

REFERENCE TITLE: sales tax; service contract merchandise

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

HB 2587

Introduced by
Representatives Orr: Meyer

AN ACT

AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES; RELATING TO RETAIL
TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-5061, Arizona Revised Statutes, is amended to
3 read:
4 42-5061. Retail classification; definitions
5 A. The retail classification is comprised of the business of selling
6 tangible personal property at retail. The tax base for the retail
7 classification is the gross proceeds of sales or gross income derived from
8 the business. The tax imposed on the retail classification does not apply to
9 the gross proceeds of sales or gross income from:
10 1. Professional or personal service occupations or businesses that
11 involve sales or transfers of tangible personal property only as
12 inconsequential elements.
13 2. Services rendered in addition to selling tangible personal property
14 at retail.
15 3. Sales of warranty or service contracts. The storage, use or
16 consumption of tangible personal property provided under the conditions of
17 such contracts is subject to tax under section 42-5156.
18 4. Sales of tangible personal property by any nonprofit organization
19 organized and operated exclusively for charitable purposes and recognized by
20 the United States internal revenue service under section 501(c)(3) of the
21 internal revenue code.
22 5. Sales to persons engaged in business classified under the
23 restaurant classification of articles used by human beings for food, drink or
24 condiment, whether simple, mixed or compounded.
25 6. Business activity that is properly included in any other business
26 classification that is taxable under this article.
27 7. The sale of stocks and bonds.
28 8. Drugs and medical oxygen, including delivery hose, mask or tent,
29 regulator and tank, on the prescription of a member of the medical, dental or
30 veterinarian profession who is licensed by law to administer such substances.
31 9. Prosthetic appliances as defined in section 23-501 prescribed or
32 recommended by a health professional who is licensed pursuant to title 32,
33 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
34 10. Insulin, insulin syringes and glucose test strips.
35 11. Prescription eyeglasses or contact lenses.
36 12. Hearing aids as defined in section 36-1901.
37 13. Durable medical equipment which has a centers for medicare and
38 medicaid services common procedure code, is designated reimbursable by
39 medicare, is prescribed by a person who is licensed under title 32, chapter
40 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
41 customarily used to serve a medical purpose, is generally not useful to a
42 person in the absence of illness or injury and is appropriate for use in the
43 home.

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

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

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

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

13 18. Food and drink to a person who is engaged in business that is
14 classified under the restaurant classification and that provides such food
15 and drink without monetary charge to its employees for their own consumption
16 on the premises during the employees' hours of employment.

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

22 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
23 article 1.

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

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

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

35 22. Motor vehicle fuel and use fuel that are subject to a tax imposed
36 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
37 valid single trip use fuel tax permit issued under section 28-5739, sales of
38 aviation fuel that are subject to the tax imposed under section 28-8344 and
39 sales of jet fuel that are subject to the tax imposed under article 8 of this
40 chapter.

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

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

4 25. Tangible personal property sold to:

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

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

9 (c) A qualifying health care organization as defined in section
10 42-5001 if the organization is dedicated to providing educational,
11 therapeutic, rehabilitative and family medical education training for blind,
12 visually impaired and multihandicapped children from the time of birth to age
13 twenty-one.

14 (d) A qualifying community health center as defined in section
15 42-5001.

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

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

27 26. Magazines or other periodicals or other publications by this state
28 to encourage tourist travel.

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

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

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

39 28. The sale of a motor vehicle to:

40 (a) A nonresident of this state if the purchaser's state of residence
41 does not allow a corresponding use tax exemption to the tax imposed by
42 article 1 of this chapter and if the nonresident has secured a special ninety
43 day nonresident registration permit for the vehicle as prescribed by sections
44 28-2154 and 28-2154.01.

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

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

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

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

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

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

30 34. Machinery, equipment, technology or related supplies that are only
31 useful to assist a person who is physically disabled as defined in section
32 46-191, has a developmental disability as defined in section 36-551 or has a
33 head injury as defined in section 41-3201 to be more independent and
34 functional.

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

38 36. Sales of natural gas or liquefied petroleum gas used to propel a
39 motor vehicle.

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

43 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
44 sold to a qualified environmental technology manufacturer, producer or
45 processor as defined in section 41-1514.02 and directly used or consumed in

1 the generation or provision of on-site power or energy solely for
2 environmental technology manufacturing, producing or processing or
3 environmental protection. This paragraph shall apply for twenty full
4 consecutive calendar or fiscal years from the date the first paper
5 manufacturing machine is placed in service. In the case of an environmental
6 technology manufacturer, producer or processor who does not manufacture
7 paper, the time period shall begin with the date the first manufacturing,
8 processing or production equipment is placed in service.

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

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

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

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

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

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

44 43. Livestock and poultry feed, salts, vitamins and other additives for
45 livestock or poultry consumption that are sold to persons who are engaged in

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

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

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

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

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

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

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

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

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

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

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

1 52. Sales of tangible personal property to be incorporated or installed
2 as part of environmental response or remediation activities under section
3 42-5075, subsection B, paragraph 6.

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

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

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

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

17 (b) "Curriculum design or enhancement" means planning, implementing or
18 reporting on courses of study, lessons, assignments or other learning
19 activities.

20 56. Sales of motor vehicle fuel and use fuel to a qualified business
21 under section 41-1516 for off-road use in harvesting, processing or
22 transporting qualifying forest products removed from qualifying projects as
23 defined in section 41-1516.

24 57. Sales of repair parts installed in equipment used directly by a
25 qualified business under section 41-1516 in harvesting, processing or
26 transporting qualifying forest products removed from qualifying projects as
27 defined in section 41-1516.

28 58. Sales or other transfers of renewable energy credits or any other
29 unit created to track energy derived from renewable energy resources. For
30 the purposes of this paragraph, "renewable energy credit" means a unit
31 created administratively by the corporation commission or governing body of a
32 public power utility to track kilowatt hours of electricity derived from a
33 renewable energy resource or the kilowatt hour equivalent of conventional
34 energy resources displaced by distributed renewable energy resources.

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

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

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

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

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

17 5. Neat animals, horses, asses, sheep, ratices, swine or goats used or
18 to be used as breeding or production stock, including sales of breedings or
19 ownership shares in such animals used for breeding or production.

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

24 7. Aircraft, navigational and communication instruments and other
25 accessories and related equipment sold to:

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

32 (b) Any foreign government.

33 (c) Persons who are not residents of this state and who will not use
34 such property in this state other than in removing such property from this
35 state. This subdivision also applies to corporations that are not
36 incorporated in this state, regardless of maintaining a place of business in
37 this state, if the principal corporate office is located outside this state
38 and the property will not be used in this state other than in removing the
39 property from this state.

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

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

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

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

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

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

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

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

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

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

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

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

43 (i) Over two-thirds of the transmissions, measured in megabytes,
44 transmitted by the facility during the test period were transmitted to or on
45 behalf of one or more direct broadcast satellite television or data

1 transmission services that operate pursuant to 47 Code of Federal Regulations
2 part 25.

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

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

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

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

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

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

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

42 19. Machinery and equipment that are sold to a person engaged in the
43 commercial production of livestock, livestock products or agricultural,
44 horticultural, viticultural or floricultural crops or products in this state

1 and that are used directly and primarily to prevent, monitor, control or
2 reduce air, water or land pollution.

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

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

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

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

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

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

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

29 2. Janitorial equipment and hand tools.

30 3. Office equipment, furniture and supplies.

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

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

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

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

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

1 manufacturing, producing or processing facility as described in section
2 41-1514.02. This subsection applies for ten full consecutive calendar or
3 fiscal years after the start of initial construction.

4 E. In computing the tax base, gross proceeds of sales or gross income
5 from retail sales of heavy trucks and trailers does not include any amount
6 attributable to federal excise taxes imposed by 26 United States Code section
7 4051.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 P. For the purposes of this section, a sale of wireless
43 telecommunications equipment to a person who holds the equipment for sale or
44 transfer to a customer as an inducement to enter into or continue a contract

1 for telecommunications services that are taxable under section 42-5064 is
2 considered to be a sale for resale in the regular course of business.

3 Q. IN THE CASE OF A SALE OR TRANSFER OF TANGIBLE PERSONAL PROPERTY TO
4 A CUSTOMER AS AN INDUCEMENT TO ENTER INTO OR CONTINUE A SERVICE CONTRACT
5 ENABLING THE USE OF THE TANGIBLE PERSONAL PROPERTY, WITHOUT THE OPTION OF
6 PURCHASING THE PROPERTY SEPARATELY FROM THE SERVICE CONTRACT, THE TAX BASE IS
7 THE GROSS PROCEEDS DERIVED FROM BOTH THE SALE OF THE TANGIBLE PERSONAL
8 PROPERTY AND THE SALE OF THE SERVICE CONTRACT.

9 ~~R.~~ R. Retail sales of prepaid calling cards or prepaid authorization
10 numbers for telecommunications services, including sales of reauthorization
11 of a prepaid card or authorization number, are subject to tax under this
12 section.

13 ~~S.~~ S. For the purposes of this section, the diversion of gas from a
14 pipeline by a person engaged in the business of:

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

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

21 ~~T.~~ T. If a seller is entitled to a deduction pursuant to subsection
22 B, paragraph 15, subdivision (b) of this section, the department may require
23 the purchaser to establish that the requirements of subsection B, paragraph
24 15, subdivision (b) of this section have been satisfied. If the purchaser
25 cannot establish that the requirements of subsection B, paragraph 15,
26 subdivision (b) of this section have been satisfied, the purchaser is liable
27 in an amount equal to any tax, penalty and interest which the seller would
28 have been required to pay under article 1 of this chapter if the seller had
29 not made a deduction pursuant to subsection B, paragraph 15, subdivision (b)
30 of this section. Payment of the amount under this subsection exempts the
31 purchaser from liability for any tax imposed under article 4 of this chapter
32 and related to the tangible personal property purchased. The amount shall be
33 treated as transaction privilege tax to the purchaser and as tax revenues
34 collected from the seller to designate the distribution base pursuant to
35 section 42-5029.

36 ~~U.~~ U. For the purposes of section 42-5032.01, the department shall
37 separately account for revenues collected under the retail classification
38 from businesses selling tangible personal property at retail:

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

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

44 ~~V.~~ V. In computing the tax base for the sale of a motor vehicle to a
45 nonresident of this state, if the purchaser's state of residence allows a

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

11 ~~V.~~ W. For the purposes of this section:

12 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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