

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

State of Arizona  
Senate  
Fifty-first Legislature  
Second Regular Session  
2014

## **SB 1029**

Introduced by  
Senator Farley

### AN ACT

AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5032.03; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST REGULAR SESSION, CHAPTER 120, SECTION 1 AND CHAPTER 233, SECTION 1 AND LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 5; REPEALING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 13; AMENDING SECTION 42-5064, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5071, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 114, SECTION 7 AND CHAPTER 236, SECTION 2; REPEALING SECTION 42-5071, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 14; AMENDING SECTION 42-5075, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST REGULAR SESSION, CHAPTER 153, SECTION 1 AND LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 6; REPEALING SECTION 42-5075, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 15; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 7; REPEALING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 17; AMENDING SECTION 43-1082, ARIZONA REVISED STATUTES; BLENDING MULTIPLE ENACTMENTS; RELATING TO TRANSACTION PRIVILEGE AND USE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

25 Sec. 2. Section 42-5061, Arizona Revised Statutes, as amended by Laws  
26 2013, first regular session, chapter 120, section 1 and chapter 233, section  
27 1 and Laws 2013, first special session, chapter 9, section 5, is amended to  
28 read:

29 42-5061. Retail classification; definitions

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

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

38 2. Services rendered in addition to selling tangible personal property  
39 at retail.

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

43 4. Sales of tangible personal property by any nonprofit organization  
44 organized and operated exclusively for charitable purposes and recognized by

1 the United States internal revenue service under section 501(c)(3) of the  
2 internal revenue code.

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

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

8 7. The sale of stocks and bonds.

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

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

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

16 11. Prescription eyeglasses or contact lenses.

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

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

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

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

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

35 17. Textbooks by any bookstore that are required by any state  
36 university or community college.

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

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

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

3           21. The sale of cash equivalents and the sale of precious metal bullion  
4 and monetized bullion to the ultimate consumer, but the sale of coins or  
5 other forms of money for manufacture into jewelry or works of art is subject  
6 to the tax and the gross proceeds of sales or gross income derived from the  
7 redemption of any cash equivalent by the holder as a means of payment for  
8 goods or services that are taxable under this article is subject to the tax.  
9 For the purposes of this paragraph:

10           (a) "Cash equivalents" means items or intangibles, whether or not  
11 negotiable, that are sold to one or more persons, through which a value  
12 denominated in money is purchased in advance and may be redeemed in full or  
13 in part for tangible personal property, intangibles or services. Cash  
14 equivalents include gift cards, stored value cards, gift certificates,  
15 vouchers, traveler's checks, money orders or other instruments, orders or  
16 electronic mechanisms, such as an electronic code, personal identification  
17 number or digital payment mechanism, or any other prepaid intangible right to  
18 acquire tangible personal property, intangibles or services in the future,  
19 whether from the seller of the cash equivalent or from another person. Cash  
20 equivalents do not include either of the following:

21           (i) Items or intangibles that are sold to one or more persons, through  
22 which a value is not denominated in money.

23           (ii) Prepaid calling cards or prepaid authorization numbers for  
24 telecommunications services made taxable by subsection Q of this section.

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

29           (c) "Precious metal bullion" means precious metal, including gold,  
30 silver, platinum, rhodium and palladium, that has been smelted or refined so  
31 that its value depends on its contents and not on its form.

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

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

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

44           25. Tangible personal property sold to:

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

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

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

9 (d) A qualifying community health center as defined in section  
10 42-5001.

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

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

22 26. Magazines or other periodicals or other publications by this state  
23 to encourage tourist travel.

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

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

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

34 28. The sale of a motor vehicle to:

35 (a) A nonresident of this state if the purchaser's state of residence  
36 does not allow a corresponding use tax exemption to the tax imposed by  
37 article 1 of this chapter and if the nonresident has secured a special ninety  
38 day nonresident registration permit for the vehicle as prescribed by sections  
39 28-2154 and 28-2154.01.

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

42 29. Tangible personal property purchased in this state by a nonprofit  
43 charitable organization that has qualified under section 501(c)(3) of the  
44 United States internal revenue code and that engages in and uses such  
45 property exclusively in programs for mentally or physically handicapped

1 persons if the programs are exclusively for training, job placement,  
2 rehabilitation or testing.

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

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

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

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

24 34. Machinery, equipment, technology or related supplies that are only  
25 useful to assist a person who is physically disabled as defined in section  
26 46-191, has a developmental disability as defined in section 36-551 or has a  
27 head injury as defined in section 41-3201 to be more independent and  
28 functional.

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

32 ~~36.~~ 35. Sales of natural gas or liquefied petroleum gas used to propel  
33 a motor vehicle.

34 ~~37.~~ 36. Paper machine clothing, such as forming fabrics and dryer  
35 felts, sold to a paper manufacturer and directly used or consumed in paper  
36 manufacturing.

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

1 paper, the time period shall begin with the date the first manufacturing,  
2 processing or production equipment is placed in service.

3 ~~39.~~ 38. Sales of liquid, solid or gaseous chemicals used in  
4 manufacturing, processing, fabricating, mining, refining, metallurgical  
5 operations, research and development and, beginning on January 1, 1999,  
6 printing, if using or consuming the chemicals, alone or as part of an  
7 integrated system of chemicals, involves direct contact with the materials  
8 from which the product is produced for the purpose of causing or permitting a  
9 chemical or physical change to occur in the materials as part of the  
10 production process. This paragraph does not include chemicals that are used  
11 or consumed in activities such as packaging, storage or transportation but  
12 does not affect any deduction for such chemicals that is otherwise provided  
13 by this section. For the purposes of this paragraph, "printing" means a  
14 commercial printing operation and includes job printing, engraving,  
15 embossing, copying and bookbinding.

16 ~~40.~~ 39. Through December 31, 1994, personal property liquidation  
17 transactions, conducted by a personal property liquidator. From and after  
18 December 31, 1994, personal property liquidation transactions shall be  
19 taxable under this section provided that nothing in this subsection shall be  
20 construed to authorize the taxation of casual activities or transactions  
21 under this chapter. For the purposes of this paragraph:

22 (a) "Personal property liquidation transaction" means a sale of  
23 personal property made by a personal property liquidator acting solely on  
24 behalf of the owner of the personal property sold at the dwelling of the  
25 owner or on the death of any owner, on behalf of the surviving spouse, if  
26 any, any devisee or heir or the personal representative of the estate of the  
27 deceased, if one has been appointed.

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

30 ~~41.~~ 40. Sales of food, drink and condiment for consumption within the  
31 premises of any prison, jail or other institution under the jurisdiction of  
32 the state department of corrections, the department of public safety, the  
33 department of juvenile corrections or a county sheriff.

34 ~~42.~~ 41. A motor vehicle and any repair and replacement parts and  
35 tangible personal property becoming a part of such motor vehicle sold to a  
36 motor carrier who is subject to a fee prescribed in title 28, chapter 16,  
37 article 4 and who is engaged in the business of leasing or renting such  
38 property.

39 ~~43.~~ 42. Livestock and poultry feed, salts, vitamins and other  
40 additives for livestock or poultry consumption that are sold to persons who  
41 are engaged in producing livestock, poultry, or livestock or poultry products  
42 or who are engaged in feeding livestock or poultry commercially. For the  
43 purposes of this paragraph, "poultry" includes ratites.

44 ~~44.~~ 43. Sales of implants used as growth promotants and injectable  
45 medicines, not already exempt under paragraph 8 of this subsection, for

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

5 ~~45-~~ 44. Sales of motor vehicles at auction to nonresidents of this  
 6 state for use outside this state if the vehicles are shipped or delivered out  
 7 of this state, regardless of where title to the motor vehicles passes or its  
 8 free on board point.

9 ~~46-~~ 45. Tangible personal property sold to a person engaged in  
 10 business and subject to tax under the transient lodging classification if the  
 11 tangible personal property is a personal hygiene item or articles used by  
 12 human beings for food, drink or condiment, except alcoholic beverages, that  
 13 are furnished without additional charge to and intended to be consumed by the  
 14 transient during the transient's occupancy.

15 ~~47-~~ 46. Sales of alternative fuel, as defined in section 1-215, to a  
 16 used oil fuel burner who has received a permit to burn used oil or used oil  
 17 fuel under section 49-426 or 49-480.

18 ~~48-~~ 47. Sales of materials that are purchased by or for publicly  
 19 funded libraries including school district libraries, charter school  
 20 libraries, community college libraries, state university libraries or  
 21 federal, state, county or municipal libraries for use by the public as  
 22 follows:

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

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

25 ~~49-~~ 48. Tangible personal property sold to a commercial airline and  
 26 consisting of food, beverages and condiments and accessories used for serving  
 27 the food and beverages, if those items are to be provided without additional  
 28 charge to passengers for consumption in flight. For the purposes of this  
 29 paragraph, "commercial airline" means a person holding a federal certificate  
 30 of public convenience and necessity or foreign air carrier permit for air  
 31 transportation to transport persons, property or United States mail in  
 32 intrastate, interstate or foreign commerce.

33 ~~50-~~ 49. Sales of alternative fuel vehicles if the vehicle was  
 34 manufactured as a diesel fuel vehicle and converted to operate on alternative  
 35 fuel and equipment that is installed in a conventional diesel fuel motor  
 36 vehicle to convert the vehicle to operate on an alternative fuel, as defined  
 37 in section 1-215.

38 ~~51-~~ 50. Sales of any spirituous, vinous or malt liquor by a person  
 39 that is licensed in this state as a wholesaler by the department of liquor  
 40 licenses and control pursuant to title 4, chapter 2, article 1.

41 ~~52-~~ 51. Sales of tangible personal property to be incorporated or  
 42 installed as part of environmental response or remediation activities under  
 43 section 42-5075, subsection B, paragraph 6.

44 ~~53-~~ 52. Sales of tangible personal property by a nonprofit  
 45 organization that is exempt from taxation under section 501(c)(6) of the

1 internal revenue code if the organization produces, organizes or promotes  
2 cultural or civic related festivals or events and no part of the  
3 organization's net earnings inures to the benefit of any private shareholder  
4 or individual.

5 ~~54-~~ 53. Through August 31, 2014, sales of Arizona centennial  
6 medallions by the historical advisory commission.

7 ~~55-~~ 54. Application services that are designed to assess or test  
8 student learning or to promote curriculum design or enhancement purchased by  
9 or for any school district, charter school, community college or state  
10 university. For the purposes of this paragraph:

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

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

16 ~~56-~~ 55. Sales of motor vehicle fuel and use fuel to a qualified  
17 business under section 41-1516 for off-road use in harvesting, processing or  
18 transporting qualifying forest products removed from qualifying projects as  
19 defined in section 41-1516.

20 ~~57-~~ 56. Sales of repair parts installed in equipment used directly by  
21 a qualified business under section 41-1516 in harvesting, processing or  
22 transporting qualifying forest products removed from qualifying projects as  
23 defined in section 41-1516.

24 ~~58-~~ 57. Sales or other transfers of renewable energy credits or any  
25 other unit created to track energy derived from renewable energy resources.  
26 For the purposes of this paragraph, "renewable energy credit" means a unit  
27 created administratively by the corporation commission or governing body of a  
28 public power utility to track kilowatt hours of electricity derived from a  
29 renewable energy resource or the kilowatt hour equivalent of conventional  
30 energy resources displaced by distributed renewable energy resources.

31 ~~59-~~ 58. Computer data center equipment purchased by the owner,  
32 operator or qualified colocation tenant of the computer data center or an  
33 authorized agent of the owner, operator or qualified colocation tenant during  
34 the qualification period for use in a computer data center that is certified  
35 by the Arizona commerce authority under section 41-1519. To qualify for this  
36 deduction, at the time of purchase, the owner, operator or qualified  
37 colocation tenant must present to the retailer its certificate that is issued  
38 pursuant to section 41-1519 and that establishes its qualification for the  
39 deduction. For the purposes of this paragraph, "computer data center",  
40 "computer data center equipment", "qualification period" and "qualified  
41 colocation tenant" have the same meanings prescribed in section 41-1519.

42 ~~60-~~ 59. Orthodontic devices dispensed by a dental professional who is  
43 licensed under title 32, chapter 11 to a patient as part of the practice of  
44 dentistry.

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

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

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

18 3. Tangible personal property sold to persons engaged in business  
19 classified under the telecommunications classification and consisting of  
20 central office switching equipment, switchboards, private branch exchange  
21 equipment, microwave radio equipment and carrier equipment including optical  
22 fiber, coaxial cable and other transmission media ~~which~~ THAT are components  
23 of carrier systems.

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

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

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

35 ~~7.~~ 6. Aircraft, navigational and communication instruments and other  
36 accessories and related equipment sold to:

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

43 (b) Any foreign government.

44 (c) Persons who are not residents of this state and who will not use  
45 such property in this state other than in removing such property from this

1 state. This subdivision also applies to corporations that are not  
 2 incorporated in this state, regardless of maintaining a place of business in  
 3 this state, if the principal corporate office is located outside this state  
 4 and the property will not be used in this state other than in removing the  
 5 property from this state.

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

10 ~~9-~~ 8. Railroad rolling stock, rails, ties and signal control  
 11 equipment used directly to transport persons or property.

12 ~~10-~~ 9. Machinery or equipment used directly to drill for oil or gas or  
 13 used directly in the process of extracting oil or gas from the earth for  
 14 commercial purposes.

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

23 ~~12-~~ 11. Groundwater measuring devices required under section 45-604.

24 ~~13-~~ 12. New machinery and equipment consisting of tractors,  
 25 tractor-drawn implements, self-powered implements, machinery and equipment  
 26 necessary for extracting milk, and machinery and equipment necessary for  
 27 cooling milk and livestock, and drip irrigation lines not already exempt  
 28 under ~~paragraph 6 of~~ this subsection and that are used for commercial  
 29 production of agricultural, horticultural, viticultural and floricultural  
 30 crops and products in this state. For the purposes of this paragraph:

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

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

36 ~~14-~~ 13. Machinery or equipment used in research and development. For  
 37 the purposes of this paragraph, "research and development" means basic and  
 38 applied research in the sciences and engineering, and designing, developing  
 39 or testing prototypes, processes or new products, including research and  
 40 development of computer software that is embedded in or an integral part of  
 41 the prototype or new product or that is required for machinery or equipment  
 42 otherwise exempt under this section to function effectively. Research and  
 43 development do not include manufacturing quality control, routine consumer  
 44 product testing, market research, sales promotion, sales service, research in  
 45 social sciences or psychology, computer software research that is not

1 included in the definition of research and development, or other  
2 nontechnological activities or technical services.

3 ~~15-~~ 14. Tangible personal property that is used by either of the  
4 following to receive, store, convert, produce, generate, decode, encode,  
5 control or transmit telecommunications information:

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

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

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

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

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

24 ~~16-~~ 15. Clean rooms that are used for manufacturing, processing,  
25 fabrication or research and development, as defined in paragraph ~~14~~ 13 of  
26 this subsection, of semiconductor products. For the purposes of this  
27 paragraph, "clean room" means all property that comprises or creates an  
28 environment where humidity, temperature, particulate matter and contamination  
29 are precisely controlled within specified parameters, without regard to  
30 whether the property is actually contained within that environment or whether  
31 any of the property is affixed to or incorporated into real property. Clean  
32 room:

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

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

41 ~~17-~~ 16. Machinery and equipment used directly in the feeding of  
42 poultry, the environmental control of housing for poultry, the movement of  
43 eggs within a production and packaging facility or the sorting or cooling of  
44 eggs. This exemption does not apply to vehicles used for transporting eggs.

1       ~~18-~~ 17. Machinery or equipment, including related structural  
2 components, that is employed in connection with manufacturing, processing,  
3 fabricating, job printing, refining, mining, natural gas pipelines,  
4 metallurgical operations, telecommunications, producing or transmitting  
5 electricity or research and development and that is used directly to meet or  
6 exceed rules or regulations adopted by the federal energy regulatory  
7 commission, the United States environmental protection agency, the United  
8 States nuclear regulatory commission, the Arizona department of environmental  
9 quality or a political subdivision of this state to prevent, monitor, control  
10 or reduce land, water or air pollution.

11       ~~19-~~ 18. Machinery and equipment that are sold to a person engaged in  
12 the commercial production of livestock, livestock products or agricultural,  
13 horticultural, viticultural or floricultural crops or products in this state  
14 and that are used directly and primarily to prevent, monitor, control or  
15 reduce air, water or land pollution.

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

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

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

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

30       ~~21-~~ 20. Qualifying equipment that is purchased from and after June 30,  
31 2004 through June 30, 2024 by a qualified business under section 41-1516 for  
32 harvesting or processing qualifying forest products removed from qualifying  
33 projects as defined in section 41-1516. To qualify for this deduction, the  
34 qualified business at the time of purchase must present its certification  
35 approved by the department.

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

38           1. Expendable materials. For the purposes of this paragraph,  
39 expendable materials do not include any of the categories of tangible  
40 personal property specified in subsection B of this section regardless of the  
41 cost or useful life of that property.

42           2. Janitorial equipment and hand tools.

43           3. Office equipment, furniture and supplies.

1           4. Tangible personal property used in selling or distributing  
2 activities, other than the telecommunications transmissions described in  
3 subsection B, paragraph ~~15~~ 14 of this section.

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

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

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

11           8. MACHINERY AND EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY USED BY  
12 A CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.

13           D. In addition to the deductions from the tax base prescribed by  
14 subsection A of this section, there shall be deducted from the tax base the  
15 gross proceeds of sales or gross income derived from sales of machinery,  
16 equipment, materials and other tangible personal property used directly and  
17 predominantly to construct a qualified environmental technology  
18 manufacturing, producing or processing facility as described in section  
19 41-1514.02. This subsection applies for ten full consecutive calendar or  
20 fiscal years after the start of initial construction.

21           E. In computing the tax base, gross proceeds of sales or gross income  
22 from retail sales of heavy trucks and trailers does not include any amount  
23 attributable to federal excise taxes imposed by 26 United States Code section  
24 4051.

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

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

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

41           I. A person who engages in manufacturing, baling, crating, boxing,  
42 barreling, canning, bottling, sacking, preserving, processing or otherwise  
43 preparing for sale or commercial use any livestock, agricultural or  
44 horticultural product or any other product, article, substance or commodity  
45 and who sells the product of such business at retail in this state is deemed,

1 as to such sales, to be engaged in business classified under the retail  
2 classification. This subsection does not apply to businesses classified  
3 under the:

- 4 1. Transporting classification.
- 5 2. Utilities classification.
- 6 3. Telecommunications classification.
- 7 4. Pipeline classification.
- 8 5. Private car line classification.
- 9 6. Publication classification.
- 10 7. Job printing classification.
- 11 8. Prime contracting classification.
- 12 ~~9. Owner builder sales classification.~~
- 13 ~~10.~~ 9. Restaurant classification.

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

- 16 1. Sales made directly to the United States government or its  
17 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 18 2. Sales made directly to a manufacturer, modifier, assembler or  
19 repairer if such sales are of any ingredient or component part of products  
20 sold directly to the United States government or its departments or agencies  
21 by the manufacturer, modifier, assembler or repairer.
- 22 3. Overhead materials or other tangible personal property that is used  
23 in performing a contract between the United States government and a  
24 manufacturer, modifier, assembler or repairer, including property used in  
25 performing a subcontract with a government contractor who is a manufacturer,  
26 modifier, assembler or repairer, to which title passes to the government  
27 under the terms of the contract or subcontract.
- 28 4. Sales of overhead materials or other tangible personal property to  
29 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
30 sales or gross income derived from the property by the manufacturer,  
31 modifier, assembler or repairer will be exempt under paragraph 3 of this  
32 subsection.

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

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

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

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

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

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

7           O. In computing the tax base in the case of the sale or transfer of  
8 wireless telecommunications equipment as an inducement to a customer to enter  
9 into or continue a contract for telecommunications services that are taxable  
10 under section 42-5064, gross proceeds of sales or gross income does not  
11 include any sales commissions or other compensation received by the retailer  
12 as a result of the customer entering into or continuing a contract for the  
13 telecommunications services.

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

19           Q. Retail sales of prepaid calling cards or prepaid authorization  
20 numbers for telecommunications services, including sales of reauthorization  
21 of a prepaid card or authorization number, are subject to tax under this  
22 section.

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

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

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

31           S. If a seller is entitled to a deduction pursuant to subsection B,  
32 paragraph ~~15~~ 14, subdivision (b) of this section, the department may require  
33 the purchaser to establish that the requirements of subsection B, paragraph  
34 ~~15~~ 14, subdivision (b) of this section have been satisfied. If the purchaser  
35 cannot establish that the requirements of subsection B, paragraph ~~15~~ 14,  
36 subdivision (b) of this section have been satisfied, the purchaser is liable  
37 in an amount equal to any tax, penalty and interest which the seller would  
38 have been required to pay under article 1 of this chapter if the seller had  
39 not made a deduction pursuant to subsection B, paragraph ~~15~~ 14, subdivision  
40 (b) of this section. Payment of the amount under this subsection exempts the  
41 purchaser from liability for any tax imposed under article 4 of this chapter  
42 and related to the tangible personal property purchased. The amount shall be  
43 treated as transaction privilege tax to the purchaser and as tax revenues  
44 collected from the seller to designate the distribution base pursuant to  
45 section 42-5029.

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

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

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

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

21 V. For the purposes of this section:

22 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

23          Sec. 3. Repeal

24          Section 42-5061, Arizona Revised Statutes, as amended by Laws 2013,  
25 chapter 255, section 13, is repealed.

26          Sec. 4. Section 42-5064, Arizona Revised Statutes, is amended to read:  
27 42-5064. Telecommunications classification: definitions

28          A. The telecommunications classification is comprised of the business  
29 of providing intrastate telecommunications services. The telecommunications  
30 classification does not include:

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

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

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

43           (b) "Curriculum design or enhancement" means planning, implementing or  
44 reporting on courses of study, lessons, assignments or other learning  
45 activities.

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

7           1. Sales of intrastate telecommunications services to:

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

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

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

17           3. Carrier access charges established by federal communications  
18 commission regulations (47 Code of Federal Regulations sections 69.105(a)  
19 through 69.118).

20           4. Sales of direct broadcast satellite television services pursuant to  
21 47 Code of Federal Regulations part 25 by a direct broadcast satellite  
22 television service that operates pursuant to 47 Code of Federal Regulations  
23 part 25.

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

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

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

36           1. A telecommunications service provider who can reasonably identify  
37 the portion of the sales price of the bundled transaction derived from  
38 charges for nontaxable services is subject to tax only on the gross proceeds  
39 of sales or gross income derived from the taxable services. For the purposes  
40 of this section, the telecommunications service provider may elect to  
41 reasonably identify the portion of the sales price of the bundled transaction  
42 derived from charges for nontaxable services by using allocation percentages  
43 derived from the telecommunications service provider's entire service area,  
44 including territories outside of this state. On request, the department may  
45 require the telecommunications service provider to provide this allocation

1 information. The reasonableness of the allocation is subject to audit by the  
2 department.

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

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

11 E. For the purposes of this section:

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

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

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

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

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

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

30 Sec. 5. Section 42-5071, Arizona Revised Statutes, as amended by Laws  
31 2013, chapter 114, section 7 and chapter 236, section 2, is amended to read:  
32 42-5071. Personal property rental classification

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

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

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

42 3. Leasing or renting tangible personal property by a parent  
43 corporation to a subsidiary corporation or by a subsidiary corporation to  
44 another subsidiary of the same parent corporation if taxes were paid under  
45 this chapter on the gross proceeds or gross income accruing from the initial

1 sale of the tangible personal property. For the purposes of this paragraph,  
2 "subsidiary" means a corporation of which at least eighty per cent of the  
3 voting shares are owned by the parent corporation.

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

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

12 6. Leasing or renting aircraft, flight simulators or similar training  
13 equipment to students or staff by nonprofit, accredited educational  
14 institutions that offer associate or baccalaureate degrees in aviation or  
15 aerospace related fields.

16 7. Leasing or renting photographs, transparencies or other creative  
17 works used by this state on internet websites, in magazines or in other  
18 publications that encourage tourism.

19 8. Leasing or renting certified ignition interlock devices installed  
20 pursuant to the requirements prescribed by section 28-1461. For the purposes  
21 of this paragraph, "certified ignition interlock device" has the same meaning  
22 prescribed in section 28-1301.

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

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

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

36 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, ~~50~~  
37 ~~49~~ or ~~55~~ 54.

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

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

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

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

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



1           2. Sales and installation of groundwater measuring devices required  
2 under section 45-604 and groundwater monitoring wells required by law,  
3 including monitoring wells installed for acquiring information for a permit  
4 required by law.

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

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

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

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

40           (a) Actions to monitor, assess and evaluate such a release or a  
41 suspected release.

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

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

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

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

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

16 7. The gross proceeds of sales or gross income that is derived from a  
17 contract for the installation, assembly, repair or maintenance of machinery,  
18 equipment or other tangible personal property that is either deducted from  
19 the tax base of the retail classification under section 42-5061, subsection B  
20 or that is exempt from use tax under section 42-5159, subsection B and that  
21 has independent functional utility, pursuant to the following provisions:

22 (a) The deduction provided in this paragraph includes the gross  
23 proceeds of sales or gross income derived from all of the following:

24 (i) Any activity performed on machinery, equipment or other tangible  
25 personal property with independent functional utility.

26 (ii) Any activity performed on any tangible personal property relating  
27 to machinery, equipment or other tangible personal property with independent  
28 functional utility in furtherance of any of the purposes provided for under  
29 subdivision (d) of this paragraph.

30 (iii) Any activity that is related to the activities described in  
31 ~~subdivision (a),~~ items (i) and (ii) of this ~~paragraph~~ **SUBDIVISION**,  
32 ~~including, but not limited to,~~ inspecting the installation of, ~~or testing,~~  
33 the machinery, equipment or other tangible personal property.

34 (b) The deduction provided in this paragraph does not include gross  
35 proceeds of sales or gross income from the portion of any contracting  
36 activity that consists of the development of, or modification to, real  
37 property in order to facilitate the installation, assembly, repair,  
38 maintenance or removal of machinery, equipment or other tangible personal  
39 property that is either deducted from the tax base of the retail  
40 classification under section 42-5061, subsection B or exempt from use tax  
41 under section 42-5159, subsection B.

42 (c) The deduction provided in this paragraph shall be determined  
43 without regard to the size or useful life of the machinery, equipment or  
44 other tangible personal property.

1 (d) For the purposes of this paragraph, "independent functional  
2 utility" means that the machinery, equipment or other tangible personal  
3 property can independently perform its function without attachment to real  
4 property, other than attachment for any of the following purposes:

5 (i) Assembling the machinery, equipment or other tangible personal  
6 property.

7 (ii) Connecting items of machinery, equipment or other tangible  
8 personal property to each other.

9 (iii) Connecting the machinery, equipment or other tangible personal  
10 property, whether as an individual item or as a system of items, to water,  
11 power, gas, communication or other services.

12 (iv) Stabilizing or protecting the machinery, equipment or other  
13 tangible personal property during operation by bolting, burying or performing  
14 other similar nonpermanent connections to either real property or real  
15 property improvements.

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

19 (a) Section 42-5061, subsection A, paragraph 25, 29 or ~~59~~ 58.

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

21 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),  
22 (c), (d), (e), (f), (i), (j) or (l) or paragraph 54.

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

24 9. The gross proceeds of sales or gross income received from a  
25 contract for the construction of an environmentally controlled facility for  
26 the raising of poultry for the production of eggs and the sorting, cooling  
27 and packaging of eggs.

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

37 11. The gross proceeds of sales or gross income that is derived from  
38 the installation, assembly, repair or maintenance of clean rooms that are  
39 deducted from the tax base of the retail classification pursuant to section  
40 42-5061, subsection B, paragraph ~~16~~ 15.

41 12. For taxable periods beginning from and after June 30, 2001, the  
42 gross proceeds of sales or gross income derived from a contract entered into  
43 for the construction of a residential apartment housing facility that  
44 qualifies for a federal housing subsidy for low income persons over sixty-two

1 years of age and that is owned by a nonprofit charitable organization that  
2 has qualified under section 501(c)(3) of the internal revenue code.

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

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

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

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

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

26 18. The gross proceeds of sales or gross income received from a  
27 contract for the construction of any building, or other structure, project,  
28 development or improvement owned by a qualified business under section  
29 41-1516 for harvesting or processing qualifying forest products removed from  
30 qualifying projects as defined in section 41-1516 if actual construction  
31 begins before January 1, 2024. To qualify for this deduction, the prime  
32 contractor must obtain a letter of qualification from the Arizona commerce  
33 authority before beginning work under the contract.

34 19. Any amount of the gross proceeds of sales or gross income  
35 attributable to development fees that are incurred in relation to a contract  
36 for construction, development or improvement of real property and that are  
37 paid by a prime contractor or subcontractor. For the purposes of this  
38 paragraph:

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

41 (b) The attributable amount is equal to the total amount of  
42 development fees paid by the prime contractor or subcontractor, and the total  
43 development fees credited in exchange for the construction of, contribution  
44 to or dedication of real property for providing public infrastructure, public

1 safety or other public services necessary to the development. The real  
2 property must be the subject of the development fees.

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

7 20. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
8 WITH THE OWNER OF REAL PROPERTY FOR THE MAINTENANCE, REPAIR OR REPLACEMENT OF  
9 EXISTING PROPERTY IF THE CONTRACT DOES NOT INCLUDE MODIFICATION ACTIVITIES.  
10 FOR THE PURPOSES OF THIS PARAGRAPH, EACH CONTRACT OR PROJECT IS INDEPENDENT  
11 OF ANOTHER CONTRACT. A CONTRACTOR THAT HAS GROSS PROCEEDS OF SALES OR GROSS  
12 INCOME DERIVED FROM A CONTRACT THAT IS NOT SUBJECT TO TAX UNDER THIS  
13 PARAGRAPH IS SUBJECT TO TAX ON A CONTRACT THAT INCLUDES MODIFICATION  
14 ACTIVITIES.

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

17 1. A prime contractor may establish entitlement to the deduction by  
18 both:

19 (a) Marking the invoice for the transaction to indicate that the gross  
20 proceeds of sales or gross income derived from the transaction was deducted  
21 from the base.

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

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

33 3. The department may prescribe a form for the certificate described  
34 in paragraph 1, subdivision (b) of this subsection. The department may also  
35 adopt rules that describe the transactions with respect to which a person is  
36 not entitled to rely solely on the information contained in the certificate  
37 provided in paragraph 1, subdivision (b) of this subsection but must instead  
38 obtain such additional information as required in order to be entitled to the  
39 deduction.

40 4. If a prime contractor is entitled to a deduction by complying with  
41 paragraph 1 of this subsection, the department may require the purchaser who  
42 caused the execution of the certificate to establish the accuracy and  
43 completeness of the information required to be contained in the certificate  
44 that would entitle the prime contractor to the deduction. If the purchaser  
45 cannot establish the accuracy and completeness of the information, the

1 purchaser is liable in an amount equal to any tax, penalty and interest that  
2 the prime contractor would have been required to pay under article 1 of this  
3 chapter if the prime contractor had not complied with paragraph 1 of this  
4 subsection. Payment of the amount under this paragraph exempts the purchaser  
5 from liability for any tax imposed under article 4 of this chapter. The  
6 amount shall be treated as a transaction privilege tax to the purchaser and  
7 as tax revenues collected from the prime contractor in order to designate the  
8 distribution base for purposes of section 42-5029.

9 D. Subcontractors or others who perform services in respect to any  
10 improvement, building, highway, road, railroad, excavation, manufactured  
11 building or other structure, project, development or improvement are not  
12 subject to tax if they can demonstrate that the job was within the control of  
13 a prime contractor or contractors or a dealership of manufactured buildings  
14 and that the prime contractor or dealership is liable for the tax on the  
15 gross income, gross proceeds of sales or gross receipts attributable to the  
16 job and from which the subcontractors or others were paid.

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

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

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

41 H. For the purposes of section 42-5032.02, from and after September  
42 30, 2013, the department shall separately account for revenues reported and  
43 collected under the prime contracting classification from any prime  
44 contractor engaged in the construction of any buildings and associated  
45 improvements that are for the benefit of a manufacturing facility. For the

1 purposes of this subsection, "associated improvements" and "manufacturing  
2 facility" have the same meanings prescribed in section 42-5032.02.

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

13 J. The gross proceeds of sales or gross income derived from  
14 landscaping activities are subject to tax under this section. Landscaping  
15 includes installing lawns, grading or leveling ground, installing gravel or  
16 boulders, planting trees and other plants, felling trees, removing or  
17 mulching tree stumps, removing other imbedded plants, building or modifying  
18 irrigation berms, repairing sprinkler or watering systems, installing  
19 railroad ties and installing underground sprinkler or watering systems.

20 K. The portion of gross proceeds of sales or gross income attributable  
21 to the actual direct costs of providing architectural or engineering services  
22 that are incorporated in a contract is not subject to tax under this section.  
23 For the purposes of this subsection, "direct costs" means the portion of the  
24 actual costs that are directly expended in providing architectural or  
25 engineering services.

26 L. Operating a landfill or a solid waste disposal facility is not  
27 subject to taxation under this section, including filling, compacting and  
28 creating vehicle access to and from cell sites within the landfill.  
29 Constructing roads to a landfill or solid waste disposal facility and  
30 constructing cells within a landfill or solid waste disposal facility may be  
31 deemed prime contracting under this section.

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

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

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

41 3. For sales in this state where the dealership of manufactured  
42 buildings contracts to deliver the building to a setup site that is outside  
43 this state, the situs is outside this state and the transaction is excluded  
44 from tax.

1 N. The gross proceeds of sales or gross income attributable to a  
2 ~~separate~~, written CONTRACT FOR design phase services ~~contract~~ or professional  
3 services ~~contract~~, executed before modification begins AND WITH TERMS,  
4 CONDITIONS AND PRICING OF ALL OF THESE SERVICES SEPARATELY STATED IN THE  
5 CONTRACT FROM THOSE FOR CONSTRUCTION PHASE SERVICES, is not subject to tax  
6 under this section, regardless of whether the services are provided  
7 sequential to or concurrent with prime contracting activities that are  
8 subject to tax under this section. This subsection does not include the  
9 gross proceeds of sales or gross income attributable to construction phase  
10 services. For the purposes of this subsection:

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

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

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

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

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

27 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
28 price as set in the contract for modification work. For the purposes of this  
29 item, "guaranteed maximum price" means the amount guaranteed to be the  
30 maximum amount due to a prime contractor for the performance of all  
31 modification work for the project.

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

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

39 (e) Inspection to determine the dates of substantial completion or  
40 final completion.

41 (f) Preparation of any manuals, warranties, as-built drawings, spares  
42 or other items the prime contractor must furnish pursuant to the contract for  
43 modification work. For the purposes of this subdivision, "as-built drawing"  
44 means a drawing that indicates field changes made to adapt to field

1 conditions, field changes resulting from change orders or buried and  
2 concealed installation of piping, conduit and utility services.

3 (g) Preparation of status reports after modification work has begun  
4 detailing the progress of work performed, including preparation of any of the  
5 following:

6 (i) Master schedule updates.

7 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

29 (c) Preparing drawings and specifications for architectural program  
30 documents, schematic design documents, design development documents,  
31 modification work documents or documents that identify the scope of or  
32 materials for the project.

33 (d) Preparing an initial schedule for the project, excluding the  
34 preparation of updates to the master schedule after modification work has  
35 begun.

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

39 (i) Labor, materials, machinery and equipment, tools, water, heat,  
40 utilities, transportation and other facilities and services used in the  
41 execution and completion of modification work, regardless of whether they are  
42 temporary or permanent or whether they are incorporated in the modifications.

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

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

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

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

8 (vi) Any bond and insurance premiums.

9 (vii) Any applicable taxes.

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

12 (f) Reviewing and evaluating cost estimates and project documents to  
13 prepare recommendations on site use, site improvements, selection of  
14 materials, building systems and equipment, modification feasibility,  
15 availability of materials and labor, local modification activity as related  
16 to schedules and time requirements for modification work.

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

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

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

34 1. If any part of the contract for sale of the property specifies  
35 amounts to be paid to the original owner for the modifications to be made in  
36 the period subsequent to the transfer of title, the amounts are included in  
37 the original owner's gross proceeds of sale or gross income under this  
38 section. Proceeds from the sale of the property that are received after  
39 transfer of title and that are unrelated to the modifications made subsequent  
40 to the transfer of title are not considered gross proceeds of sale or gross  
41 income from the modifications.

42 2. If the original owner enters into an agreement separate from the  
43 contract for sale of the real property providing for amounts to be paid to  
44 the original owner for the modifications to be made in the period subsequent  
45 to the transfer of title to the property, the amounts are included in the

1 original owner's gross proceeds of sale or gross income received for the  
2 modifications made subsequent to the transfer of title.

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

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

13 P. For the purposes of this section:

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

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

26 ~~4.~~ 3. "Manufactured building" means a manufactured home, mobile home  
27 or factory-built building, as defined in section 41-2142.

28 ~~3.~~ 4. "~~Dealership of~~ Manufactured ~~buildings~~ BUILDING DEALER" means a  
29 dealer who either:

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

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

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

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

40 7. "Prime contracting" means engaging in business as a prime  
41 contractor.

42 8. "Prime contractor" means a contractor who supervises, performs or  
43 coordinates the modification of any building, highway, road, railroad,  
44 excavation, manufactured building or other structure, project, development or  
45 improvement including the contracting, if any, with any subcontractors or

1 specialty contractors and who is responsible for the completion of the  
2 contract. Except as provided in subsections E and O of this section, a  
3 person who owns real property, who engages one or more contractors to modify  
4 that real property and who does not itself modify that real property is not a  
5 prime contractor within the meaning of this paragraph regardless of the  
6 existence of a contract for sale or the subsequent sale of that real  
7 property.

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

10 Sec. 8. Repeal

11 Section 42-5075, Arizona Revised Statutes, as amended by Laws 2013,  
12 chapter 255, section 15, is repealed.

13 Sec. 9. Section 42-5159, Arizona Revised Statutes, as amended by Laws  
14 2013, first special session, chapter 9, section 7, is amended to read:

15 42-5159. Exemptions

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

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

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

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

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

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

44 6. Tangible personal property brought into this state by an individual  
45 who was a nonresident at the time the property was purchased for storage, use

1 or consumption by the individual if the first actual use or consumption of  
2 the property was outside this state, unless the property is used in  
3 conducting a business in this state.

4 7. Purchases of implants used as growth promotants and injectable  
5 medicines, not already exempt under paragraph 16 of this subsection, for  
6 livestock and poultry owned by, or in possession of, persons who are engaged  
7 in 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 8. Livestock, poultry, supplies, feed, salts, vitamins and other  
11 additives for use or consumption in the businesses of farming, ranching and  
12 feeding livestock or poultry, not including fertilizers, herbicides and  
13 insecticides. For the purposes of this paragraph, "poultry" includes  
14 ratites.

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

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

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

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

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

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

31 13. Tangible personal property purchased by:

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

35 (b) A hospital operated by this state or a political subdivision of  
36 this state.

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

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

1 (e) A qualifying health care organization as defined in section  
2 42-5001 if the organization is dedicated to providing educational,  
3 therapeutic, rehabilitative and family medical education training for blind,  
4 visually impaired and multihandicapped children from the time of birth to age  
5 twenty-one.

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

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

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

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

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

24 (i) A qualifying community health center as defined in section  
25 42-5001.

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

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

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

42 14. Commodities, as defined by title 7 United States Code section 2,  
43 that are consigned for resale in a warehouse in this state in or from which  
44 the commodity is deliverable on a contract for future delivery subject to the

1 rules of a commodity market regulated by the United States commodity futures  
2 trading commission.

3 15. Tangible personal property sold by:

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

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

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

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

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

24 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

6           27. Lottery tickets or shares purchased pursuant to title 5, chapter  
7 5.1, article 1.

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

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

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

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

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

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

30           (b) Public educational institutions.

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

34          33. Natural gas or liquefied petroleum gas used to propel a motor  
35 vehicle.

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

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

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

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

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

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

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

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

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

43 40. Through December 31, 1994, tangible personal property sold pursuant  
44 to a personal property liquidation transaction, as defined in section  
45 42-5061. From and after December 31, 1994, tangible personal property sold

1 pursuant to a personal property liquidation transaction, as defined in  
2 section 42-5061, if the gross proceeds of the sales were included in the  
3 measure of the tax imposed by article 1 of this chapter or if the personal  
4 property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

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

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

42 49. Prepared food, drink or condiment donated by a restaurant as  
43 classified in section 42-5074, subsection A to a nonprofit charitable  
44 organization that has qualified under section 501(c)(3) of the internal

1 revenue code and that regularly serves meals to the needy and indigent on a  
2 continuing basis at no cost.

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

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

9 (b) "Curriculum design or enhancement" means planning, implementing or  
10 reporting on courses of study, lessons, assignments or other learning  
11 activities.

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

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

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

27 54. Computer data center equipment purchased by the owner, operator or  
28 qualified colocation tenant of the computer data center or an authorized  
29 agent of the owner, operator or qualified colocation tenant during the  
30 qualification period for use in a computer data center that is certified by  
31 the Arizona commerce authority under section 41-1519. To qualify for this  
32 deduction, at the time of purchase, the owner, operator or qualified  
33 colocation tenant must present to the retailer its certificate that is issued  
34 pursuant to section 41-1519 and that establishes its qualification for the  
35 deduction. For the purposes of this paragraph, "computer data center",  
36 "computer data center equipment", "qualification period" and "qualified  
37 colocation tenant" have the same meanings prescribed in section 41-1519.

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

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

1 "Metallurgical operations" includes leaching, milling, precipitating,  
2 smelting and refining.

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

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

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

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

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

26 ~~7.~~ 6. Aircraft, navigational and communication instruments and other  
27 accessories and related equipment sold to:

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

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

37 ~~8.~~ 7. Machinery, tools, equipment and related supplies used or  
38 consumed directly in repairing, remodeling or maintaining aircraft, aircraft  
39 engines or aircraft component parts by or on behalf of a certificated or  
40 licensed carrier of persons or property.

41 ~~9.~~ 8. Rolling stock, rails, ties and signal control equipment used  
42 directly to transport persons or property.

43 ~~10.~~ 9. Machinery or equipment used directly to drill for oil or gas or  
44 used directly in the process of extracting oil or gas from the earth for  
45 commercial purposes.

1       ~~11.~~ 10. Buses or other urban mass transit vehicles ~~which~~ THAT are used  
2 directly to transport persons or property for hire or pursuant to a  
3 governmentally adopted and controlled urban mass transportation program and  
4 ~~which~~ THAT are sold to bus companies holding a federal certificate of  
5 convenience and necessity or operated by any city, town or other governmental  
6 entity or by any person contracting with such governmental entity as part of  
7 a governmentally adopted and controlled program to provide urban mass  
8 transportation.

9       ~~12.~~ 11. Groundwater measuring devices required under section 45-604.

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

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

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

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

34       ~~15.~~ 14. Tangible personal property that is used by either of the  
35 following to receive, store, convert, produce, generate, decode, encode,  
36 control or transmit telecommunications information:

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

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

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

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

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

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

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

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

27 ~~17-~~ 16. Machinery and equipment that are used directly in the feeding  
28 of poultry, the environmental control of housing for poultry, the movement of  
29 eggs within a production and packaging facility or the sorting or cooling of  
30 eggs. This exemption does not apply to vehicles used for transporting eggs.

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

41 ~~19-~~ 18. Machinery and equipment that are used in the commercial  
42 production of livestock, livestock products or agricultural, horticultural,  
43 viticultural or floricultural crops or products in this state and that are  
44 used directly and primarily to prevent, monitor, control or reduce air, water  
45 or land pollution.

1           ~~20-~~ 19. Machinery or equipment that enables a television station to  
2 originate and broadcast or to receive and broadcast digital television  
3 signals and that was purchased to facilitate compliance with the  
4 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
5 Code section 336) and the federal communications commission order issued  
6 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
7 not exempt any of the following:

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

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

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

15           ~~21-~~ 20. Qualifying equipment that is purchased from and after June 30,  
16 2004 through June 30, 2024 by a qualified business under section 41-1516 for  
17 harvesting or processing qualifying forest products removed from qualifying  
18 projects as defined in section 41-1516. To qualify for this exemption, the  
19 qualified business must obtain and present its certification from the Arizona  
20 commerce authority at the time of purchase.

21           C. The exemptions provided by subsection B of this section do not  
22 include:

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

27           2. Janitorial equipment and hand tools.

28           3. Office equipment, furniture and supplies.

29           4. Tangible personal property used in selling or distributing  
30 activities, other than the telecommunications transmissions described in  
31 subsection B, paragraph ~~15~~ 14 of this section.

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

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

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

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

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

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

6           2. Revenues received from providing electricity, including ancillary  
7 services, electric distribution services, electric generation services,  
8 electric transmission services and other services related to providing  
9 electricity with respect to which the transaction privilege tax imposed under  
10 section 42-5063 has been paid.

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

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

16           1. Fees charged by a municipally owned utility to persons constructing  
17 residential, commercial or industrial developments or connecting residential,  
18 commercial or industrial developments to a municipal utility system or  
19 systems if the fees are segregated and used only for capital expansion,  
20 system enlargement or debt service of the utility system or systems.

21           2. Reimbursement or contribution compensation to any person or persons  
22 owning a utility system for property and equipment installed to provide  
23 utility access to, on or across the land of an actual utility consumer if the  
24 property and equipment become the property of the utility. This deduction  
25 shall not exceed the value of such property and equipment.

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

27           1. "Aircraft" includes:

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

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

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

37           H. For the purposes of subsection D of this section, "ancillary  
38 services", "electric distribution service", "electric generation service",  
39 "electric transmission service" and "other services" have the same meanings  
40 prescribed in section 42-5063.

41           Sec. 10. Repeal

42           Section 42-5159, Arizona Revised Statutes, as amended by Laws 2013,  
43 chapter 255, section 17, is repealed.

1           Sec. 11. Section 43-1082, Arizona Revised Statutes, is amended to  
2 read:

3           43-1082. Credit for construction materials incorporated into  
4                                   qualifying facility; definitions

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

12           B. Co-owners of a business, including partners in a partnership and  
13 shareholders of an S corporation, as defined in section 1361 of the internal  
14 revenue code, may each claim only the pro rata share of the credit allowed  
15 under this section based on the ownership interest, except that partners in a  
16 partnership and members in a limited liability company may allocate among  
17 themselves any credit for construction materials that are incorporated into a  
18 facility that is predominantly used for direct broadcast satellite television  
19 or data transmission services in any proportion stated in their partnership  
20 or operating agreement. The total of the credits allowed all such owners may  
21 not exceed the amount that would have been allowed a sole owner.

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

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

32           E. For THE purposes of this section:

33           1. "Construction materials" means tangible personal property  
34 incorporated into and permanently affixed to the taxpayer's qualifying  
35 facility other than materials exempt from taxation pursuant to section  
36 42-5061 or 42-5159, subsection B.

37           2. "Direct broadcast satellite television or data transmission  
38 services" means either:

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

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

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

5           4. "Qualifying facility" means a new building or structure, or  
6 expansion of an existing building or structure, located entirely within this  
7 state, predominantly used for manufacturing, fabricating, mining, refining,  
8 metallurgical operations, direct broadcast satellite television or data  
9 transmission services or research and development as described in section  
10 43-1168, and which has a total cost of construction in excess of five million  
11 dollars.

12           Sec. 12. Effective date

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