1           3. EXCEPT AS PROVIDED IN PARAGRAPH 4 OF THIS SUBSECTION, THE AUDIT OF  
2 A TAXPAYER THAT HAS LOCATIONS IN TWO OR MORE CITIES OR TOWNS SHALL BE  
3 CONDUCTED BY THE DEPARTMENT.

4           4. ALL AUDITS SHALL INCLUDE ALL TAXING JURISDICTIONS IN THIS STATE  
5 REGARDLESS OF WHICH JURISDICTION CONDUCTS THE AUDIT. A CITY OR TOWN MAY  
6 CONDUCT AN AUDIT OF ANY TAXPAYER THAT IS ENGAGED IN BUSINESS IN ONLY ONE CITY  
7 OR TOWN AND ANY OTHER TAXPAYER AUTHORIZED BY THE DEPARTMENT.

8           5. THE DEPARTMENT SHALL ISSUE ALL AUDIT ASSESSMENTS ON BEHALF OF ALL  
9 TAXING JURISDICTIONS IN A SINGLE NOTICE TO THE TAXPAYER.

10           6. APPEALS OF AUDIT ASSESSMENTS SHALL BE DIRECTED TO THE DEPARTMENT.

11           7. THE DEPARTMENT SHALL NOTIFY ALL AFFECTED CITIES AND TOWNS BEFORE  
12 ENTERING INTO ANY COMPROMISE, CLOSING, SETTLEMENT OR OTHER AGREEMENT WITH A  
13 PERSON RELATED TO THE TAX LEVIED AND IMPOSED BY THE CITIES AND TOWNS.

14           Sec. 20. Section 42-6004, Arizona Revised Statutes, is amended to  
15 read:

16           42-6004. Exemption from municipal tax

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

19           1. Exhibition events in this state sponsored, conducted or operated by  
20 a nonprofit organization that is exempt from taxation under section  
21 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
22 organization is associated with a major league baseball team or a national  
23 touring professional golfing association and no part of the organization's  
24 net earnings inures to the benefit of any private shareholder or individual.

25           2. Interstate telecommunications services, which include that portion  
26 of telecommunications services, such as subscriber line service, allocable by  
27 federal law to interstate telecommunications service.

28           3. Sales of warranty or service contracts.

29           4. Sales of motor vehicles to nonresidents of this state for use  
30 outside this state if the ~~vendor~~ MOTOR VEHICLE DEALER ships or delivers the  
31 motor vehicle to a destination outside this state.

32           5. Interest on finance contracts.

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

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

1           8. Sales of internet access services to the person's subscribers and  
2 customers. For the purposes of this paragraph:

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

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

11           9. The gross proceeds of sales or gross income retained by the Arizona  
12 exposition and state fair board from ride ticket sales at the annual Arizona  
13 state fair.

14           10. Through August 31, 2014, sales of Arizona centennial medallions by  
15 the historical advisory commission.

16           11. The gross proceeds of sales or gross income derived from a  
17 commercial lease in which a reciprocal insurer or a corporation leases real  
18 property to an affiliated corporation. For the purposes of this paragraph:

19           (a) "Affiliated corporation" means a corporation that meets one of the  
20 following conditions:

21           (i) The corporation owns or controls at least eighty per cent of the  
22 lessor.

23           (ii) The corporation is at least eighty per cent owned or controlled  
24 by the lessor.

25           (iii) The corporation is at least eighty per cent owned or controlled  
26 by a corporation that also owns or controls at least eighty per cent of the  
27 lessor.

28           (iv) The corporation is at least eighty per cent owned or controlled  
29 by a corporation that is at least eighty per cent owned or controlled by a  
30 reciprocal insurer.

31           (b) For the purposes of subdivision (a) of this paragraph, ownership  
32 and control are determined by reference to the voting shares of a  
33 corporation.

34           (c) "Reciprocal insurer" has the same meaning prescribed in section  
35 20-762.

36           12. The gross proceeds of sales or gross income derived from a  
37 commercial lease in which a corporation leases real property to a corporation  
38 of which at least eighty per cent of the voting shares of each corporation  
39 are owned by the same shareholders.

40           13. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
41 WITH THE OWNER OF REAL PROPERTY FOR THE MAINTENANCE, REPAIR OR REPLACEMENT OF  
42 EXISTING PROPERTY IS NOT SUBJECT TO TAX IF THE CONTRACT DOES NOT INCLUDE  
43 MODIFICATION ACTIVITIES. FOR THE PURPOSES OF THIS PARAGRAPH:

1 (a) EACH CONTRACT OR PROJECT IS INDEPENDENT OF ANOTHER CONTRACT.

2 (b) "MODIFICATION" MEANS CONSTRUCTION, ALTERATION, ADDITION,  
3 SUBTRACTION, IMPROVEMENT, MOVEMENT, WRECKAGE OR DEMOLITION.

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

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

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

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

17 3. The sale of a motor vehicle and any repair and replacement parts  
18 and tangible personal property becoming a part of such motor vehicle to a  
19 motor carrier who is subject to a fee prescribed in title 28, chapter 16,  
20 article 4 and who is engaged in the business of leasing, renting or licensing  
21 such property.

22 4. Incarcerating or detaining in a privately operated prison, jail or  
23 detention facility prisoners who are under the jurisdiction of the United  
24 States, this state or any other state or a political subdivision of this  
25 state or of any other state.

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

28 6. Any amount attributable to development fees that are incurred in  
29 relation to the construction, development or improvement of real property and  
30 paid by the taxpayer as defined in the model city tax code or by a contractor  
31 providing services to the taxpayer. For the purposes of this paragraph:

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

34 (b) The attributable amount is equal to the total amount of  
35 development fees paid by the taxpayer or by a contractor providing services  
36 to the taxpayer and the total development fees credited in exchange for the  
37 construction of, contribution to or dedication of real property for providing  
38 public infrastructure, public safety or other public services necessary to  
39 the development. The real property must be the subject of the development  
40 fees.

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

1 D. A city, town or other taxing jurisdiction shall not levy a  
2 transaction privilege, sales, use, franchise or other similar tax or fee,  
3 however denominated, in excess of one-tenth of one per cent of the value of  
4 the entire product mined, smelted, extracted, refined, produced or prepared  
5 for sale, profit or commercial use, on persons engaged in the business of  
6 mineral processing, except to the extent that the tax is computed on the  
7 gross proceeds or gross income from sales at retail.

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

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

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

14 F. A city or town shall not levy a use tax on the storage, use or  
15 consumption of tangible personal property in the city or town by a school  
16 district or charter school.

17 Sec. 21. Section 42-6005, Arizona Revised Statutes, is amended to  
18 read:

19 42-6005. Unified audit committee; audits

20 A. The director shall establish a unified audit committee with cities  
21 and towns. The committee shall coordinate uniform audit functions. ~~The~~  
22 ~~committee shall publish uniform guidelines that interpret the model city tax~~  
23 ~~code and that apply to all cities and towns that have adopted the model city~~  
24 ~~tax code.~~

25 ~~B. If the department intends to conduct an audit of a taxpayer, the~~  
26 ~~department shall notify the cities or towns in which the taxpayer conducts~~  
27 ~~business. A city or town may accept the audit as a joint audit and may elect~~  
28 ~~to have a representative participate in the audit provided that no more than~~  
29 ~~two city or town representatives in total may participate. If a city or town~~  
30 ~~does not accept the audit as a joint audit, the city or town may not conduct~~  
31 ~~an audit of the taxpayer for forty two months from the close of the last tax~~  
32 ~~period covered by the audit unless an exception applies to that taxpayer~~  
33 ~~pursuant to section 42-2059. An audit conducted by a city or town serves as~~  
34 ~~a joint audit for all cities and towns that have taxing jurisdiction.~~

35 ~~C. A taxpayer that conducts business in more than one jurisdiction may~~  
36 ~~allow a joint audit for all taxing jurisdictions. A taxpayer that does not~~  
37 ~~allow a joint audit for all taxing jurisdictions is subject to an audit by~~  
38 ~~another jurisdiction at any time. If a joint audit is performed by a city or~~  
39 ~~town, this section shall not be construed to prohibit the department from~~  
40 ~~conducting any audit that does not violate the provisions of section 42-2059.~~

41 ~~D.~~ B. When the state statutes and model city tax code are the same  
42 and where the department has issued written guidance, the department's  
43 interpretation is binding on cities and towns.

1           Sec. 22. Section 42-6105, Arizona Revised Statutes, is amended to  
2 read:

3           42-6105. County transportation excise tax; counties with  
4                           population of one million two hundred thousand or  
5                           more persons

6           A. If approved by the qualified electors voting at a countywide  
7 election, a county with a population of one million two hundred thousand or  
8 more persons shall levy and the department shall collect a tax as provided by  
9 this section, in addition to all other taxes.

10           B. The tax shall be levied and collected:

11           1. At a rate of not more than ten per cent of the transaction  
12 privilege tax rate prescribed by section 42-5010, subsection A applying, as  
13 of January 1, 1990, to each person engaging or continuing in the county in a  
14 business taxed under chapter 5, article 1 of this title.

15           2. ~~In the case of persons subject to the tax imposed under section~~  
16 ~~42-5352, subsection A,~~ At a rate of not more than ~~.305 cents per gallon of~~  
17 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,  
18 SUBSECTION A.

19           3. On the use or consumption of electricity or natural gas by retail  
20 electric or natural gas customers in the county who are subject to use tax  
21 under section 42-5155, at a rate equal to the transaction privilege tax rate  
22 under paragraph 1 of this subsection applying to persons engaging or  
23 continuing in the county in the utilities transaction privilege tax  
24 classification.

25           C. The tax levied under this section shall be in effect for a term of  
26 twenty years.

27           D. The net revenues collected under this section shall be distributed  
28 and deposited as follows for use consistent with the regional transportation  
29 plan adopted under title 28, chapter 17, article 1:

30           1. 56.2 per cent to the regional area road fund pursuant to section  
31 28-6303 for freeways and other routes in the state highway system, including  
32 capital expense and maintenance.

33           2. 10.5 per cent to the regional area road fund pursuant to section  
34 28-6303 for major arterial streets and intersection improvements, including  
35 capital expense and implementation studies.

36           3. 33.3 per cent to the public transportation fund pursuant to section  
37 48-5103 for:

38           (a) Capital costs, maintenance and operation of public transportation  
39 classifications.

40           (b) Capital costs and utility relocation costs associated with a light  
41 rail public transit system.

1           Sec. 23. Section 42-6106, Arizona Revised Statutes, is amended to  
2 read:

3           42-6106. County transportation excise tax

4           A. If approved by the qualified electors voting at a countywide  
5 election, the regional transportation authority in any county shall levy and  
6 the department shall collect a transportation excise tax up to the rate  
7 authorized by this section in addition to all other taxes.

8           B. The tax shall be levied and collected:

9           1. At a rate of not more than ten per cent of the transaction  
10 privilege tax rate prescribed by section 42-5010, subsection A in effect on  
11 January 1, 1990 to each person engaging or continuing in the county in a  
12 business taxed under chapter 5, article 1 of this title.

13           2. ~~In the case of persons subject to the tax imposed under section~~  
14 ~~42-5352, subsection A,~~ At a rate of not more than ~~.305 cents per gallon of~~  
15 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,  
16 SUBSECTION A.

17           3. On the use or consumption of electricity or natural gas by retail  
18 electric or natural gas customers in the county who are subject to use tax  
19 under section 42-5155, at a rate equal to the transaction privilege tax rate  
20 under paragraph 1 applying to persons engaging or continuing in the county in  
21 the utilities transaction privilege tax classification.

22           C. Any subsequent reduction in the transaction privilege tax rate  
23 prescribed by chapter 5, article 1 of this title shall not reduce the tax  
24 that is approved and collected as prescribed in this section. The department  
25 shall collect the tax at a variable rate if the variable rate is specified in  
26 the ballot proposition. The department shall collect the tax at a modified  
27 rate if approved by a majority of the qualified electors voting.

28           D. The net revenues collected under this section:

29           1. In counties with a population exceeding four hundred thousand  
30 persons, shall be deposited in the regional transportation fund pursuant to  
31 section 48-5307.

32           2. In counties with a population of four hundred thousand or fewer  
33 persons, shall be deposited in the public transportation authority fund  
34 pursuant to section 28-9142 or the regional transportation fund pursuant to  
35 section 48-5307 or shall be allocated between both funds.

36           E. The tax shall be levied under this section beginning January 1 or  
37 July 1, whichever date occurs first after approval by the voters, and may be  
38 in effect for a period of not more than twenty years.

39           Sec. 24. Section 42-6107, Arizona Revised Statutes, is amended to  
40 read:

41           42-6107. County transportation excise tax for roads

42           A. If a majority of the qualified electors voting at a countywide  
43 special election, or a majority of the qualified electors voting on the  
44 ballot proposition at a general election, approves the transportation excise  
45 tax, the county shall levy and the department shall collect a tax:

1           1. At a rate of not more than ten per cent of the transaction  
2 privilege tax rate as prescribed by section 42-5010, subsection A applying,  
3 as of January 1, 1990, to each person engaging or continuing in the county in  
4 a business taxed under chapter 5, article 1 of this title.

5           2. ~~In the case of persons subject to the tax imposed under section~~  
6 ~~42-5352, subsection A,~~ At a rate of not more than ~~.305 cents per gallon of~~  
7 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,  
8 SUBSECTION A.

9           3. On the use or consumption of electricity or natural gas by retail  
10 electric or natural gas customers in the county who are subject to use tax  
11 under section 42-5155, at a rate equal to the transaction privilege tax rate  
12 under paragraph 1 applying to persons engaging or continuing in the county in  
13 the utilities transaction privilege tax classification. If a majority of the  
14 qualified electors in the county approved the transportation excise tax under  
15 this section before 1998, a tax under this paragraph may be approved by  
16 resolution adopted by a majority of the board of supervisors.

17           B. The net revenues collected under this section within a county shall  
18 be deposited in the county's regional area road fund pursuant to title 28,  
19 chapter 17, article 3.

20           C. The tax shall be levied under this section beginning January 1 or  
21 July 1, whichever date occurs first after approval by the voters, and may be  
22 in effect for a period of not more than twenty years.

23           Sec. 25. Department of revenue; emergency rule making

24           The department of revenue may adopt emergency rules pursuant to section  
25 41-1026, Arizona Revised Statutes, as necessary to administer this act.

26           Sec. 26. City and town auditors

27           Notwithstanding section 42-6001, Arizona Revised Statutes, as amended  
28 by this act, for the period beginning January 1, 2015 and ending December 31,  
29 2015, the department shall enter into an agreement with the governing body of  
30 an incorporated city or town to furnish part-time or full-time personnel to  
31 perform audit services within the boundaries of the city or town. The  
32 incorporated city or town shall pay to the department the amount agreed to be  
33 paid.

34           Sec. 27. Legislative intent

35           By passing this act, the legislature:

36           1. Intends to simplify the administration of Arizona's transaction  
37 privilege tax in order to alleviate taxpayer confusion, relieve businesses  
38 from unnecessary compliance costs and to improve, at both the state and local  
39 level, the coordination of the revenue collection and audit function through  
40 the implementation of a single, unified, collection and audit system, thereby  
41 increasing voluntary compliance.

42           2. Does not intend to change the taxability of or to exempt from the  
43 tax imposed under section 42-5075, Arizona Revised Statutes, a contractor  
44 engaged in the modification of real property as part of a major remodel  
45 project.

1           Sec. 28. Revenue impact report

2           A. The joint legislative budget committee shall prepare a report of  
3 the revenue impact analysis resulting from this act on or before September  
4 30, 2016. The analysis shall include an estimated impact on revenues for  
5 this state and the counties, cities and towns.

6           B. The joint legislative budget committee shall provide copies of the  
7 report to the governor, president of the senate, speaker of the house of  
8 representatives, governor's office of strategic planning and budgeting and  
9 secretary of state.

10          Sec. 29. Effective date

11          This act is effective from and after December 31, 2014.