

REFERENCE TITLE: TPT exemption; four-inch pipe; repeal

State of Arizona  
Senate  
Fifty-first Legislature  
First Regular Session  
2013

## **SB 1220**

Introduced by  
Senators Farley, Pancrazi; Representatives Steele: Dalessandro, Gabaldón,  
Otondo

AN ACT

AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5032.03; AMENDING SECTIONS 42-5061, 42-5064, 42-5071, 42-5075, 42-5159 AND 43-1082, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND USE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 42, chapter 5, article 1, Arizona Revised Statutes,  
3 is amended by adding section 42-5032.03, to read:

4 42-5032.03. Distribution of revenues for adult education and  
5 adult literacy

6 A. EACH MONTH THE STATE TREASURER SHALL PAY, FROM THE AMOUNT  
7 DESIGNATED AS DISTRIBUTION BASE PURSUANT TO SECTION 42-5029, SUBSECTION A AND  
8 FROM THE DISTRIBUTION OF USE TAX MONIES PURSUANT TO SECTION 42-5164,  
9 SUBSECTION C, THE AMOUNT DETERMINED UNDER SUBSECTION B OF THIS SECTION TO THE  
10 DEPARTMENT OF EDUCATION FOR ADULT EDUCATION AND ADULT LITERACY PROGRAMS.

11 B. THE AMOUNT TO BE DISTRIBUTED PURSUANT TO SUBSECTION A OF THIS  
12 SECTION IS THE SUM OF THE FOLLOWING:

13 1. THE TOTAL AMOUNT OF STATE TRANSACTION PRIVILEGE TAX RECEIVED UNDER  
14 THE RETAIL CLASSIFICATION FOR THE SALE OF PIPES OR VALVES THAT ARE FOUR  
15 INCHES IN DIAMETER OR LARGER AND THAT ARE USED TO TRANSPORT OIL, NATURAL GAS,  
16 ARTIFICIAL GAS, WATER OR COAL SLURRY, INCLUDING COMPRESSOR UNITS, REGULATORS,  
17 MACHINERY AND EQUIPMENT, FITTINGS, SEALS AND ANY OTHER PART THAT IS USED IN  
18 OPERATING THE PIPES OR VALVES.

19 2. THE TOTAL AMOUNT OF THE USE TAX RECEIVED FROM THE STORAGE, USE OR  
20 CONSUMPTION IN THIS STATE OF PIPES OR VALVES THAT ARE FOUR INCHES IN DIAMETER  
21 OR LARGER AND THAT ARE USED TO TRANSPORT OIL, NATURAL GAS, ARTIFICIAL GAS,  
22 WATER OR COAL SLURRY, INCLUDING COMPRESSOR UNITS, REGULATORS, MACHINERY AND  
23 EQUIPMENT, FITTINGS, SEALS AND ANY OTHER PART THAT IS USED IN OPERATING THE  
24 PIPES OR VALVES.

25 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:  
26 42-5061. Retail classification: definitions

27 A. The retail classification is comprised of the business of selling  
28 tangible personal property at retail. The tax base for the retail  
29 classification is the gross proceeds of sales or gross income derived from  
30 the business. The tax imposed on the retail classification does not apply to  
31 the gross proceeds of sales or gross income from:

32 1. Professional or personal service occupations or businesses that  
33 involve sales or transfers of tangible personal property only as  
34 inconsequential elements.

35 2. Services rendered in addition to selling tangible personal property  
36 at retail.

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

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

- 1           5. Sales to persons engaged in business classified under the  
2 restaurant classification of articles used by human beings for food, drink or  
3 condiment, whether simple, mixed or compounded.
- 4           6. Business activity that is properly included in any other business  
5 classification that is taxable under this article.
- 6           7. The sale of stocks and bonds.
- 7           8. Drugs and medical oxygen, including delivery hose, mask or tent,  
8 regulator and tank, on the prescription of a member of the medical, dental or  
9 veterinarian profession who is licensed by law to administer such substances.
- 10          9. Prosthetic appliances as defined in section 23-501 prescribed or  
11 recommended by a health professional who is licensed pursuant to title 32,  
12 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 13          10. Insulin, insulin syringes and glucose test strips.
- 14          11. Prescription eyeglasses or contact lenses.
- 15          12. Hearing aids as defined in section 36-1901.
- 16          13. Durable medical equipment which has a centers for medicare and  
17 medicaid services common procedure code, is designated reimbursable by  
18 medicare, is prescribed by a person who is licensed under title 32, chapter  
19 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
20 customarily used to serve a medical purpose, is generally not useful to a  
21 person in the absence of illness or injury and is appropriate for use in the  
22 home.
- 23          14. Sales to nonresidents of this state for use outside this state if  
24 the vendor ships or delivers the tangible personal property out of this  
25 state.
- 26          15. Food, as provided in and subject to the conditions of article 3 of  
27 this chapter and section 42-5074.
- 28          16. Items purchased with United States department of agriculture food  
29 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
30 958) or food instruments issued under section 17 of the child nutrition act  
31 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
32 section 1786).
- 33          17. Textbooks by any bookstore that are required by any state  
34 university or community college.
- 35          18. Food and drink to a person who is engaged in business that is  
36 classified under the restaurant classification and that provides such food  
37 and drink without monetary charge to its employees for their own consumption  
38 on the premises during the employees' hours of employment.
- 39          19. Articles of food, drink or condiment and accessory tangible  
40 personal property to a school district or charter school if such articles and  
41 accessory tangible personal property are to be prepared and served to persons  
42 for consumption on the premises of a public school within the district or on  
43 the premises of the charter school during school hours.
- 44          20. Lottery tickets or shares pursuant to title 5, chapter 5.1,  
45 article 1.

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

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

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

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

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

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

24           25. Tangible personal property sold to:

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

26           (b) A qualifying health care organization as defined in section  
27 42-5001 if the tangible personal property is used by the organization solely  
28 to provide health and medical related educational and charitable services.

29           (c) A qualifying health care organization as defined in section  
30 42-5001 if the organization is dedicated to providing educational,  
31 therapeutic, rehabilitative and family medical education training for blind,  
32 visually impaired and multihandicapped children from the time of birth to age  
33 twenty-one.

34           (d) A qualifying community health center as defined in section  
35 42-5001.

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

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

1 low income persons over sixty-two years of age in a facility that qualifies  
2 for a federal housing subsidy.

3 26. Magazines or other periodicals or other publications by this state  
4 to encourage tourist travel.

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

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

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

15 28. The sale of a motor vehicle to:

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

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

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

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

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

40 32. Sales of tangible personal property by a nonprofit organization  
41 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
42 501(c)(7) or 501(c)(8) of the internal revenue code if the organization  
43 sponsors or operates a rodeo featuring primarily farm and ranch animals and  
44 no part of the organization's net earnings inures to the benefit of any  
45 private shareholder or individual.

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

5           34. Machinery, equipment, technology or related supplies that are only  
6 useful to assist a person who is physically disabled as defined in section  
7 46-191, has a developmental disability as defined in section 36-551 or has a  
8 head injury as defined in section 41-3201 to be more independent and  
9 functional.

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

13          36. Sales of natural gas or liquefied petroleum gas used to propel a  
14 motor vehicle.

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

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

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

42          40. Through December 31, 1994, personal property liquidation  
43 transactions, conducted by a personal property liquidator. From and after  
44 December 31, 1994, personal property liquidation transactions shall be  
45 taxable under this section provided that nothing in this subsection shall be

1 construed to authorize the taxation of casual activities or transactions  
2 under this chapter. For the purposes of this paragraph:

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

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

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

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

19 43. Livestock and poultry feed, salts, vitamins and other additives for  
20 livestock or poultry consumption that are sold to persons who are engaged in  
21 producing livestock, poultry, or livestock or poultry products or who are  
22 engaged in feeding livestock or poultry commercially. For the purposes of  
23 this paragraph, "poultry" includes ratites.

24 44. Sales of implants used as growth promotants and injectable  
25 medicines, not already exempt under paragraph 8 of this subsection, for  
26 livestock or poultry owned by or in possession of persons who are engaged in  
27 producing livestock, poultry, or livestock or poultry products or who are  
28 engaged in feeding livestock or poultry commercially. For the purposes of  
29 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

15           50. Sales of alternative fuel vehicles if the vehicle was manufactured  
16 as a diesel fuel vehicle and converted to operate on alternative fuel and  
17 equipment that is installed in a conventional diesel fuel motor vehicle to  
18 convert the vehicle to operate on an alternative fuel, as defined in section  
19 1-215.

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

23           52. Sales of tangible personal property to be incorporated or installed  
24 as part of environmental response or remediation activities under section  
25 42-5075, subsection B, paragraph 6.

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

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

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

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

39           (b) "Curriculum design or enhancement" means planning, implementing or  
40 reporting on courses of study, lessons, assignments or other learning  
41 activities.

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

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

5           58. Sales or other transfers of renewable energy credits or any other  
6 unit created to track energy derived from renewable energy resources. For  
7 the purposes of this paragraph, "renewable energy credit" means a unit  
8 created administratively by the corporation commission or governing body of a  
9 public power utility to track kilowatt hours of electricity derived from a  
10 renewable energy resource or the kilowatt hour equivalent of conventional  
11 energy resources displaced by distributed renewable energy resources.

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

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

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

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

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

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

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

1           ~~7.~~ 6. Aircraft, navigational and communication instruments and other  
2 accessories and related equipment sold to:

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

9           (b) Any foreign government.

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

17           ~~8.~~ 7. Machinery, tools, equipment and related supplies used or  
18 consumed directly in repairing, remodeling or maintaining aircraft, aircraft  
19 engines or aircraft component parts by or on behalf of a certificated or  
20 licensed carrier of persons or property.

21           ~~9.~~ 8. Railroad rolling stock, rails, ties and signal control  
22 equipment used directly to transport persons or property.

23           ~~10.~~ 9. Machinery or equipment used directly to drill for oil or gas or  
24 used directly in the process of extracting oil or gas from the earth for  
25 commercial purposes.

26           ~~11.~~ 10. Buses or other urban mass transit vehicles which are used  
27 directly to transport persons or property for hire or pursuant to a  
28 governmentally adopted and controlled urban mass transportation program and  
29 which are sold to bus companies holding a federal certificate of convenience  
30 and necessity or operated by any city, town or other governmental entity or  
31 by any person contracting with such governmental entity as part of a  
32 governmentally adopted and controlled program to provide urban mass  
33 transportation.

34           ~~12.~~ 11. Groundwater measuring devices required under section 45-604.

35           ~~13.~~ 12. New machinery and equipment consisting of tractors,  
36 tractor-drawn implements, self-powered implements, machinery and equipment  
37 necessary for extracting milk, and machinery and equipment necessary for  
38 cooling milk and livestock, and drip irrigation lines not already exempt  
39 under ~~paragraph 6 of~~ this subsection and that are used for commercial  
40 production of agricultural, horticultural, viticultural and floricultural  
41 crops and products in this state. For the purposes of this paragraph:

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

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

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

15 ~~15-~~ 14. Tangible personal property that is used by either of the  
16 following to receive, store, convert, produce, generate, decode, encode,  
17 control or transmit telecommunications information:

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

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

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

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

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

36 ~~16-~~ 15. Clean rooms that are used for manufacturing, processing,  
37 fabrication or research and development, as defined in paragraph ~~14~~ 13 of  
38 this subsection, of semiconductor products. For the purposes of this  
39 paragraph, "clean room" means all property that comprises or creates an  
40 environment where humidity, temperature, particulate matter and contamination  
41 are precisely controlled within specified parameters, without regard to  
42 whether the property is actually contained within that environment or whether  
43 any of the property is affixed to or incorporated into real property. Clean  
44 room:

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

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

9 ~~17.~~ 16. Machinery and equipment used directly in the feeding of  
10 poultry, the environmental control of housing for poultry, the movement of  
11 eggs within a production and packaging facility or the sorting or cooling of  
12 eggs. This exemption does not apply to vehicles used for transporting eggs.

13 ~~18.~~ 17. Machinery or equipment, including related structural  
14 components, that is employed in connection with manufacturing, processing,  
15 fabricating, job printing, refining, mining, natural gas pipelines,  
16 metallurgical operations, telecommunications, producing or transmitting  
17 electricity or research and development and that is used directly to meet or  
18 exceed rules or regulations adopted by the federal energy regulatory  
19 commission, the United States environmental protection agency, the United  
20 States nuclear regulatory commission, the Arizona department of environmental  
21 quality or a political subdivision of this state to prevent, monitor, control  
22 or reduce land, water or air pollution.

23 ~~19.~~ 18. Machinery and equipment that are sold to a person engaged in  
24 the commercial production of livestock, livestock products or agricultural,  
25 horticultural, viticultural or floricultural crops or products in this state  
26 and that are used directly and primarily to prevent, monitor, control or  
27 reduce air, water or land pollution.

28 ~~20.~~ 19. Machinery or equipment that enables a television station to  
29 originate and broadcast or to receive and broadcast digital television  
30 signals and that was purchased to facilitate compliance with the  
31 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
32 Code section 336) and the federal communications commission order issued  
33 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
34 not exempt any of the following:

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

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

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

42 ~~21.~~ 20. Qualifying equipment that is purchased from and after June 30,  
43 2004 through June 30, 2024 by a qualified business under section 41-1516 for  
44 harvesting or processing qualifying forest products removed from qualifying  
45 projects as defined in section 41-1516. To qualify for this deduction, the

1 qualified business at the time of purchase must present its certification  
2 approved by the department.

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

5 1. Expendable materials. For the purposes of this paragraph,  
6 expendable materials do not include any of the categories of tangible  
7 personal property specified in subsection B of this section regardless of the  
8 cost or useful life of that property.

9 2. Janitorial equipment and hand tools.

10 3. Office equipment, furniture and supplies.

11 4. Tangible personal property used in selling or distributing  
12 activities, other than the telecommunications transmissions described in  
13 subsection B, paragraph ~~16~~ 14 of this section.

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

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

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

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

29 E. In computing the tax base, gross proceeds of sales or gross income  
30 from retail sales of heavy trucks and trailers does not include any amount  
31 attributable to federal excise taxes imposed by 26 United States Code section  
32 4051.

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

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

43 H. If a person is engaged in the business of selling tangible personal  
44 property at both wholesale and retail, the tax under this section applies  
45 only to the gross proceeds of the sales made other than at wholesale if the

1 person's books are kept so as to show separately the gross proceeds of sales  
2 of each class, and if the books are not so kept, the tax under this section  
3 applies to the gross proceeds of every sale so made.

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

- 12 1. Transporting classification.
- 13 2. Utilities classification.
- 14 3. Telecommunications classification.
- 15 4. Pipeline classification.
- 16 5. Private car line classification.
- 17 6. Publication classification.
- 18 7. Job printing classification.
- 19 8. Prime contracting classification.
- 20 9. Owner builder sales classification.
- 21 10. Restaurant classification.

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

- 24 1. Sales made directly to the United States government or its  
25 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 26 2. Sales made directly to a manufacturer, modifier, assembler or  
27 repairer if such sales are of any ingredient or component part of products  
28 sold directly to the United States government or its departments or agencies  
29 by the manufacturer, modifier, assembler or repairer.

30 3. Overhead materials or other tangible personal property that is used  
31 in performing a contract between the United States government and a  
32 manufacturer, modifier, assembler or repairer, including property used in  
33 performing a subcontract with a government contractor who is a manufacturer,  
34 modifier, assembler or repairer, to which title passes to the government  
35 under the terms of the contract or subcontract.

36 4. Sales of overhead materials or other tangible personal property to  
37 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
38 sales or gross income derived from the property by the manufacturer,  
39 modifier, assembler or repairer will be exempt under paragraph 3 of this  
40 subsection.

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

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

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

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

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

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

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

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

28 Q. Retail sales of prepaid calling cards or prepaid authorization  
29 numbers for telecommunications services, including sales of reauthorization  
30 of a prepaid card or authorization number, are subject to tax under this  
31 section.

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

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

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

40 S. If a seller is entitled to a deduction pursuant to subsection B,  
41 paragraph ~~15~~ 14, subdivision (b) of this section, the department may require  
42 the purchaser to establish that the requirements of subsection B, paragraph  
43 ~~15~~ 14, subdivision (b) of this section have been satisfied. If the purchaser  
44 cannot establish that the requirements of subsection B, paragraph ~~15~~ 14,  
45 subdivision (b) of this section have been satisfied, the purchaser is liable

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

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

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

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

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

30 V. For the purposes of this section:

31 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

29 Sec. 3. Section 42-5064, Arizona Revised Statutes, is amended to read:  
30 42-5064. Telecommunications classification; definitions

31 A. The telecommunications classification is comprised of the business  
32 of providing intrastate telecommunications services. The telecommunications  
33 classification does not include:

34 1. Sales of intrastate telecommunications services by a cable  
35 television system as defined in section 9-505 or by a microwave television  
36 transmission system that transmits television programming to multiple  
37 subscribers and that is operated pursuant to 47 Code of Federal Regulations  
38 parts 21 and 74.

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

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

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

4 B. The tax base for the telecommunications classification is the gross  
5 proceeds of sales or gross income derived from the business, including the  
6 gross income derived from tolls, subscriptions and services on behalf of  
7 subscribers or from the publication of a directory of the names of  
8 subscribers. However, the gross proceeds of sales or gross income derived  
9 from the following shall be deducted from the tax base:

10 1. Sales of intrastate telecommunications services to:

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

13 (b) A direct broadcast satellite television or data transmission  
14 service that operates pursuant to 47 Code of Federal Regulations part 25 for  
15 use in its direct broadcast satellite television or data transmission  
16 operation by a facility described in section 42-5061, subsection B, paragraph  
17 ~~15~~ 14, subdivision (b).

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

20 3. Carrier access charges established by federal communications  
21 commission regulations (47 Code of Federal Regulations sections 69.105(a)  
22 through 69.118).

23 4. Sales of direct broadcast satellite television services pursuant to  
24 47 Code of Federal Regulations part 25 by a direct broadcast satellite  
25 television service that operates pursuant to 47 Code of Federal Regulations  
26 part 25.

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

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

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

39 1. A telecommunications service provider who can reasonably identify  
40 the portion of the sales price of the bundled transaction derived from  
41 charges for nontaxable services is subject to tax only on the gross proceeds  
42 of sales or gross income derived from the taxable services. For the purposes  
43 of this section, the telecommunications service provider may elect to  
44 reasonably identify the portion of the sales price of the bundled transaction  
45 derived from charges for nontaxable services by using allocation percentages

1 derived from the telecommunications service provider's entire service area,  
2 including territories outside of this state. On request, the department may  
3 require the telecommunications service provider to provide this allocation  
4 information. The reasonableness of the allocation is subject to audit by the  
5 department.

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

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

14 E. For the purposes of this section:

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

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

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

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

25 3. "Internet access" means a service that enables users to access  
26 content, information, electronic mail or other services over the internet.  
27 Internet access does not include telecommunications services provided by a  
28 common carrier.

29 4. "Intrastate telecommunications services" means transmitting signs,  
30 signals, writings, images, sounds, messages, data or other information of any  
31 nature by wire, radio waves, light waves or other electromagnetic means if  
32 the information transmitted originates and terminates in this state.

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

34 42-5071. Personal property rental classification

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

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

41 2. Activities engaged in by the Arizona exposition and state fair  
42 board or county fair commissions in connection with events sponsored by such  
43 entities.

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

8           4. Operating coin-operated washing, drying and dry cleaning machines  
9 or coin-operated car washing machines at establishments for the use of such  
10 machines.

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

16           6. Leasing or renting aircraft, flight simulators or similar training  
17 equipment to students or staff by nonprofit, accredited educational  
18 institutions that offer associate or baccalaureate degrees in aviation or  
19 aerospace related fields.

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

23           B. The tax base for the personal property rental classification is the  
24 gross proceeds of sales or gross income derived from the business, but the  
25 gross proceeds of sales or gross income derived from the following shall be  
26 deducted from the tax base:

27           1. Reimbursements by the lessee to the lessor of a motor vehicle for  
28 payments by the lessor of the applicable fees and taxes imposed by sections  
29 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,  
30 article 2 and article IX, section 11, Constitution of Arizona, to the extent  
31 such amounts are separately identified as such fees and taxes and are billed  
32 to the lessee.

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

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

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

40           (i) Section 42-5061, subsection B, paragraph ~~13~~ 12 if the lease is for  
41 less than two years.

42           (ii) Section 42-5061, subsection B, paragraph ~~21~~ 20.

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

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

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

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

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

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

13          D. In computing the tax base, the gross proceeds of sales or gross  
14 income from the lease or rental of a motor vehicle does not include any  
15 amount attributable to the car rental surcharge under section 28-5810 or  
16 48-4234.

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

25          Sec. 5. Section 42-5075, Arizona Revised Statutes, is amended to read:  
26 42-5075. Prime contracting classification; exemptions;  
27 definitions

28          A. The prime contracting classification is comprised of the business  
29 of prime contracting and dealership of manufactured buildings. Sales for  
30 resale to another dealership of manufactured buildings are not subject to  
31 tax. Sales for resale do not include sales to a lessor of manufactured  
32 buildings. The sale of a used manufactured building is not taxable under  
33 this chapter. The proceeds from alteration and repairs to a used  
34 manufactured building are taxable under this section.

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

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

41           2. Sales and installation of groundwater measuring devices required  
42 under section 45-604 and groundwater monitoring wells required by law,  
43 including monitoring wells installed for acquiring information for a permit  
44 required by law.

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

6           4. The gross proceeds of sales or gross income received from a  
7 contract entered into for the construction, alteration, repair, addition,  
8 subtraction, improvement, movement, wrecking or demolition of any building,  
9 highway, road, railroad, excavation, manufactured building or other  
10 structure, project, development or improvement located in a military reuse  
11 zone for providing aviation or aerospace services or for a manufacturer,  
12 assembler or fabricator of aviation or aerospace products within an active  
13 military reuse zone after the zone is initially established or renewed under  
14 section 41-1531. To be eligible to qualify for this deduction, before  
15 beginning work under the contract, the prime contractor must have applied for  
16 a letter of qualification from the department of revenue.

17           5. The gross proceeds of sales or gross income derived from a contract  
18 to construct a qualified environmental technology manufacturing, producing or  
19 processing facility, as described in section 41-1514.02, and from subsequent  
20 construction and installation contracts that begin within ten years after the  
21 start of initial construction. To qualify for this deduction, before  
22 beginning work under the contract, the prime contractor must obtain a letter  
23 of qualification from the department of revenue. This paragraph shall apply  
24 for ten full consecutive calendar or fiscal years after the start of initial  
25 construction.

26           6. The gross proceeds of sales or gross income from a contract to  
27 provide for one or more of the following actions, or a contract for site  
28 preparation, constructing, furnishing or installing machinery, equipment or  
29 other tangible personal property, including structures necessary to protect  
30 exempt incorporated materials or installed machinery or equipment, and  
31 tangible personal property incorporated into the project, to perform one or  
32 more of the following actions in response to a release or suspected release  
33 of a hazardous substance, pollutant or contaminant from a facility to the  
34 environment, unless the release was authorized by a permit issued by a  
35 governmental authority:

36           (a) Actions to monitor, assess and evaluate such a release or a  
37 suspected release.

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

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

43           (d) Pumping and treatment or in situ treatment of contaminated  
44 groundwater or surface water to reduce the concentration or toxicity of a  
45 contaminant.

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

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

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

29 (a) To be incorporated into real property.

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

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

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

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

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

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

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

42 9. The gross proceeds of sales or gross income received from a  
43 contract for the construction of an environmentally controlled facility for  
44 the raising of poultry for the production of eggs and the sorting, cooling  
45 and packaging of eggs.

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

10           11. The gross proceeds of sales or gross income that is derived from  
11 the installation, assembly, repair or maintenance of clean rooms that are  
12 deducted from the tax base of the retail classification pursuant to section  
13 42-5061, subsection B, paragraph ~~16~~ 15.

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

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

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

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

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

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

43           18. The gross proceeds of sales or gross income received from a  
44 contract for the construction of any building, or other structure, project,  
45 development or improvement owned by a qualified business under section

1 41-1516 for harvesting or processing qualifying forest products removed from  
2 qualifying projects as defined in section 41-1516 if actual construction  
3 begins before January 1, 2024. To qualify for this deduction, the prime  
4 contractor must obtain a letter of qualification from the Arizona commerce  
5 authority before beginning work under the contract.

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

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

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

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

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

25 1. A prime contractor may establish entitlement to the deduction by  
26 both:

27 (a) Marking the invoice for the transaction to indicate that the gross  
28 proceeds of sales or gross income derived from the transaction was deducted  
29 from the base.

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

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

41 3. The department may prescribe a form for the certificate described  
42 in paragraph 1, subdivision (b) of this subsection. The department may also  
43 adopt rules that describe the transactions with respect to which a person is  
44 not entitled to rely solely on the information contained in the certificate  
45 provided in paragraph 1, subdivision (b) of this subsection but must instead

1 obtain such additional information as required in order to be entitled to the  
2 deduction.

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

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

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

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

43 G. For the purposes of section 42-5032.01, the department shall  
44 separately account for revenues collected under the prime contracting  
45 classification from any prime contractor engaged in the preparation or

1 construction of a multipurpose facility, and related infrastructure, that is  
2 owned, operated or leased by the tourism and sports authority pursuant to  
3 title 5, chapter 8.

4 H. For the purposes of section 42-5032.02, from and after September  
5 30, 2013, the department shall separately account for revenues reported and  
6 collected under the prime contracting classification from any prime  
7 contractor engaged in the construction of any buildings and associated  
8 improvements that are for the benefit of a manufacturing facility. For the  
9 purposes of this subsection, "associated improvements" and "manufacturing  
10 facility" have the same meanings prescribed in section 42-5032.02.

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

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

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

34 L. Operating a landfill or a solid waste disposal facility is not  
35 subject to taxation under this section, including filling, compacting and  
36 creating vehicle access to and from cell sites within the landfill.  
37 Constructing roads to a landfill or solid waste disposal facility and  
38 constructing cells within a landfill or solid waste disposal facility may be  
39 deemed prime contracting under this section.

40 M. The following apply to manufactured buildings:

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

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

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

9           N. The gross proceeds of sales or gross income attributable to a  
10 separate, written design phase services contract or professional services  
11 contract, executed before modification begins, is not subject to tax under  
12 this section, regardless of whether the services are provided sequential to  
13 or concurrent with prime contracting activities that are subject to tax under  
14 this section. This subsection does not include the gross proceeds of sales  
15 or gross income attributable to construction phase services. For the  
16 purposes of this subsection:

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

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

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

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

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

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

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

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

1 (e) Inspection to determine the dates of substantial completion or  
2 final completion.

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

9 (g) Preparation of status reports after modification work has begun  
10 detailing the progress of work performed, including preparation of any of the  
11 following:

12 (i) Master schedule updates.

13 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

26 2. "Design phase services" means services for developing and  
27 completing a design for a project that are not construction phase services,  
28 including the following:

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

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

35 (c) Preparing drawings and specifications for architectural program  
36 documents, schematic design documents, design development documents,  
37 modification work documents or documents that identify the scope of or  
38 materials for the project.

39 (d) Preparing an initial schedule for the project, excluding the  
40 preparation of updates to the master schedule after modification work has  
41 begun.

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

1 (i) Labor, materials, machinery and equipment, tools, water, heat,  
2 utilities, transportation and other facilities and services used in the  
3 execution and completion of modification work, regardless of whether they are  
4 temporary or permanent or whether they are incorporated in the  
5 modifications.

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

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

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

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

15 (vi) Any bond and insurance premiums.

16 (vii) Any applicable taxes.

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

19 (f) Reviewing and evaluating cost estimates and project documents to  
20 prepare recommendations on site use, site improvements, selection of  
21 materials, building systems and equipment, modification feasibility,  
22 availability of materials and labor, local modification activity as related  
23 to schedules and time requirements for modification work.

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

26 3. "Professional services" means architect services, assayer services,  
27 engineer services, geologist services, land surveying services or landscape  
28 architect services that are within the scope of those services as provided in  
29 title 32, chapter 1 and for which gross proceeds of sales or gross income has  
30 not otherwise been deducted under subsection K of this section.

31 0. Notwithstanding subsection P, paragraph 8 of this section, a person  
32 owning real property who enters into a contract for sale of the real  
33 property, who is responsible to the new owner of the property for  
34 modifications made to the property in the period subsequent to the transfer  
35 of title and who receives a consideration for the modifications is considered  
36 a prime contractor solely for purposes of taxing the gross proceeds of sale  
37 or gross income received for the modifications made subsequent to the  
38 transfer of title. The original owner's gross proceeds of sale or gross  
39 income received for the modifications shall be determined according to the  
40 following methodology:

41 1. If any part of the contract for sale of the property specifies  
42 amounts to be paid to the original owner for the modifications to be made in  
43 the period subsequent to the transfer of title, the amounts are included in  
44 the original owner's gross proceeds of sale or gross income under this  
45 section. Proceeds from the sale of the property that are received after

1 transfer of title and that are unrelated to the modifications made subsequent  
2 to the transfer of title are not considered gross proceeds of sale or gross  
3 income from the modifications.

4 2. If the original owner enters into an agreement separate from the  
5 contract for sale of the real property providing for amounts to be paid to  
6 the original owner for the modifications to be made in the period subsequent  
7 to the transfer of title to the property, the amounts are included in the  
8 original owner's gross proceeds of sale or gross income received for the  
9 modifications made subsequent to the transfer of title.

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

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

20 P. For the purposes of this section:

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

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

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

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

36 (b) Supervises, performs or coordinates the excavation and completion  
37 of site improvements, setup or moving of a manufactured building including  
38 the contracting, if any, with any subcontractor or specialty contractor for  
39 the completion of the contract.

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

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

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

1           7. "Prime contracting" means engaging in business as a prime  
2 contractor.

3           8. "Prime contractor" means a contractor who supervises, performs or  
4 coordinates the modification of any building, highway, road, railroad,  
5 excavation, manufactured building or other structure, project, development or  
6 improvement including the contracting, if any, with any subcontractors or  
7 specialty contractors and who is responsible for the completion of the  
8 contract. Except as provided in subsections E and O of this section, a  
9 person who owns real property, who engages one or more contractors to modify  
10 that real property and who does not itself modify that real property is not a  
11 prime contractor within the meaning of this paragraph regardless of the  
12 existence of a contract for sale or the subsequent sale of that real  
13 property.

14           9. "Sale of a used manufactured building" does not include a lease of  
15 a used manufactured building.

16           Sec. 6. Section 42-5159, Arizona Revised Statutes, is amended to read:  
17 [42-5159. Exemptions](#)

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

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

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

30           3. Tangible personal property, the storage, use or consumption of  
31 which the constitution or laws of the United States prohibit this state from  
32 taxing or to the extent that the rate or imposition of tax is  
33 unconstitutional under the laws of the United States.

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

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

1           6. Tangible personal property brought into this state by an individual  
2 who was a nonresident at the time the property was purchased for storage, use  
3 or consumption by the individual if the first actual use or consumption of  
4 the property was outside this state, unless the property is used in  
5 conducting a business in this state.

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

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

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

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

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

27           12. Materials that are purchased by or for publicly funded libraries  
28 including school district libraries, charter school libraries, community  
29 college libraries, state university libraries or federal, state, county or  
30 municipal libraries for use by the public as follows:

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

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

33           13. Tangible personal property purchased by:

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

37           (b) A hospital operated by this state or a political subdivision of  
38 this state.

39           (c) A licensed nursing care institution or a licensed residential care  
40 institution or a residential care facility operated in conjunction with a  
41 licensed nursing care institution or a licensed kidney dialysis center, which  
42 provides medical services, nursing services or health related services and is  
43 not used or held for profit.

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

4 (e) A qualifying health care organization as defined in section  
5 42-5001 if the organization is dedicated to providing educational,  
6 therapeutic, rehabilitative and family medical education training for blind,  
7 visually impaired and multihandicapped children from the time of birth to age  
8 twenty-one.

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

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

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

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

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

27 (i) A qualifying community health center as defined in section  
28 42-5001.

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

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

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

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

6           15. Tangible personal property sold by:

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

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

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

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

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

27           18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

9           27. Lottery tickets or shares purchased pursuant to title 5, chapter  
10 5.1, article 1.

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

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

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

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

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

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

33           (b) Public educational institutions.

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

37           33. Natural gas or liquefied petroleum gas used to propel a motor  
38 vehicle.

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

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

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

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

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

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

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

39           (b) "Subcontract" means an agreement between a contractor and any  
40 person who is not an employee of the contractor for furnishing of supplies or  
41 services that, in whole or in part, are necessary to the performance of one  
42 or more government contracts, or under which any portion of the contractor's  
43 obligation under one or more government contracts is performed, undertaken or  
44 assumed, and that includes provisions causing title to overhead materials or  
45 other tangible personal property used in the performance of the subcontract

1 to pass to the government or that includes provisions incorporating such  
2 title passing clauses in a government contract into the subcontract.

3 40. Through December 31, 1994, tangible personal property sold pursuant  
4 to a personal property liquidation transaction, as defined in section  
5 42-5061. From and after December 31, 1994, tangible personal property sold  
6 pursuant to a personal property liquidation transaction, as defined in  
7 section 42-5061, if the gross proceeds of the sales were included in the  
8 measure of the tax imposed by article 1 of this chapter or if the personal  
9 property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (b) "Curriculum design or enhancement" means planning, implementing or  
15 reporting on courses of study, lessons, assignments or other learning  
16 activities.

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

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

25 53. Renewable energy credits or any other unit created to track energy  
26 derived from renewable energy resources. For the purposes of this paragraph,  
27 "renewable energy credit" means a unit created administratively by the  
28 corporation commission or governing body of a public power entity to track  
29 kilowatt hours of electricity derived from a renewable energy resource or the  
30 kilowatt hour equivalent of conventional energy resources displaced by  
31 distributed renewable energy resources.

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

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

42 2. Machinery, or equipment, used directly in the process of extracting  
43 ores or minerals from the earth for commercial purposes, including equipment  
44 required to prepare the materials for extraction and handling, loading or  
45 transporting such extracted material to the surface. "Mining" includes

1 underground, surface and open pit operations for extracting ores and  
2 minerals.

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

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

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

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

20 ~~7.~~ 6. Aircraft, navigational and communication instruments and other  
21 accessories and related equipment sold to:

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

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

31 ~~8.~~ 7. Machinery, tools, equipment and related supplies used or  
32 consumed directly in repairing, remodeling or maintaining aircraft, aircraft  
33 engines or aircraft component parts by or on behalf of a certificated or  
34 licensed carrier of persons or property.

35 ~~9.~~ 8. Rolling stock, rails, ties and signal control equipment used  
36 directly to transport persons or property.

37 ~~10.~~ 9. Machinery or equipment used directly to drill for oil or gas or  
38 used directly in the process of extracting oil or gas from the earth for  
39 commercial purposes.

40 ~~11.~~ 10. Buses or other urban mass transit vehicles which are used  
41 directly to transport persons or property for hire or pursuant to a  
42 governmentally adopted and controlled urban mass transportation program and  
43 which are sold to bus companies holding a federal certificate of convenience  
44 and necessity or operated by any city, town or other governmental entity or  
45 by any person contracting with such governmental entity as part of a

1 governmentally adopted and controlled program to provide urban mass  
2 transportation.

3 ~~12-~~ 11. Groundwater measuring devices required under section 45-604.

4 ~~13-~~ 12. New machinery and equipment consisting of tractors,  
5 tractor-drawn implements, self-powered implements, machinery and equipment  
6 necessary for extracting milk, and machinery and equipment necessary for  
7 cooling milk and livestock, and drip irrigation lines not already exempt  
8 under ~~paragraph 6 of~~ this subsection and that are used for commercial  
9 production of agricultural, horticultural, viticultural and floricultural  
10 crops and products in this state. For the purposes of this paragraph:

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

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

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

28 ~~15-~~ 14. Tangible personal property that is used by either of the  
29 following to receive, store, convert, produce, generate, decode, encode,  
30 control or transmit telecommunications information:

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

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

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

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

44 For the purposes of subdivision (b) of this paragraph, "test period" means  
45 the three hundred sixty-five day period beginning on the later of the date on

1 which the tangible personal property is purchased or the date on which the  
2 direct broadcast satellite television or data transmission service first  
3 transmits information to its customers.

4 ~~16-~~ 15. Clean rooms that are used for manufacturing, processing,  
5 fabrication or research and development, as defined in paragraph ~~14~~ 13 of  
6 this subsection, of semiconductor products. For the purposes of this  
7 paragraph, "clean room" means all property that comprises or creates an  
8 environment where humidity, temperature, particulate matter and contamination  
9 are precisely controlled within specified parameters, without regard to  
10 whether the property is actually contained within that environment or whether  
11 any of the property is affixed to or incorporated into real property. Clean  
12 room:

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

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

21 ~~17-~~ 16. Machinery and equipment that are used directly in the feeding  
22 of poultry, the environmental control of housing for poultry, the movement of  
23 eggs within a production and packaging facility or the sorting or cooling of  
24 eggs. This exemption does not apply to vehicles used for transporting eggs.

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

35 ~~19-~~ 18. Machinery and equipment that are used in the commercial  
36 production of livestock, livestock products or agricultural, horticultural,  
37 viticultural or floricultural crops or products in this state and that are  
38 used directly and primarily to prevent, monitor, control or reduce air, water  
39 or land pollution.

40 ~~20-~~ 19. Machinery or equipment that enables a television station to  
41 originate and broadcast or to receive and broadcast digital television  
42 signals and that was purchased to facilitate compliance with the  
43 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
44 Code section 336) and the federal communications commission order issued

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

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

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

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

10 ~~21-~~ 20. Qualifying equipment that is purchased from and after June 30,  
11 2004 through June 30, 2024 by a qualified business under section 41-1516 for  
12 harvesting or processing qualifying forest products removed from qualifying  
13 projects as defined in section 41-1516. To qualify for this exemption, the  
14 qualified business must obtain and present its certification from the Arizona  
15 commerce authority at the time of purchase.

16 C. The exemptions provided by subsection B of this section do not  
17 include:

18 1. Expendable materials. For the purposes of this paragraph,  
19 expendable materials do not include any of the categories of tangible  
20 personal property specified in subsection B of this section regardless of the  
21 cost or useful life of that property.

22 2. Janitorial equipment and hand tools.

23 3. Office equipment, furniture and supplies.

24 4. Tangible personal property used in selling or distributing  
25 activities, other than the telecommunications transmissions described in  
26 subsection B, paragraph ~~16~~ 14 of this section.

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

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

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

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

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

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

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

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

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

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

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

17 1. "Aircraft" includes:

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

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

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

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

31 Sec. 7. Section 43-1082, Arizona Revised Statutes, is amended to read:

32 43-1082. Credit for construction materials incorporated into  
33 qualifying facility; definitions

34 A. A credit is allowed against the tax imposed by this title for new  
35 construction materials incorporated into a qualifying facility located  
36 entirely within this state, construction of which is begun on or after  
37 January 1, 1994 and completed on or before December 31, 1999. The credit  
38 shall be computed as five per cent of the purchase price of the materials.  
39 The credit shall be claimed in the taxable year in which the qualified  
40 facility receives a certificate of occupancy.

41 B. Co-owners of a business, including partners in a partnership and  
42 shareholders of an S corporation, as defined in section 1361 of the internal  
43 revenue code, may each claim only the pro rata share of the credit allowed  
44 under this section based on the ownership interest, except that partners in a  
45 partnership and members in a limited liability company may allocate among

1 themselves any credit for construction materials that are incorporated into a  
2 facility that is predominantly used for direct broadcast satellite television  
3 or data transmission services in any proportion stated in their partnership  
4 or operating agreement. The total of the credits allowed all such owners may  
5 not exceed the amount that would have been allowed a sole owner.

6 C. If the allowable tax credit exceeds the taxes otherwise due under  
7 this title on the claimant's income, or if there are no taxes due under this  
8 title, the taxpayer may carry the amount of the claim not used to offset the  
9 taxes under this title forward for not more than five taxable years' income  
10 tax liability.

11 D. The department shall prescribe a form to be filed in the year the  
12 credit arises by a partnership or limited liability company that allocates  
13 the credit among its partners or members. The form constitutes an election  
14 by the business as to the proportion of the credit allocable to each of the  
15 specific owners. The election is irrevocable.

16 E. For THE purposes of this section:

17 1. "Construction materials" means tangible personal property  
18 incorporated into and permanently affixed to the taxpayer's qualifying  
19 facility other than materials exempt from taxation pursuant to section  
20 42-5061 or 42-5159, subsection B.

21 2. "Direct broadcast satellite television or data transmission  
22 services" means either:

23 (a) Receiving, converting, processing, storing or transmitting  
24 telecommunications information by a business that operates pursuant to 47  
25 Code of Federal Regulations parts 25 and 100.

26 (b) Transmitting telecommunications information to a business that  
27 operates pursuant to 47 Code of Federal Regulations parts 25 and 100 if the  
28 transmitting meets the requirements of section 42-5061, subsection B,  
29 paragraph ~~15~~ 14, subdivision (b).

30 3. "Purchase price" means either the direct cost of materials  
31 purchased by the taxpayer from a supplier for incorporation into the  
32 qualifying facility, or the direct cost of materials paid by a contractor for  
33 incorporation into the taxpayer's qualifying facility.

34 4. "Qualifying facility" means a new building or structure, or  
35 expansion of an existing building or structure, located entirely within this  
36 state, predominantly used for manufacturing, fabricating, mining, refining,  
37 metallurgical operations, direct broadcast satellite television or data  
38 transmission services or research and development as described in section  
39 43-1168, and which has a total cost of construction in excess of five million  
40 dollars.