

REFERENCE TITLE: sales tax exemptions; repeal; dates

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

SB 1221

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 42-5039; AMENDING SECTIONS 42-5061, 42-5062, 42-5063, 42-5064, 42-5065, 42-5066, 42-5067, 42-5069, 42-5070, 42-5071, 42-5072, 42-5073, 42-5074, 42-5075, 42-5102 AND 42-5159, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND AFFILIATED EXCISE 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 42-5039, to read:

4 42-5039. Requirements for new transaction privilege or use tax
5 exemptions by legislature

6 ANY NEW TRANSACTION PRIVILEGE OR USE TAX DEDUCTION OR EXEMPTION THAT IS
7 ESTABLISHED BY THE LEGISLATURE UNDER THIS CHAPTER SHALL INCLUDE IN ITS
8 ENABLING LEGISLATION A SPECIFIC REPEAL DATE FOR THE DEDUCTION OR EXEMPTION.
9 THE SPECIFIC REPEAL DATE SHALL BE FROM AND AFTER DECEMBER 31 OF THE SEVENTH
10 FULL CALENDAR YEAR FOLLOWING THE DATE THE DEDUCTION OR EXEMPTION IS ENACTED.

11 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:

12 42-5061. Retail classification; definitions

13 A. The retail classification is comprised of the business of selling
14 tangible personal property at retail. The tax base for the retail
15 classification is the gross proceeds of sales or gross income derived from
16 the business. The tax imposed on the retail classification does not apply to
17 the gross proceeds of sales or gross income from:

18 1. Professional or personal service occupations or businesses that
19 involve sales or transfers of tangible personal property only as
20 inconsequential elements.

21 2. Services rendered in addition to selling tangible personal property
22 at retail.

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

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

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

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

35 7. The sale of stocks and bonds.

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

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

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

43 11. Prescription eyeglasses or contact lenses.

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

1 13. Durable medical equipment which has a centers for medicare and
2 medicaid services common procedure code, is designated reimbursable by
3 medicare, is prescribed by a person who is licensed under title 32, chapter
4 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
5 customarily used to serve a medical purpose, is generally not useful to a
6 person in the absence of illness or injury and is appropriate for use in the
7 home.

8 14. Sales to nonresidents of this state for use outside this state if
9 the vendor ships or delivers the tangible personal property out of this
10 state.

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

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

18 17. Textbooks by any bookstore that are required by any state
19 university or community college.

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

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

29 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
30 article 1.

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

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

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

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

1 sales of jet fuel that are subject to the tax imposed under article 8 of this
2 chapter.

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

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

9 25. Tangible personal property sold to:

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

11 (b) A qualifying health care organization as defined in section
12 42-5001 if the tangible personal property is used by the organization solely
13 to provide health and medical related educational and charitable services.

14 (c) A qualifying health care organization as defined in section
15 42-5001 if the organization is dedicated to providing educational,
16 therapeutic, rehabilitative and family medical education training for blind,
17 visually impaired and multihandicapped children from the time of birth to age
18 twenty-one.

19 (d) A qualifying community health center as defined in section
20 42-5001.

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

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

32 26. Magazines or other periodicals or other publications by this state
33 to encourage tourist travel.

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

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

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

44 28. The sale of a motor vehicle to:

1 (a) A nonresident of this state if the purchaser's state of residence
2 does not allow a corresponding use tax exemption to the tax imposed by
3 article 1 of this chapter and if the nonresident has secured a special ninety
4 day nonresident registration permit for the vehicle as prescribed by sections
5 28-2154 and 28-2154.01.

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

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

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

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

25 32. Sales of tangible personal property by a nonprofit organization
26 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
27 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
28 sponsors or operates a rodeo featuring primarily farm and ranch animals and
29 no part of the organization's net earnings inures to the benefit of any
30 private shareholder or individual.

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

35 34. Machinery, equipment, technology or related supplies that are only
36 useful to assist a person who is physically disabled as defined in section
37 46-191, has a developmental disability as defined in section 36-551 or has a
38 head injury as defined in section 41-3201 to be more independent and
39 functional.

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

43 36. Sales of natural gas or liquefied petroleum gas used to propel a
44 motor vehicle.

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

4 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
5 sold to a qualified environmental technology manufacturer, producer or
6 processor as defined in section 41-1514.02 and directly used or consumed in
7 the generation or provision of on-site power or energy solely for
8 environmental technology manufacturing, producing or processing or
9 environmental protection. This paragraph shall apply for twenty full
10 consecutive calendar or fiscal years from the date the first paper
11 manufacturing machine is placed in service. In the case of an environmental
12 technology manufacturer, producer or processor who does not manufacture
13 paper, the time period shall begin with the date the first manufacturing,
14 processing or production equipment is placed in service.

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

28 40. Through December 31, 1994, personal property liquidation
29 transactions, conducted by a personal property liquidator. From and after
30 December 31, 1994, personal property liquidation transactions shall be
31 taxable under this section provided that nothing in this subsection shall be
32 construed to authorize the taxation of casual activities or transactions
33 under this chapter. For the purposes of this paragraph:

34 (a) "Personal property liquidation transaction" means a sale of
35 personal property made by a personal property liquidator acting solely on
36 behalf of the owner of the personal property sold at the dwelling of the
37 owner or on the death of any owner, on behalf of the surviving spouse, if
38 any, any devisee or heir or the personal representative of the estate of the
39 deceased, if one has been appointed.

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

42 41. Sales of food, drink and condiment for consumption within the
43 premises of any prison, jail or other institution under the jurisdiction of
44 the state department of corrections, the department of public safety, the
45 department of juvenile corrections or a county sheriff.

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

5 43. Livestock and poultry feed, salts, vitamins and other additives for
6 livestock or poultry consumption that are sold to persons who are engaged in
7 producing livestock, poultry, or livestock or poultry products or who are
8 engaged in feeding livestock or poultry commercially. For the purposes of
9 this paragraph, "poultry" includes ratites.

10 44. Sales of implants used as growth promotants and injectable
11 medicines, not already exempt under paragraph 8 of this subsection, for
12 livestock or poultry owned by or in possession of persons who are engaged in
13 producing livestock, poultry, or livestock or poultry products or who are
14 engaged in feeding livestock or poultry commercially. For the purposes of
15 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

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

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

6 52. Sales of tangible personal property to be incorporated or installed
7 as part of environmental response or remediation activities under section
8 42-5075, subsection B, paragraph 6.

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

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

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

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

22 (b) "Curriculum design or enhancement" means planning, implementing or
23 reporting on courses of study, lessons, assignments or other learning
24 activities.

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

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

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

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

44 1. Machinery, or equipment, used directly in manufacturing,
45 processing, fabricating, job printing, refining or metallurgical operations.

1 The terms "manufacturing", "processing", "fabricating", "job printing",
2 "refining" and "metallurgical" as used in this paragraph refer to and include
3 those operations commonly understood within their ordinary meaning.
4 "Metallurgical operations" includes leaching, milling, precipitating,
5 smelting and refining.

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

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

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

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

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

29 7. Aircraft, navigational and communication instruments and other
30 accessories and related equipment sold to:

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

37 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 18. Machinery or equipment, including related structural components,
40 that is employed in connection with manufacturing, processing, fabricating,
41 job printing, refining, mining, natural gas pipelines, metallurgical
42 operations, telecommunications, producing or transmitting electricity or
43 research and development and that is used directly to meet or exceed rules or
44 regulations adopted by the federal energy regulatory commission, the United
45 States environmental protection agency, the United States nuclear regulatory

1 commission, the Arizona department of environmental quality or a political
2 subdivision of this state to prevent, monitor, control or reduce land, water
3 or air pollution.

4 19. Machinery and equipment that are sold to a person engaged in the
5 commercial production of livestock, livestock products or agricultural,
6 horticultural, viticultural or floricultural crops or products in this state
7 and that are used directly and primarily to prevent, monitor, control or
8 reduce air, water or land pollution.

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

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

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

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

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

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

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

35 2. Janitorial equipment and hand tools.

36 3. Office equipment, furniture and supplies.

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

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

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

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

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

10 E. In computing the tax base, gross proceeds of sales or gross income
11 from retail sales of heavy trucks and trailers does not include any amount
12 attributable to federal excise taxes imposed by 26 United States Code section
13 4051.

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

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

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

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

- 38 1. Transporting classification.
- 39 2. Utilities classification.
- 40 3. Telecommunications classification.
- 41 4. Pipeline classification.
- 42 5. Private car line classification.
- 43 6. Publication classification.
- 44 7. Job printing classification.
- 45 8. Prime contracting classification.

1 9. Owner builder sales classification.
2 10. Restaurant classification.
3 J. The gross proceeds of sales or gross income derived from the
4 following shall be deducted from the tax base for the retail classification:
5 1. Sales made directly to the United States government or its
6 departments or agencies by a manufacturer, modifier, assembler or repairer.
7 2. Sales made directly to a manufacturer, modifier, assembler or
8 repairer if such sales are of any ingredient or component part of products
9 sold directly to the United States government or its departments or agencies
10 by the manufacturer, modifier, assembler or repairer.
11 3. Overhead materials or other tangible personal property that is used
12 in performing a contract between the United States government and a
13 manufacturer, modifier, assembler or repairer, including property used in
14 performing a subcontract with a government contractor who is a manufacturer,
15 modifier, assembler or repairer, to which title passes to the government
16 under the terms of the contract or subcontract.
17 4. Sales of overhead materials or other tangible personal property to
18 a manufacturer, modifier, assembler or repairer if the gross proceeds of
19 sales or gross income derived from the property by the manufacturer,
20 modifier, assembler or repairer will be exempt under paragraph 3 of this
21 subsection.
22 K. There shall be deducted from the tax base fifty per cent of the
23 gross proceeds or gross income from any sale of tangible personal property
24 made directly to the United States government or its departments or agencies,
25 which is not deducted under subsection J of this section.
26 L. The department shall require every person claiming a deduction
27 provided by subsection J or K of this section to file on forms prescribed by
28 the department at such times as the department directs a sworn statement
29 disclosing the name of the purchaser and the exact amount of sales on which
30 the exclusion or deduction is claimed.
31 M. In computing the tax base, gross proceeds of sales or gross income
32 does not include:
33 1. A manufacturer's cash rebate on the sales price of a motor vehicle
34 if the buyer assigns the buyer's right in the rebate to the retailer.
35 2. The waste tire disposal fee imposed pursuant to section 44-1302.
36 N. There shall be deducted from the tax base the amount received from
37 sales of solar energy devices. The retailer shall register with the
38 department as a solar energy retailer. By registering, the retailer
39 acknowledges that it will make its books and records relating to sales of
40 solar energy devices available to the department for examination.
41 O. In computing the tax base in the case of the sale or transfer of
42 wireless telecommunications equipment as an inducement to a customer to enter
43 into or continue a contract for telecommunications services that are taxable
44 under section 42-5064, gross proceeds of sales or gross income does not
45 include any sales commissions or other compensation received by the retailer

1 as a result of the customer entering into or continuing a contract for the
2 telecommunications services.

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

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

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

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

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

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

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

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

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

43 U. In computing the tax base for the sale of a motor vehicle to a
44 nonresident of this state, if the purchaser's state of residence allows a
45 corresponding use tax exemption to the tax imposed by article 1 of this

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

10 V. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
11 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
12 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
13 DECEMBER 31, 2020.

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

15 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

1 accepted accounting principles and consistent with government contract
2 accounting standards.

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

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

14 Sec. 3. Section 42-5062, Arizona Revised Statutes, is amended to read:
15 42-5062. Transporting classification

16 A. The transporting classification is comprised of the business of
17 transporting for hire persons, freight or property by motor vehicle,
18 railroads or aircraft from one point to another point in this state. The
19 transporting classification does not include:

20 1. Transporting for hire persons, freight or property by motor
21 carriers subject to a fee prescribed in title 28, chapter 16, article 4 or by
22 light motor vehicles subject to a fee under title 28, chapter 15, article 4.

23 2. The business of transporting for hire persons traveling in air
24 commerce by aircraft if taxation of the business is preempted by federal law.

25 3. Ambulances or ambulance services provided under title 48 or
26 certified pursuant to title 36, chapter 21.1 or provided by a city or town in
27 a county with a population of less than one hundred fifty thousand persons as
28 determined in the most recent United States decennial census.

29 4. Public transportation program services for the dial-a-ride programs
30 and special needs transportation services.

31 5. Transporting freight or property for hire by a railroad operating
32 exclusively in this state if the transportation comprises a portion of a
33 single shipment of freight or property, involving more than one railroad,
34 either from a point in this state to a point outside this state or from a
35 point outside this state to a point in this state. For the purposes of this
36 paragraph, "a single shipment" means the transportation that begins at the
37 point at which one of the railroads first takes possession of the freight or
38 property and continues until the point at which one of the railroads
39 relinquishes possession of the freight or property to a party other than one
40 of the railroads.

41 6. Arranging transportation as a convenience or service to a person's
42 customers if that person is not otherwise engaged in the business of
43 transporting persons, freight or property for hire. This exception does not
44 apply to businesses that dispatch vehicles pursuant to customer orders and
45 send the billings and receive the payments associated with that activity,

1 including when the transportation is performed by third party independent
2 contractors. For the purposes of this paragraph, "arranging" includes
3 billing for or collecting transportation charges from a person's customers on
4 behalf of the persons providing the transportation.

5 B. The tax base for the transporting classification is the gross
6 proceeds of sales or gross income derived from the business, except that the
7 following shall be deducted from the tax base:

8 1. The gross proceeds of sales or gross income derived from
9 transporting for hire persons, freight or property by a railroad pursuant to
10 a contract with another railroad that is also considered to be engaged in the
11 businesses of transporting persons, freight or property for hire if the other
12 railroad is liable for the tax on gross proceeds of sales or gross income
13 attributable to the transportation.

14 2. The gross proceeds of sales or gross income derived from business
15 activity that is properly included in any other business classification under
16 this article and that is taxable to the person engaged in that
17 classification, but the gross proceeds of sales or gross income to be
18 deducted shall not exceed the consideration paid to the person conducting the
19 activity.

20 3. The gross proceeds of sales or gross income derived from a business
21 activity that is arranged by the person who is subject to tax under this
22 section and that is not taxable to the person conducting the activity due to
23 an exclusion, exemption or deduction under this section or section 42-5073,
24 but the gross proceeds of sales or gross income to be deducted shall not
25 exceed the consideration paid to the person conducting the activity.

26 4. The gross proceeds of sales or gross income derived from business
27 activity that is arranged by a person who is subject to tax under this
28 section and that is taxable to another person under this section who conducts
29 the activity, but the gross proceeds of sales or gross income to be deducted
30 shall not exceed the consideration paid to the person conducting the
31 activity.

32 5. The gross proceeds of sales or gross income derived from
33 transporting fertilizer by a railroad from a point in this state to another
34 point in this state.

35 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
36 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
37 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
38 DECEMBER 31, 2020.

39 Sec. 4. Section 42-5063, Arizona Revised Statutes, is amended to read:
40 42-5063. Utilities classification; definitions

41 A. The utilities classification is comprised of the business of:

42 1. Producing and furnishing or furnishing to consumers natural or
43 artificial gas and water.

1 2. Providing to retail electric customers ancillary services, electric
2 distribution services, electric generation services, electric transmission
3 services and other services related to providing electricity.

4 B. The utilities classification does not include:

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

9 2. Sales of natural gas or liquefied petroleum gas used to propel a
10 motor vehicle.

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

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

19 5. Sales or other transfers of renewable energy credits or any other
20 unit created to track energy derived from renewable energy resources. For
21 the purposes of this paragraph, "renewable energy credit" means a unit
22 created administratively by the corporation commission or governing body of a
23 public power utility to track kilowatt hours of electricity derived from a
24 renewable energy resource or the kilowatt hour equivalent of conventional
25 energy resources displaced by distributed renewable energy resources.

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

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

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

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

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

43 (b) A qualifying health care organization as defined in section
44 42-5001 if the tangible personal property is used by the organization solely
45 to provide health and medical related educational and charitable services.

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

11 5. The portion of gross proceeds of sales or gross income attributable
12 to transfers of electricity by any retail electric customer owning a solar
13 photovoltaic energy generating system to an electric distribution system, if
14 the electricity transferred is generated by the customer's system.

15 D. NOTWITHSTANDING SUBSECTIONS B AND C OF THIS SECTION, THE ITEMS
16 DESCRIBED IN SUBSECTIONS B AND C OF THIS SECTION SHALL NOT BE DEDUCTED OR
17 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
18 DECEMBER 31, 2020.

19 ~~D.~~ E. For the purposes of this section:

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

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

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

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

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

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

40 Sec. 5. Section 42-5064, Arizona Revised Statutes, is amended to read:
41 42-5064. Telecommunications classification; definitions

42 A. The telecommunications classification is comprised of the business
43 of providing intrastate telecommunications services. The telecommunications
44 classification does not include:

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

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

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

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

16 B. The tax base for the telecommunications classification is the gross
17 proceeds of sales or gross income derived from the business, including the
18 gross income derived from tolls, subscriptions and services on behalf of
19 subscribers or from the publication of a directory of the names of
20 subscribers. However, the gross proceeds of sales or gross income derived
21 from the following shall be deducted from the tax base:

22 1. Sales of intrastate telecommunications services to:

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

25 (b) A direct broadcast satellite television or data transmission
26 service that operates pursuant to 47 Code of Federal Regulations part 25 for
27 use in its direct broadcast satellite television or data transmission
28 operation by a facility described in section 42-5061, subsection B, paragraph
29 15, subdivision (b).

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

32 3. Carrier access charges established by federal communications
33 commission regulations (47 Code of Federal Regulations sections 69.105(a)
34 through 69.118).

35 4. Sales of direct broadcast satellite television services pursuant to
36 47 Code of Federal Regulations part 25 by a direct broadcast satellite
37 television service that operates pursuant to 47 Code of Federal Regulations
38 part 25.

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

42 C. A person that is engaged in a transient lodging business subject to
43 taxation under section 42-5070 and that provides telephone, fax or internet
44 access services to its customers at an additional charge, which is separately
45 stated on the customer invoice, is considered to be engaged in business

1 subject to taxation under this section for the purposes of taxing the gross
2 proceeds of sales or gross income derived from providing those services.

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

6 1. A telecommunications service provider who can reasonably identify
7 the portion of the sales price of the bundled transaction derived from
8 charges for nontaxable services is subject to tax only on the gross proceeds
9 of sales or gross income derived from the taxable services. For the purposes
10 of this section, the telecommunications service provider may elect to
11 reasonably identify the portion of the sales price of the bundled transaction
12 derived from charges for nontaxable services by using allocation percentages
13 derived from the telecommunications service provider's entire service area,
14 including territories outside of this state. On request, the department may
15 require the telecommunications service provider to provide this allocation
16 information. The reasonableness of the allocation is subject to audit by the
17 department.

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

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

26 E. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
27 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
28 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
29 DECEMBER 31, 2020.

30 ~~E.~~ F. For the purposes of this section:

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

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

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

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

41 3. "Internet access" means a service that enables users to access
42 content, information, electronic mail or other services over the internet.
43 Internet access does not include telecommunications services provided by a
44 common carrier.

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

5 Sec. 6. Section 42-5065, Arizona Revised Statutes, is amended to read:
6 42-5065. Publication classification: definition

7 A. The publication classification is comprised of the business of
8 publishing newspapers, magazines or other periodicals and publications if
9 published in this state. The publication classification does not include:

10 1. Manufacturing or publishing books.

11 2. Sales of magazines or other periodicals or other publications by
12 this state to encourage tourist travel.

13 B. The tax base for the publication classification is the gross
14 proceeds of sales or gross income derived from the business, including the
15 gross income derived from notices and subscription income, but the following
16 shall be deducted from the tax base:

17 1. Gross income derived from advertising.

18 2. Gross proceeds of sales or gross income derived from sales of
19 personal property to:

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

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

24 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
25 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
26 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
27 DECEMBER 31, 2020.

28 ~~C.~~ D. For purposes of this section "subscription income" includes all
29 circulation revenue, except amounts actually retained by or credited to
30 carriers and other vendors as compensation for sale or delivery of
31 publications and revenue from publications sold, directly or through
32 wholesalers or jobbers, to retailers for resale.

33 Sec. 7. Section 42-5066, Arizona Revised Statutes, is amended to read:
34 42-5066. Job printing classification

35 A. The job printing classification is comprised of the business of job
36 printing, engraving, embossing and copying.

37 B. The tax base for the job printing classification is the gross
38 proceeds of sales or gross income derived from the business, but the gross
39 proceeds of sales or gross income derived from the following shall be
40 deducted from the tax base:

41 1. Sales to a person in this state who has a transaction privilege tax
42 license issued in this state, and who does either of the following:

43 (a) Resells the job printing, engraving, embossing or copying.

44 (b) Distributes such printing, engraving, embossing or copying without
45 consideration in connection with the publication of a newspaper or magazine.

1 2. Sales of job printing, engraving, embossing and copying for use
2 outside this state if the materials are shipped or delivered out of this
3 state regardless of where title to the materials passes or their free on
4 board point.

5 3. Sales of personal property to:

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

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

10 4. Sales of postage and freight except that the amount deducted shall
11 not exceed the actual postage and freight expense that is paid to the United
12 States postal service or a commercial delivery service and that is separately
13 itemized by the taxpayer on the customer's invoice and in the taxpayer's
14 records.

15 C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, THE ITEMS DESCRIBED
16 IN SUBSECTION B OF THIS SECTION SHALL NOT BE DEDUCTED OR EXEMPTED FROM THE
17 TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER DECEMBER 31, 2020.

18 Sec. 8. Section 42-5067, Arizona Revised Statutes, is amended to read:

19 42-5067. Pipeline classification

20 A. The pipeline classification is comprised of the business of
21 operating pipelines for transporting oil or natural or artificial gas through
22 pipes or conduits from one point to another point in this state. The
23 pipeline classification does not include sales of natural gas or liquefied
24 petroleum gas used to propel a motor vehicle.

25 B. The tax base for the pipeline classification is the gross proceeds
26 of sales or gross income derived from the business, but the taxpayer shall
27 deduct from the tax base the gross proceeds of sales or gross income derived
28 from pipeline services to:

29 1. Qualifying hospitals as defined in section 42-5001.

30 2. A qualifying health care organization as defined in section 42-5001
31 if the oil or gas is used by the organization solely to provide health and
32 medical related educational and charitable services.

33 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
34 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
35 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
36 DECEMBER 31, 2020.

37 Sec. 9. Section 42-5069, Arizona Revised Statutes, is amended to read:

38 42-5069. Commercial lease classification; definitions

39 A. The commercial lease classification is comprised of the business of
40 leasing for a consideration the use or occupancy of real property.

41 B. A person who, as a lessor, leases or rents for a consideration
42 under one or more leases or rental agreements the use or occupancy of real
43 property that is used by the lessee for commercial purposes is deemed to be
44 engaged in business and subject to the tax imposed by article 1 of this

1 chapter, but this subsection does not include leases or rentals of real
2 property used for residential or agricultural purposes.

3 C. The commercial lease classification does not include:

4 1. Any business activities that are classified under the transient
5 lodging classification.

6 2. Activities engaged in by the Arizona exposition and state fair
7 board or county fair commissions in connection with events sponsored by those
8 entities.

9 3. Leasing real property to a lessee who subleases the property if the
10 lessee is engaged in business classified under the commercial lease
11 classification or the transient lodging classification.

12 4. Leasing real property pursuant to a written lease agreement entered
13 into before December 1, 1967. This exclusion does not apply to the
14 businesses of hotels, guest houses, dude ranches and resorts, rooming houses,
15 apartment houses, office buildings, automobile storage garages, parking lots
16 or tourist camps, or to the extension or renewal of any such written lease
17 agreement.

18 5. Leasing real property by a corporation to an affiliated
19 corporation. For the purposes of this paragraph, "affiliated corporation"
20 means a corporation that owns or controls at least eighty per cent of the
21 lessor, that is at least eighty per cent owned or controlled by the lessor or
22 that is at least eighty per cent owned or controlled by a corporation that
23 also owns or controls at least eighty per cent of the lessor. Ownership and
24 control are determined by reference to the voting shares of a corporation.

25 6. Leasing real property for boarding horses.

26 7. Leasing or renting real property or the right to use real property
27 at exhibition events in this state sponsored, operated or conducted by a
28 nonprofit organization that is exempt from taxation under section 501(c)(3),
29 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is
30 associated with major league baseball teams or a national touring
31 professional golfing association and no part of the organization's net
32 earnings inures to the benefit of any private shareholder or individual.

33 8. Leasing or renting real property or the right to use real property
34 for use as a rodeo featuring primarily farm and ranch animals in this state
35 sponsored, operated or conducted by a nonprofit organization that is exempt
36 from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or
37 501(c)(8) of the internal revenue code and no part of the organization's net
38 earnings inures to the benefit of any private shareholder or individual.

39 9. Leasing or renting dwelling units, lodging facilities or trailer or
40 mobile home spaces if the units, facilities or spaces are intended to serve
41 as the principal or permanent place of residence for the lessee or renter or
42 if the unit, facility or space is leased or rented to a single tenant thirty
43 or more consecutive days.

44 10. Leasing or renting real property and improvements for use primarily
45 for religious worship by a nonprofit organization that is exempt from

1 taxation under section 501(c)(3) of the internal revenue code and no part of
2 the organization's net earnings inures to the benefit of any private
3 shareholder or individual.

4 11. Leasing or renting real property used for agricultural purposes
5 under either of the following circumstances:

6 (a) The lease or rental is between family members, trusts, estates,
7 corporations, partnerships, joint venturers or similar entities, or any
8 combination thereof, if the individuals or at least eighty per cent of the
9 beneficiaries, shareholders, partners or joint venturers share a family
10 relationship as parents or ancestors of parents, children or descendants of
11 children, siblings, cousins of the first degree, aunts, uncles, nieces or
12 nephews of the first degree, spouses of any of the listed relatives and
13 listed relatives by the half-blood or by adoption.

14 (b) The lessor leases or rents real property used for agricultural
15 purposes under no more than three leases or rental agreements.

16 12. Leasing, renting or granting the right to use real property to
17 vendors or exhibitors by a trade or industry association that is a qualifying
18 organization pursuant to section 513(d)(3)(C) of the internal revenue code
19 for a period not to exceed twenty-one days in connection with an event that
20 meets all of the following conditions:

21 (a) The majority of such vending or exhibition activities relate to
22 the nature of the trade or business sponsoring the event.

23 (b) The event is held in conjunction with a formal business meeting of
24 the trade or industry association.

25 (c) The event is organized by the persons engaged in the particular
26 trade or industry.

27 13. Leasing, renting or granting the right to use real property for a
28 period not to exceed twenty-one days by a coliseum, civic center, civic
29 plaza, convention center, auditorium or arena owned by this state or any of
30 its political subdivisions.

31 14. Leasing or subleasing real property used by a nursing care
32 institution as defined in section 36-401 that is licensed pursuant to title
33 36, chapter 4.

34 15. Leasing or renting an eligible facility as defined in section
35 28-7701.

36 16. Granting or providing rights to real property that constitute a
37 profit à prendre for the severance of minerals, including all rights to use
38 the surface or subsurface of the property as is necessary or convenient to
39 the right to sever the minerals. This paragraph does not exclude from the
40 commercial lease classification leasehold rights to the real property that
41 are granted in addition to and not included within the right of profit à
42 prendre, but the tax base for the grant of such a leasehold right, if the
43 gross income derived from the grant is not separately stated from the gross
44 income derived from the grant of the profit à prendre, shall not exceed the
45 fair market value of the leasehold rights computed after excluding the value

1 of all rights under the profit à prendre. For the purposes of this
2 paragraph, "profit à prendre" means a right to use the land of another to
3 mine minerals, and carries with it the right of entry and the right to remove
4 and take the minerals from the land and also includes the right to use the
5 surface of the land as is necessary and convenient for exercise of the
6 profit.

7 D. The tax base for the commercial lease classification is the gross
8 proceeds of sales or gross income derived from the business, but
9 reimbursements to the lessor for utility service shall be deducted from the
10 tax base.

11 E. Notwithstanding section 42-1104, subsection B, paragraph 1,
12 subdivision (b) and paragraph 2, the failure to file tax returns for the
13 commercial lease classification that report gross income derived from any
14 agreement that constitutes, in whole or in part, a grant of a right of profit
15 à prendre for the severance of minerals does not constitute an exception to
16 the general rule for the statute of limitations.

17 F. NOTWITHSTANDING SUBSECTIONS B, C AND D OF THIS SECTION, THE ITEMS
18 DESCRIBED IN SUBSECTIONS B, C AND D OF THIS SECTION SHALL NOT BE DEDUCTED OR
19 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
20 DECEMBER 31, 2020.

21 ~~F.~~ G. For the purposes of this section:

22 1. "Leasing" includes renting.

23 2. "Real property" includes any improvements, rights or interest in
24 such property.

25 Sec. 10. Section 42-5070, Arizona Revised Statutes, is amended to
26 read:

27 42-5070. Transient lodging classification: definition

28 A. The transient lodging classification is comprised of the business
29 of operating, for occupancy by transients, a hotel or motel, including an
30 inn, tourist home or house, dude ranch, resort, campground, studio or
31 bachelor hotel, lodging house, rooming house, apartment house, dormitory,
32 public or private club, mobile home or house trailer at a fixed location or
33 other similar structure, and also including a space, lot or slab that is
34 occupied or intended or designed for occupancy by transients in a mobile home
35 or house trailer furnished by them for such occupancy.

36 B. The transient lodging classification does not include:

37 1. Operating a convalescent home or facility, home for the aged,
38 hospital, jail, military installation or fraternity or sorority house or
39 operating any structure exclusively by an association, institution,
40 governmental agency or corporation for religious, charitable or educational
41 purposes, if no part of the net earnings of the association, corporation or
42 other entity inures to the benefit of any private shareholder or individual.

43 2. A lease or rental of a mobile home or house trailer at a fixed
44 location or any other similar structure, and also including a space, lot or
45 slab that is occupied or intended or designed for occupancy by transients in

1 a mobile home or house trailer furnished by them for such occupancy for
2 thirty or more consecutive days.

3 3. Leasing or renting four or fewer rooms of an owner-occupied
4 residential home, together with furnishing no more than a breakfast meal, to
5 transient lodgers at no more than a fifty per cent average annual occupancy
6 rate.

7 C. The tax base for the transient lodging classification is the gross
8 proceeds of sales or gross income derived from the business, except that the
9 tax base does not include gross proceeds of sales or gross income derived
10 from business activity that is properly included in another business
11 classification under this article and that is taxable to the person engaged
12 in that business classification, but the gross proceeds of sales or gross
13 income to be deducted shall not exceed the consideration paid to the person
14 conducting the activity.

15 D. For the purposes of this section, the tax base for the transient
16 lodging classification does not include gross proceeds of sales or gross
17 income derived from:

18 1. Transactions or activities that are not limited to transients and
19 that would not be taxable if engaged in by a person not subject to tax under
20 this article.

21 2. Transactions or activities that are not limited to transients and
22 that would not be taxable if engaged in by a person subject to taxation under
23 section 42-5062 or 42-5073 due to an exclusion, exemption or deduction.

24 3. Commissions paid to a person that is engaged in transient lodging
25 business subject to taxation under this section by a person providing
26 services or property to the customers of the person engaging in the transient
27 lodging business.

28 E. The department shall separately account for revenues collected
29 under the transient lodging classification for the purposes of section
30 42-5029, subsection D, paragraph 4, subdivision (b).

31 F. NOTWITHSTANDING SUBSECTIONS B, C AND D OF THIS SECTION, THE ITEMS
32 DESCRIBED IN SUBSECTIONS B, C AND D OF THIS SECTION SHALL NOT BE DEDUCTED OR
33 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
34 DECEMBER 31, 2020.

35 ~~F.~~ G. For the purposes of this section, "transient" means any person
36 who either at the person's own expense or at the expense of another obtains
37 lodging space or the use of lodging space on a daily or weekly basis, or on
38 any other basis for less than thirty consecutive days.

39 Sec. 11. Section 42-5071, Arizona Revised Statutes, is amended to
40 read:

41 42-5071. Personal property rental classification

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 F. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
31 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
32 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
33 DECEMBER 31, 2020.

34 Sec. 12. Section 42-5072, Arizona Revised Statutes, is amended to
35 read:

36 42-5072. Mining classification; definition

37 A. The mining classification is comprised of the business of mining,
38 quarrying or producing for sale, profit or commercial use any
39 nonmetalliferous mineral product that has been mined, quarried or otherwise
40 extracted within the boundaries of this state described in article I, section
41 1, Constitution of Arizona.

42 B. The tax base for the mining classification is the gross proceeds of
43 sales or gross income derived from the business. THROUGH DECEMBER 31, 2020,
44 the gross proceeds of sales or gross income derived from sales described

1 under section 42-5061, subsection A, paragraph 27 and subsection J, paragraph
2 2 shall be deducted from the tax base.

3 C. The tax base includes the value of the entire product mined,
4 quarried or produced for sale, profit or commercial use in this state,
5 regardless of the place of sale of the product or of the fact that deliveries
6 may be made to points without this state. If, however, the sale price of the
7 product includes freight, the sale price shall be reduced by the actual
8 freight paid by any person from the place of production to the place of
9 delivery.

10 D. In the case of a person engaged in business classified under the
11 mining classification all or part of whose income is derived from service or
12 manufacturing charges instead of from sales of the products manufactured or
13 handled, the tax base includes the gross income of the person derived from
14 the service or manufacturing charge.

15 E. If a person engaging in business classified under the mining
16 classification ships or transports all or part of a product out of this state
17 without making sale of the product or ships his product outside of this state
18 in an unfinished condition, the value of the product or article in the
19 condition or form in which it existed when transported out of this state and
20 before it enters interstate commerce is included in the tax base, and the
21 department shall prescribe equitable and uniform rules for ascertaining that
22 value. In determining the tax base, if the product or any part of the
23 product has been processed in this state and the proceeds of such processing
24 have been included in the tax base of the processor under this chapter, the
25 person may deduct from the value of the product when transported out of this
26 state the cost of such processing.

27 F. A person who conducts a business classified under the mining
28 classification may be deemed also to be engaged in business classified under
29 the retail classification to the extent the person's activities comprise
30 business under the retail classification if the tax is paid at the rate
31 imposed on the retail classification by section 42-5010. If the transaction
32 is not subject to taxation under the retail classification, the transaction
33 shall be included in the tax base under this section.

34 G. For the purposes of this section, "nonmetalliferous mineral
35 product" means oil, natural gas, limestone, sand, gravel or any other
36 nonmetalliferous mineral product, compound or combination of nonmetalliferous
37 mineral products.

38 Sec. 13. Section 42-5073, Arizona Revised Statutes, is amended to
39 read:

40 42-5073. Amusement classification

41 A. The amusement classification is comprised of the business of
42 operating or conducting theaters, movies, operas, shows of any type or
43 nature, exhibitions, concerts, carnivals, circuses, amusement parks,
44 menageries, fairs, races, contests, games, billiard or pool parlors, bowling
45 alleys, public dances, dance halls, boxing and wrestling matches, skating

1 rinks, tennis courts, except as provided in subsection B of this section,
2 video games, pinball machines, sports events or any other business charging
3 admission or user fees for exhibition, amusement or entertainment, including
4 the operation or sponsorship of events by a tourism and sports authority
5 under title 5, chapter 8. For the purposes of this section, admission or
6 user fees include, but are not limited to, any revenues derived from any form
7 of contractual agreement for rights to or use of premium or special seating
8 facilities or arrangements. The amusement classification does not include:

9 1. Activities or projects of bona fide religious or educational
10 institutions.

11 2. Private or group instructional activities. For the purposes of
12 this paragraph, "private or group instructional activities" includes, but is
13 not limited to, performing arts, martial arts, gymnastics and aerobic
14 instruction.

15 3. The operation or sponsorship of events by the Arizona exposition
16 and state fair board or county fair commissions.

17 4. A musical, dramatic or dance group or a botanical garden, museum or
18 zoo that is qualified as a nonprofit charitable organization under section
19 501(c)(3) of the United States internal revenue code and if no part of its
20 net income inures to the benefit of any private shareholder or individual.

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

27 6. Operating or sponsoring rodeos that feature primarily farm and
28 ranch animals in this state and that are sponsored, conducted or operated by
29 a nonprofit organization that is exempt from taxation under section
30 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
31 revenue code and no part of the organization's net earnings inures to the
32 benefit of any private shareholder or individual.

33 7. Sales of admissions to intercollegiate football contests if the
34 contests are both:

35 (a) Operated by a nonprofit organization that is exempt from taxation
36 under section 501(c)(3) of the internal revenue code and no part of the
37 organization's net earnings inures to the benefit of any private shareholder
38 or individual.

39 (b) Not held in a multipurpose facility that is owned or operated by
40 the tourism and sports authority pursuant to title 5, chapter 8.

41 8. Activities and events of, or fees and assessments received by, a
42 homeowners organization from persons who are members of the organization or
43 accompanied guests of members. For the purposes of this paragraph,
44 "homeowners organization" means a mandatory membership organization comprised
45 of owners of residential property within a specified residential real estate

1 subdivision development or similar area and established to own property for
2 the benefit of its members where both of the following apply:

3 (a) No part of the organization's net earnings inures to the benefit
4 of any private shareholder or individual.

5 (b) The primary purpose of the organization is to provide for the
6 acquisition, construction, management, maintenance or care of organization
7 property.

8 9. Activities and events of, or fees received by, a nonprofit
9 organization that is exempt from taxation under section 501(c)(6) of the
10 internal revenue code if the organization produces, organizes or promotes
11 cultural or civic related festivals or events and no part of the
12 organization's net earnings inures to the benefit of any private shareholder
13 or individual.

14 10. Arranging an amusement activity as a service to a person's
15 customers if that person is not otherwise engaged in the business of
16 operating or conducting an amusement personally or through others. This
17 exception does not apply to businesses that operate or conduct amusements
18 pursuant to customer orders and send the billings and receive the payments
19 associated with that activity, including when the amusement is performed by
20 third-party independent contractors. For the purposes of this paragraph,
21 "arranging" includes billing for or collecting amusement charges from a
22 person's customers on behalf of the persons providing the amusement.

23 B. The tax base for the amusement classification is the gross proceeds
24 of sales or gross income derived from the business, except that the following
25 shall be deducted from the tax base:

26 1. The gross proceeds of sales or gross income derived from
27 memberships, including initiation fees, which provide for the right to use a
28 health or fitness establishment or a private recreational establishment, or
29 any portion of an establishment, including tennis and other racquet courts at
30 that establishment, for participatory purposes for twenty-eight days or more
31 and fees charged for use of the health or fitness establishment or private
32 recreational establishment by bona fide accompanied guests of members, except
33 that this paragraph does not include additional fees, other than initiation
34 fees, charged by a health or fitness establishment or a private recreational
35 establishment for purposes other than memberships which provide for the right
36 to use a health or fitness establishment or private recreational
37 establishment, or any portion of an establishment, for participatory purposes
38 for twenty-eight days or more and accompanied guest use fees.

39 2. Amounts that are exempt under section 5-111, subsection H.

40 3. The gross proceeds of sales or gross income derived from membership
41 fees, including initiation fees, that provide for the right to use a
42 transient lodging recreational establishment, including golf courses and
43 tennis and other racquet courts at that establishment, for participatory
44 purposes for twenty-eight days or more, except that this paragraph does not
45 include additional fees, other than initiation fees, that are charged by a

1 transient lodging recreational establishment for purposes other than
2 memberships and that provide for the right to use a transient lodging
3 recreational establishment or any portion of the establishment for
4 participatory purposes for twenty-eight days or more.

5 4. The gross proceeds of sales or gross income derived from sales to
6 persons engaged in the business of transient lodging classified under section
7 42-5070, if all of the following apply:

8 (a) The persons who are engaged in the transient lodging business sell
9 the amusement to another person for consideration.

10 (b) The consideration received by the transient lodging business is
11 equal to or greater than the amount to be deducted under this subsection.

12 (c) The transient lodging business has provided an exemption
13 certificate to the person engaging in business under this section.

14 5. The gross proceeds of sales or gross income derived from:

15 (a) Business activity that is properly included in any other business
16 classification under this article and that is taxable to the person engaged
17 in that classification, but the gross proceeds of sales or gross income to be
18 deducted shall not exceed the consideration paid to the person conducting the
19 activity.

20 (b) Business activity that is arranged by the person who is subject to
21 tax under this section and that is not taxable to the person conducting the
22 activity due to an exclusion, exemption or deduction under this section or
23 section 42-5062, but the gross proceeds of sales or gross income to be
24 deducted shall not exceed the consideration paid to the person conducting the
25 activity.

26 (c) Business activity that is arranged by a person who is subject to
27 tax under this section and that is taxable to another person under this
28 section who conducts the activity, but the gross proceeds of sales or gross
29 income to be deducted shall not exceed the consideration paid to the person
30 conducting the activity.

31 C. For the purposes of subsection B of this section:

32 1. "Health or fitness establishment" means a facility whose primary
33 purpose is to provide facilities, equipment, instruction or education to
34 promote the health and fitness of its members and at least eighty per cent of
35 the monthly gross revenue of the facility is received through accounts of
36 memberships and accompanied guest use fees which provide for the right to use
37 the facility, or any portion of the facility, under the terms of the
38 membership agreement for participatory purposes for twenty-eight days or
39 more.

40 2. "Private recreational establishment" means a facility whose primary
41 purpose is to provide recreational facilities, such as tennis, golf and
42 swimming, for its members and where at least eighty per cent of the monthly
43 gross revenue of the facility is received through accounts of memberships and
44 accompanied guest use fees which provide for the right to use the facility,

1 or any portion of the facility, for participatory purposes for twenty-eight
2 days or more.

3 3. "Transient lodging recreational establishment" means a facility
4 whose primary purpose is to provide facilities for transient lodging, that is
5 subject to taxation under this chapter and that also provides recreational
6 facilities, such as tennis, golf and swimming, for members for a period of
7 twenty-eight days or more.

8 D. Until December 31, 1988, the revenues from hayrides and other
9 animal-drawn amusement rides, from horseback riding and riding instruction
10 and from recreational tours using motor vehicles designed to operate on and
11 off public highways are exempt from the tax imposed by this section.
12 Beginning January 1, 1989, the gross proceeds or gross income from hayrides
13 and other animal-drawn amusement rides, from horseback riding and from
14 recreational tours using motor vehicles designed to operate on and off public
15 highways are subject to taxation under this section. Tax liabilities,
16 penalties and interest paid for taxable periods before January 1, 1989 shall
17 not be refunded unless the taxpayer requesting the refund provides proof
18 satisfactory to the department that the taxes will be returned to the
19 customer.

20 E. If a person is engaged in the business of offering both exhibition,
21 amusement or entertainment and private or group instructional activities, the
22 person's books shall be kept to show separately the gross income from
23 exhibition, amusement or entertainment and the gross income from
24 instructional activities. If the books do not provide this separate
25 accounting, the tax is imposed on the person's total gross income from the
26 business.

27 F. The department shall separately account for revenues collected
28 under the amusement classification for the purposes of section 42-5029,
29 subsection D, paragraph 4, subdivision (b).

30 G. For THE purposes of section 42-5032.01, the department shall
31 separately account for revenues collected under the amusement classification
32 from sales of admissions to:

33 1. Events that are held in a multipurpose facility that is owned or
34 operated by the tourism and sports authority pursuant to title 5, chapter 8,
35 including intercollegiate football contests that are operated by a nonprofit
36 organization that is exempt from taxation under section 501(c)(3) of the
37 internal revenue code.

38 2. Professional football contests that are held in a stadium located
39 on the campus of an institution under the jurisdiction of the Arizona board
40 of regents.

41 H. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
42 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
43 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
44 DECEMBER 31, 2020.

1 Sec. 14. Section 42-5074, Arizona Revised Statutes, is amended to
2 read:

3 42-5074. Restaurant classification

4 A. The restaurant classification is comprised of the business of
5 operating restaurants, dining cars, dining rooms, lunchrooms, lunch stands,
6 soda fountains, catering services or similar establishments where articles of
7 food or drink are sold for consumption on or off the premises.

8 B. The tax base for the restaurant classification is the gross
9 proceeds of sales or gross income derived from the business. The gross
10 proceeds of sales or gross income derived from the following shall be
11 deducted from the tax base:

12 1. Sales to a person engaged in business classified under the
13 restaurant classification if the items sold are to be resold in the regular
14 course of the business.

15 2. Sales by a congressionally chartered veterans organization of food
16 or drink prepared for consumption on the premises leased, owned or maintained
17 by the organization.

18 3. Sales by churches, fraternal benefit societies and other nonprofit
19 organizations, as these organizations are defined in the federal internal
20 revenue code (26 United States Code section 501), that do not regularly
21 engage or continue in the restaurant business for the purpose of
22 fund-raising.

23 4. Sales by a nonprofit organization that is exempt from taxation
24 under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code
25 if the organization is associated with a major league baseball team or a
26 national touring professional golfing association and no part of the
27 organization's net earnings inures to the benefit of any private shareholder
28 or individual.

29 5. Sales at a rodeo featuring primarily farm and ranch animals in this
30 state by a nonprofit organization that is exempt from taxation under section
31 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
32 revenue code and no part of the organization's net earnings inures to the
33 benefit of any private shareholder or individual.

34 6. Sales by any nonprofit organization organized and operated
35 exclusively for charitable purposes and recognized by the United States
36 internal revenue service under section 501(c)(3) of the internal revenue
37 code.

38 7. Sales to qualifying hospitals as defined in section 42-5001.

39 8. Sales to a qualifying health care organization as defined in
40 section 42-5001 if the tangible personal property is used by the organization
41 solely to provide health and medical related educational and charitable
42 services.

43 9. Sales of food, drink and condiment for consumption within the
44 premises of any prison, jail or other institution under the jurisdiction of

1 the state department of corrections, the department of public safety, the
2 department of juvenile corrections or a county sheriff.

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

8 11. Prepared food, drink or condiment donated by a restaurant to a
9 nonprofit charitable organization that has qualified under section 501(c)(3)
10 of the internal revenue code and that regularly serves meals to the needy and
11 indigent on a continuing basis at no cost.

12 C. The tax imposed on the restaurant classification pursuant to this
13 section does not apply to the gross proceeds of sales or gross income from
14 tangible personal property sold to a commercial airline consisting of food,
15 beverages and condiments and accessories used for serving the food and
16 beverages, if those items are to be provided without additional charge to
17 passengers for consumption in flight. For the purposes of this subsection,
18 "commercial airline" means a person holding a federal certificate of public
19 convenience and necessity or foreign air carrier permit for air
20 transportation to transport persons, property or United States mail in
21 intrastate, interstate or foreign commerce.

22 D. The department shall separately account for revenues collected
23 under the restaurant classification for the purposes of section 42-5029,
24 subsection D, paragraph 4, subdivision (b).

25 E. For purposes of section 42-5032.01, the department shall separately
26 account for revenues collected under the restaurant classification from
27 businesses operating restaurants, dining rooms, lunchrooms, lunch stands,
28 soda fountains, catering services or similar establishments:

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

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

35 F. NOTWITHSTANDING SUBSECTIONS B AND C OF THIS SECTION, THE ITEMS
36 DESCRIBED IN SUBSECTIONS B AND C OF THIS SECTION SHALL NOT BE DEDUCTED OR
37 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
38 DECEMBER 31, 2020.

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

41 42-5075. Prime contracting classification; exemptions;
42 definitions

43 A. The prime contracting classification is comprised of the business
44 of prime contracting and dealership of manufactured buildings. Sales for
45 resale to another dealership of manufactured buildings are not subject to

1 tax. Sales for resale do not include sales to a lessor of manufactured
2 buildings. The sale of a used manufactured building is not taxable under
3 this chapter. The proceeds from alteration and repairs to a used
4 manufactured building are taxable under this section.

5 B. The tax base for the prime contracting classification is sixty-five
6 per cent of the gross proceeds of sales or gross income derived from the
7 business. **THROUGH DECEMBER 31, 2020**, the following amounts shall be deducted
8 from the gross proceeds of sales or gross income before computing the tax
9 base:

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

12 2. Sales and installation of groundwater measuring devices required
13 under section 45-604 and groundwater monitoring wells required by law,
14 including monitoring wells installed for acquiring information for a permit
15 required by law.

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

21 4. The gross proceeds of sales or gross income received from a
22 contract entered into for the construction, alteration, repair, addition,
23 subtraction, improvement, movement, wrecking or demolition of any building,
24 highway, road, railroad, excavation, manufactured building or other
25 structure, project, development or improvement located in a military reuse
26 zone for providing aviation or aerospace services or for a manufacturer,
27 assembler or fabricator of aviation or aerospace products within an active
28 military reuse zone after the zone is initially established or renewed under
29 section 41-1531. To be eligible to qualify for this deduction, before
30 beginning work under the contract, the prime contractor must have applied for
31 a letter of qualification from the department of revenue.

32 5. The gross proceeds of sales or gross income derived from a contract
33 to construct a qualified environmental technology manufacturing, producing or
34 processing facility, as described in section 41-1514.02, and from subsequent
35 construction and installation contracts that begin within ten years after the
36 start of initial construction. To qualify for this deduction, before
37 beginning work under the contract, the prime contractor must obtain a letter
38 of qualification from the department of revenue. This paragraph shall apply
39 for ten full consecutive calendar or fiscal years after the start of initial
40 construction.

41 6. The gross proceeds of sales or gross income from a contract to
42 provide for one or more of the following actions, or a contract for site
43 preparation, constructing, furnishing or installing machinery, equipment or
44 other tangible personal property, including structures necessary to protect
45 exempt incorporated materials or installed machinery or equipment, and

1 tangible personal property incorporated into the project, to perform one or
2 more of the following actions in response to a release or suspected release
3 of a hazardous substance, pollutant or contaminant from a facility to the
4 environment, unless the release was authorized by a permit issued by a
5 governmental authority:

6 (a) Actions to monitor, assess and evaluate such a release or a
7 suspected release.

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

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

13 (d) Pumping and treatment or in situ treatment of contaminated
14 groundwater or surface water to reduce the concentration or toxicity of a
15 contaminant.

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

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

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

1 (a) To be incorporated into real property.

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

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

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

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

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

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

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

14 9. The gross proceeds of sales or gross income received from a
15 contract for the construction of an environmentally controlled facility for
16 the raising of poultry for the production of eggs and the sorting, cooling
17 and packaging of eggs.

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

27 11. The gross proceeds of sales or gross income that is derived from
28 the installation, assembly, repair or maintenance of clean rooms that are
29 deducted from the tax base of the retail classification pursuant to section
30 42-5061, subsection B, paragraph 16.

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

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

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

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

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

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

17 18. The gross proceeds of sales or gross income received from a
18 contract for the construction of any building, or other structure, project,
19 development or improvement owned by a qualified business under section
20 41-1516 for harvesting or processing qualifying forest products removed from
21 qualifying projects as defined in section 41-1516 if actual construction
22 begins before January 1, 2024. To qualify for this deduction, the prime
23 contractor must obtain a letter of qualification from the Arizona commerce
24 authority before beginning work under the contract.

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

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

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

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

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

44 1. A prime contractor may establish entitlement to the deduction by
45 both:

1 (a) Marking the invoice for the transaction to indicate that the gross
2 proceeds of sales or gross income derived from the transaction was deducted
3 from the base.

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

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

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

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

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

44 E. Amounts received by a contractor for a project are excluded from
45 the contractor's gross proceeds of sales or gross income derived from the

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

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

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

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

30 I. **THROUGH DECEMBER 31, 2020**, the gross proceeds of sales or gross
31 income derived from a contract for lawn maintenance services are not subject
32 to tax under this section if the contract does not include landscaping
33 activities. Lawn maintenance service is a service pursuant to section
34 42-5061, subsection A, paragraph 1, and includes lawn mowing and edging,
35 weeding, repairing sprinkler heads or drip irrigation heads, seasonal
36 replacement of flowers, refreshing gravel, lawn de-thatching, seeding winter
37 lawns, leaf and debris collection and removal, tree or shrub pruning or
38 clipping, garden and gravel raking and applying pesticides, as defined in
39 section 3-361, and fertilizer materials, as defined in section 3-262.

40 J. The gross proceeds of sales or gross income derived from
41 landscaping activities are subject to tax under this section. Landscaping
42 includes installing lawns, grading or leveling ground, installing gravel or
43 boulders, planting trees and other plants, felling trees, removing or
44 mulching tree stumps, removing other imbedded plants, building or modifying

1 irrigation berms, repairing sprinkler or watering systems, installing
2 railroad ties and installing underground sprinkler or watering systems.

3 K. THROUGH DECEMBER 31, 2020, the portion of gross proceeds of sales
4 or gross income attributable to the actual direct costs of providing
5 architectural or engineering services that are incorporated in a contract is
6 not subject to tax under this section. For the purposes of this subsection,
7 "direct costs" means the portion of the actual costs that are directly
8 expended in providing architectural or engineering services.

9 L. THROUGH DECEMBER 31, 2020, operating a landfill or a solid waste
10 disposal facility is not subject to taxation under this section, including
11 filling, compacting and creating vehicle access to and from cell sites within
12 the landfill. Constructing roads to a landfill or solid waste disposal
13 facility and constructing cells within a landfill or solid waste disposal
14 facility may be deemed prime contracting under this section.

15 M. The following apply to manufactured buildings:

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

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

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

27 N. THROUGH DECEMBER 31, 2020, the gross proceeds of sales or gross
28 income attributable to a separate, written design phase services contract or
29 professional services contract, executed before modification begins, is not
30 subject to tax under this section, regardless of whether the services are
31 provided sequential to or concurrent with prime contracting activities that
32 are subject to tax under this section. This subsection does not include the
33 gross proceeds of sales or gross income attributable to construction phase
34 services. For the purposes of this subsection:

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

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

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

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

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

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

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

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

19 (e) Inspection to determine the dates of substantial completion or
20 final completion.

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

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

30 (i) Master schedule updates.

31 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

14 (d) Preparing an initial schedule for the project, excluding the
15 preparation of updates to the master schedule after modification work has
16 begun.

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

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

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

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

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

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

34 (vi) Any bond and insurance premiums.

35 (vii) Any applicable taxes.

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

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

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

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

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

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

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

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

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

40 P. For the purposes of this section:

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

42 2. "Contractor" is synonymous with the term "builder" and means any
43 person or organization that undertakes to or offers to undertake to, or
44 purports to have the capacity to undertake to, or submits a bid to, or does
45 personally or by or through others, modify any building, highway, road,

1 railroad, excavation, manufactured building or other structure, project,
2 development or improvement, or to do any part of such a project, including
3 the erection of scaffolding or other structure or works in connection with
4 such a project, and includes subcontractors and specialty contractors. For
5 all purposes of taxation or deduction, this definition shall govern without
6 regard to whether or not such contractor is acting in fulfillment of a
7 contract.

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

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

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

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

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

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

21 7. "Prime contracting" means engaging in business as a prime
22 contractor.

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

34 9. "Sale of a used manufactured building" does not include a lease of
35 a used manufactured building.

36 Sec. 16. Section 42-5102, Arizona Revised Statutes, is amended to
37 read:

38 42-5102. Tax exemption for sales of food; nonexempt sales

39 A. THROUGH DECEMBER 31, 2020, except for the gross proceeds of sales
40 or gross income from the sale of food for consumption on the premises, the
41 taxes imposed by this chapter do not apply to the gross proceeds of sales or
42 gross income from sales of food by any of the following:

43 1. A retailer who conducts an eligible grocery business.

1 2. A retailer who conducts a business whose primary business is not
2 the sale of food but who sells food which is displayed, packaged and sold in
3 a similar manner as an eligible grocery business.

4 3. A retailer who sells food and does not provide or make available
5 any facilities for the consumption of food on the premises.

6 4. A retailer who conducts a delicatessen business either from a
7 counter which is separate from the place and cash register where taxable
8 sales are made or from a counter which has two cash registers which are used
9 to record taxable and tax exempt sales or a retailer who conducts a
10 delicatessen business and who uses a cash register which has at least two tax
11 computing keys which are used to record taxable and tax exempt sales.

12 5. A retailer who is a street or sidewalk vendor and who uses a
13 pushcart, mobile facility, motor vehicle or other such conveyance.

14 6. Vending machines and other types of automatic retailers.

15 B. **THROUGH DECEMBER 31, 2020**, the taxes imposed by this chapter do not
16 apply to the gross proceeds of sales or gross income from sales of food by a
17 state university or community college or its designee on its campuses to
18 students using a validated meal ticket or to patients purchasing or consuming
19 food at the Arizona health sciences center.

20 C. **THROUGH DECEMBER 31, 2020**, the taxes imposed by this chapter do not
21 apply to the gross proceeds of sales or gross income from sales of food by a
22 retailer to:

23 1. A regularly organized private or parochial school that offers an
24 educational program for grade twelve or under which may be attended in
25 substitution for a public school pursuant to section 15-802.

26 2. A child care facility that is licensed under section 36-882 or a
27 child care group home certified under section 36-897.01.

28 3. A facility which provides on a regular basis care and supervision
29 of persons who, because of age or a mental or physical condition, are
30 incapable of caring for themselves and where they are unaccompanied by their
31 custodians or guardians for periods of less than twenty-four hours a day.

32 4. An organization which is tax exempt under section 501(c)(3) of the
33 internal revenue code and which provides the articles to persons with a
34 nominal charge or without a monetary charge.

35 5. A prison, jail or other institution under the jurisdiction of the
36 state department of corrections, the department of public safety, the
37 department of juvenile corrections or a county sheriff for consumption on the
38 premises.

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

41 **42-5159. Exemptions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 13. Tangible personal property purchased by:

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

18 (b) A hospital operated by this state or a political subdivision of
19 this state.

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

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

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

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

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

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

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

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

7 (i) A qualifying community health center as defined in section
8 42-5001.

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

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

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

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

30 15. Tangible personal property sold by:

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

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

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

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

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

8 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

35 27. Lottery tickets or shares purchased pursuant to title 5, chapter
36 5.1, article 1.

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

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

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

44 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
45 purchased by a qualified environmental technology manufacturer, producer or

1 processor as defined in section 41-1514.02 and directly used or consumed in
2 the generation or provision of on-site power or energy solely for
3 environmental technology manufacturing, producing or processing or
4 environmental protection. This paragraph shall apply for twenty full
5 consecutive calendar or fiscal years from the date the first paper
6 manufacturing machine is placed in service. In the case of an environmental
7 technology manufacturer, producer or processor who does not manufacture
8 paper, the time period shall begin with the date the first manufacturing,
9 processing or production equipment is placed in service.

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

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

14 (b) Public educational institutions.

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

18 33. Natural gas or liquefied petroleum gas used to propel a motor
19 vehicle.

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

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

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

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

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

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

11 (a) "Overhead materials" means tangible personal property, the gross
12 proceeds of sales or gross income derived from which would otherwise be
13 included in the retail classification, and which 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 upon generally
16 accepted accounting principles and consistent with government contract
17 accounting standards.

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

27 40. Through December 31, 1994, tangible personal property sold pursuant
28 to a personal property liquidation transaction, as defined in section
29 42-5061. From and after December 31, 1994, tangible personal property sold
30 pursuant to a personal property liquidation transaction, as defined in
31 section 42-5061, if the gross proceeds of the sales were included in the
32 measure of the tax imposed by article 1 of this chapter or if the personal
33 property liquidation was a casual activity or transaction.

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

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

40 43. Tangible personal property purchased by a commercial airline and
41 consisting of food, beverages and condiments and accessories used for serving
42 the food and beverages, if those items are to be provided without additional
43 charge to passengers for consumption in flight. For the purposes of this
44 paragraph, "commercial airline" means a person holding a federal certificate
45 of public convenience and necessity or foreign air carrier permit for air

1 transportation to transport persons, property or United States mail in
2 intrastate, interstate or foreign commerce.

3 44. Alternative fuel vehicles if the vehicle was manufactured as a
4 diesel fuel vehicle and converted to operate on alternative fuel and
5 equipment that is installed in a conventional diesel fuel motor vehicle to
6 convert the vehicle to operate on an alternative fuel, as defined in section
7 1-215.

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

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

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

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

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

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

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

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

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

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

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

44 52. Repair parts installed in equipment used directly by a qualified
45 business under section 41-1516 in harvesting, processing or transporting

1 qualifying forest products removed from qualifying projects as defined in
2 section 41-1516.

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

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

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

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

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

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

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

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

43 7. Aircraft, navigational and communication instruments and other
44 accessories and related equipment sold to:

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

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

10 8. Machinery, tools, equipment and related supplies used or consumed
11 directly in repairing, remodeling or maintaining aircraft, aircraft engines
12 or aircraft component parts by or on behalf of a certificated or licensed
13 carrier of persons or property.

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

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

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

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

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

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

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

39 14. Machinery or equipment used in research and development. For the
40 purposes of this paragraph, "research and development" means basic and
41 applied research in the sciences and engineering, and designing, developing
42 or testing prototypes, processes or new products, including research and
43 development of computer software that is embedded in or an integral part of
44 the prototype or new product or that is required for machinery or equipment
45 otherwise exempt under this section to function effectively. Research and

1 development do not include manufacturing quality control, routine consumer
2 product testing, market research, sales promotion, sales service, research in
3 social sciences or psychology, computer software research that is not
4 included in the definition of research and development, or other
5 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

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

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

15 19. Machinery and equipment that are used in the commercial production
16 of livestock, livestock products or agricultural, horticultural, viticultural
17 or floricultural crops or products in this state and that are used directly
18 and primarily to prevent, monitor, control or reduce air, water or land
19 pollution.

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

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

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

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

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

40 C. The exemptions provided by subsection B of this section do not
41 include:

42 1. Expendable materials. For the purposes of this paragraph,
43 expendable materials do not include any of the categories of tangible
44 personal property specified in subsection B of this section regardless of the
45 cost or useful life of that property.

- 1 2. Janitorial equipment and hand tools.
- 2 3. Office equipment, furniture and supplies.
- 3 4. Tangible personal property used in selling or distributing
- 4 activities, other than the telecommunications transmissions described in
- 5 subsection B, paragraph ~~16~~ 15 of this section.
- 6 5. Motor vehicles required to be licensed by this state, except buses
- 7 or other urban mass transit vehicles specifically exempted pursuant to
- 8 subsection B, paragraph 11 of this section, without regard to the use of such
- 9 motor vehicles.
- 10 6. Shops, buildings, docks, depots and all other materials of whatever
- 11 kind or character not specifically included as exempt.
- 12 7. Motors and pumps used in drip irrigation systems.
- 13 D. The following shall be deducted in computing the purchase price of
- 14 electricity by a retail electric customer from a utility business:
- 15 1. Revenues received from sales of ancillary services, electric
- 16 distribution services, electric generation services, electric transmission
- 17 services and other services related to providing electricity to a retail
- 18 electric customer who is located outside this state for use outside this
- 19 state if the electricity is delivered to a point of sale outside this state.
- 20 2. Revenues received from providing electricity, including ancillary
- 21 services, electric distribution services, electric generation services,
- 22 electric transmission services and other services related to providing
- 23 electricity with respect to which the transaction privilege tax imposed under
- 24 section 42-5063 has been paid.
- 25 E. The tax levied by this article does not apply to the purchase of
- 26 solar energy devices from a retailer that is registered with the department
- 27 as a solar energy retailer or a solar energy contractor.
- 28 F. The following shall be deducted in computing the purchase price of
- 29 electricity by a retail electric customer from a utility business:
- 30 1. Fees charged by a municipally owned utility to persons constructing
- 31 residential, commercial or industrial developments or connecting residential,
- 32 commercial or industrial developments to a municipal utility system or
- 33 systems if the fees are segregated and used only for capital expansion,
- 34 system enlargement or debt service of the utility system or systems.
- 35 2. Reimbursement or contribution compensation to any person or persons
- 36 owning a utility system for property and equipment installed to provide
- 37 utility access to, on or across the land of an actual utility consumer if the
- 38 property and equipment become the property of the utility. This deduction
- 39 shall not exceed the value of such property and equipment.
- 40 G. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, THE ITEMS
- 41 DESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION SHALL NOT BE DEDUCTED OR
- 42 EXEMPTED FROM THE TAX BASE FOR TAXABLE PERIODS BEGINNING FROM AND AFTER
- 43 DECEMBER 31, 2020.
- 44 ~~G.~~ H. For the purposes of subsection B of this section:
- 45 1. "Aircraft" includes:

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

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

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

10 ~~H.~~ I. For the purposes of subsection D of this section, "ancillary
11 services", "electric distribution service", "electric generation service",
12 "electric transmission service" and "other services" have the same meanings
13 prescribed in section 42-5063.

14 Sec. 18. Requirements for enactment; two-thirds vote

15 Pursuant to article IX, section 22, Constitution of Arizona, this act
16 is effective only on the affirmative vote of at least two-thirds of the
17 members of each house of the legislature and is effective immediately on the
18 signature of the governor or, if the governor vetoes this act, on the
19 subsequent affirmative vote of at least three-fourths of the members of each
20 house of the legislature.