

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

## CHAPTER 245

# SENATE BILL 1301

### AN ACT

AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST REGULAR SESSION, CHAPTER 40, SECTION 2, CHAPTER 114, SECTION 6 AND CHAPTER 222, SECTION 3 AND LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 3; REPEALING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 2; AMENDING SECTION 42-5009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 40, SECTION 3; REPEALING SECTION 42-5009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 5; AMENDING SECTION 42-5010, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 6; AMENDING SECTIONS 42-5039 AND 42-5069, ARIZONA REVISED STATUTES; 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 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST REGULAR SESSION, CHAPTER 27, SECTION 2, CHAPTER 120, SECTION 2, CHAPTER 153, SECTION 2 AND CHAPTER 236, SECTION 6 AND LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 8; REPEALING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 20; AMENDING SECTIONS 42-12001, 42-12101, 43-222, 43-1021 AND 43-1022, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-1024 AND 43-1028, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1029, 43-1032 AND 43-1042, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-1081.02, 43-1082 AND 43-1090.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1121, 43-1122 AND 43-1123, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1124, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1127 AND 43-1130.01, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-1180 AND 43-1182, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1332, 43-1333, 43-1504 AND 43-1603, ARIZONA REVISED STATUTES; RELATING TO TAX CORRECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-2003, Arizona Revised Statutes, as amended by  
3 Laws 2013, first regular session, chapter 40, section 2, chapter 114, section  
4 6 and chapter 222, section 3 and Laws 2013, first special session, chapter 9,  
5 section 3, is amended to read:

6 42-2003. Authorized disclosure of confidential information

7 A. Confidential information relating to:

8 1. A taxpayer may be disclosed to the taxpayer, its successor in  
9 interest or a designee of the taxpayer who is authorized in writing by the  
10 taxpayer. A principal corporate officer of a parent corporation may execute  
11 a written authorization for a controlled subsidiary.

12 2. A corporate taxpayer may be disclosed to any principal officer, any  
13 person designated by a principal officer or any person designated in a  
14 resolution by the corporate board of directors or other similar governing  
15 body.

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

19 4. An estate may be disclosed to the personal representative of the  
20 estate and to any heir, next of kin or beneficiary under the will of the  
21 decedent if the department finds that the heir, next of kin or beneficiary  
22 has a material interest which will be affected by the confidential  
23 information.

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

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

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

33 B. Confidential information may be disclosed to:

34 1. Any employee of the department whose official duties involve tax  
35 administration.

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

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

1           4. Other state tax officials whose official duties require the  
2 disclosure for proper tax administration purposes if the information is  
3 sought in connection with an investigation or any other proceeding conducted  
4 by the official. Any disclosure is limited to information of a taxpayer who  
5 is being investigated or who is a party to a proceeding conducted by the  
6 official.

7           5. The following agencies, officials and organizations, if they grant  
8 substantially similar privileges to the department for the type of  
9 information being sought, pursuant to statute and a written agreement between  
10 the department and the foreign country, agency, state, Indian tribe or  
11 organization:

12           (a) The United States internal revenue service, alcohol and tobacco  
13 tax and trade bureau of the United States treasury, United States bureau of  
14 alcohol, tobacco, firearms and explosives of the United States department of  
15 justice, United States drug enforcement agency and federal bureau of  
16 investigation.

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

18           (c) An organization of states, federation of tax administrators or  
19 multistate tax commission that operates an information exchange for tax  
20 administration purposes.

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

24           (e) An agency, official or organization of an Indian tribal government  
25 with responsibilities comparable to the responsibilities of the agencies,  
26 officials or organizations identified in subdivision (a), (b) or (c) of this  
27 paragraph.

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

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

32           (a) The processing, storage, transmission, destruction and  
33 reproduction of the information.

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

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

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

40           (a) Regarding income tax or withholding tax.

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

43           9. The United States treasury inspector general for tax administration  
44 for the purpose of reporting a violation of internal revenue code section  
45 7213A (26 United States Code section 7213A), unauthorized inspection of  
46 returns or return information.

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

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

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

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

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

11           (c) Fulfilling its annual reporting responsibility pursuant to section  
12 41-1511, subsections U and V and section 41-1512, subsections U and V.

13           (d) Certifying computer data centers for tax relief under section  
14 41-1519.

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

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

18           15. The department of transportation for its use in administering  
19 taxes, surcharges and penalties prescribed by title 28.

20           16. The Arizona health care cost containment system administration for  
21 its use in administering nursing facility provider assessments.

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

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

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

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

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

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

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

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

41           E. The department, on the request of any person, shall provide the  
42 names and addresses of bingo licensees as defined in section 5-401, verify  
43 whether or not a person has a privilege license and number, a distributor's  
44 license and number or a withholding license and number or disclose the  
45 information to be posted on the department's website or otherwise publicly

1 accessible pursuant to section 42-1124, subsection F and section 42-3201,  
2 subsection A.

3 F. A department employee, in connection with the official duties  
4 relating to any audit, collection activity or civil or criminal  
5 investigation, may disclose return information to the extent that disclosure  
6 is necessary to obtain information that is not otherwise reasonably  
7 available. These official duties include the correct determination of and  
8 liability for tax, the amount to be collected or the enforcement of other  
9 state tax revenue laws.

10 G. If an organization is exempt from this state's income tax as  
11 provided in section 43-1201 for any taxable year, the name and address of the  
12 organization and the application filed by the organization on which the  
13 department made its determination for exemption together with any papers  
14 submitted in support of the application and any letter or document issued by  
15 the department concerning the application are open to public inspection.

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

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

24 2. May not be disclosed to the public in any manner that does not  
25 comply with confidentiality standards established by the department. The  
26 county, city or town shall agree in writing with the department that any  
27 release of confidential information that violates the confidentiality  
28 standards adopted by the department will result in the immediate suspension  
29 of any rights of the county, city or town to receive taxpayer information  
30 under this subsection.

31 I. The department may disclose statistical information gathered from  
32 confidential information if it does not disclose confidential information  
33 attributable to any one taxpayer. The department may disclose statistical  
34 information gathered from confidential information, even if it discloses  
35 confidential information attributable to a taxpayer, to:

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

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

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

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

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

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

11 N. Except as provided in section 42-2002, subsection D, a court may  
12 order the department to disclose confidential information pertaining to a  
13 party to an action. An order shall be made only upon a showing of good cause  
14 and that the party seeking the information has made demand upon the taxpayer  
15 for the information.

16 O. This section does not prohibit the disclosure by the department of  
17 any information or documents submitted to the department by a bingo licensee.  
18 Before disclosing the information the department shall obtain the name and  
19 address of the person requesting the information.

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

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

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

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

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

45 U. For proceedings before the department, the office of administrative  
46 hearings, the board of tax appeals or any state or federal court involving

1 penalties that were assessed against a return preparer, an electronic return  
2 preparer or a payroll service company pursuant to section 42-1103.02,  
3 42-1125.01 or 43-419, confidential information may be disclosed only before  
4 the judge or administrative law judge adjudicating the proceeding, the  
5 parties to the proceeding and the parties' representatives in the proceeding  
6 prior to its introduction into evidence in the proceeding. The confidential  
7 information may be introduced as evidence in the proceeding only if the  
8 taxpayer's name, the names of any dependents listed on the return, all social  
9 security numbers, the taxpayer's address, the taxpayer's signature and any  
10 attachments containing any of the foregoing information are redacted and if  
11 either:

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

14 2. Such return or return information relates or may relate to a  
15 transactional relationship between a person who is a party to the proceeding  
16 and the taxpayer which directly affects the resolution of an issue in the  
17 proceeding.

18 3. The method of payment of the taxpayer's withholding tax liability  
19 or the method of filing the taxpayer's withholding tax return is an issue for  
20 the period.

21 V. The department may disclose to the attorney general confidential  
22 information received under section 44-7111 and requested by the attorney  
23 general for purposes of determining compliance with and enforcing section  
24 44-7111. The department and attorney general shall share with each other the  
25 information received under section 44-7111, and may share the information  
26 with other federal, state or local agencies only for the purposes of  
27 enforcement of section 13-3711, 36-798.06, 44-7101 or 44-7111 or  
28 corresponding laws of other states.

29 W. The department may provide the name and address of qualifying  
30 hospitals and qualifying health care organizations, as defined in section  
31 42-5001, to a business classified and reporting transaction privilege tax  
32 under the utilities classification.

33 X. The department may disclose to the attorney general confidential  
34 information requested by the attorney general for the purposes of determining  
35 compliance with and enforcing section 13-3711 or 36-798.06.

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



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

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

20 F. The department may prescribe a form for a certificate used to  
21 establish entitlement to the deductions described in section 42-5061,  
22 subsection A, paragraph ~~47~~ 46 and section 42-5063, subsection B, paragraph 3.  
23 Under rules the department may prescribe, the department may also require  
24 additional information for the seller to be entitled to the deduction. If a  
25 seller is entitled to the deductions described in section 42-5061, subsection  
26 A, paragraph ~~47~~ 46 and section 42-5063, subsection B, paragraph 3, the  
27 department may require the purchaser who executed the certificate to  
28 establish the accuracy and completeness of the information contained in the  
29 certificate that would entitle the seller to the deduction. If the purchaser  
30 cannot establish the accuracy and completeness of the information, the  
31 purchaser is liable in an amount equal to any tax, penalty and interest that  
32 the seller would have been required to pay under this article. Payment of  
33 the amount under this subsection exempts the purchaser from liability for any  
34 tax imposed under article 4 of this chapter. The amount shall be treated as  
35 tax revenues collected from the seller in order to designate the distribution  
36 base for purposes of section 42-5029.

37 G. If a seller claims a deduction under section 42-5061, subsection A,  
38 paragraph 25 and establishes entitlement to the deduction with an exemption  
39 letter that the purchaser received from the department and the exemption  
40 letter was based on a contingent event, the department may require the  
41 purchaser that received the exemption letter to establish the satisfaction of  
42 the contingent event within a reasonable time. If the purchaser cannot  
43 establish the satisfaction of the event, the purchaser is liable in an amount  
44 equal to any tax, penalty and interest that the seller would have been  
45 required to pay under this article if the seller had not been furnished the  
46 exemption letter. Payment of the amount under this subsection exempts the

1 purchaser from liability for any tax imposed under article 4 of this chapter.  
2 The amount shall be treated as tax revenues collected from the seller in  
3 order to designate the distribution base for purposes of section 42-5029.  
4 For the purposes of this subsection, "reasonable time" means a time  
5 limitation that the department determines and that does not exceed the time  
6 limitations pursuant to section 42-1104.

7 H. The department shall prescribe forms for certificates used to  
8 establish the satisfaction of the criteria necessary to qualify the sale of a  
9 motor vehicle for the deductions described in section 42-5061, subsection A,  
10 paragraph 14, paragraph 28, subdivision (a) and paragraph ~~45~~ 44 and  
11 subsection U. Except as provided in subsection J of this section, to  
12 establish entitlement to these deductions, a motor vehicle dealer shall  
13 retain:

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

17 2. A copy of the nonresident registration permit authorized by section  
18 28-2154.

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

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

27 I. Notwithstanding subsection A, paragraph 2 of this section, if a  
28 motor vehicle dealer has established entitlement to a deduction by complying  
29 with subsection H of this section, the department may require the purchaser  
30 who executed the certificate to establish the accuracy and completeness of  
31 the information contained in the certificate that entitled the motor vehicle  
32 dealer to the deduction. If the purchaser cannot establish the accuracy and  
33 completeness of the information, the purchaser is liable in an amount equal  
34 to any tax, penalty and interest that the motor vehicle dealer would have  
35 been required to pay under this article and under articles IV and V of the  
36 model city tax code as defined in section 42-6051. Payment of the amount  
37 under this subsection exempts the purchaser from liability for any tax  
38 imposed under article 4 of this chapter and any tax imposed under article VI  
39 of the model city tax code as defined in section 42-6051. The amount shall  
40 be treated as tax revenues collected from the motor vehicle dealer in order  
41 to designate the distribution base for purposes of section 42-5029.

42 J. To establish entitlement to the deduction described in section  
43 42-5061, subsection A, paragraph ~~45~~ 44, a public consignment auction dealer  
44 as defined in section ~~28-4410.01~~ 28-4301 shall submit the valid certificate  
45 prescribed by subsection H of this section to the department and retain a  
46 copy for its records.

1 K. Notwithstanding any other law, compliance with subsection H of this  
2 section by a motor vehicle dealer entitles the motor vehicle dealer to the  
3 exemption provided in section 42-6004, subsection A, paragraph 4.

4 L. THE DEPARTMENT SHALL PRESCRIBE A FORM FOR A CERTIFICATE TO BE USED  
5 BY A CONTRACTOR THAT IS NOT OTHERWISE SUBJECT TO TAX UNDER SECTION 42-5075  
6 WHEN PURCHASING TANGIBLE PERSONAL PROPERTY TO BE INCORPORATED OR FABRICATED  
7 BY THE PERSON INTO ANY REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR  
8 IMPROVEMENT. THE CONTRACTOR SHALL OBTAIN A NEW CERTIFICATE FOR EACH PROJECT  
9 AND IS SUBJECT TO THE FOLLOWING CONDITIONS:

10 1. THE CONTRACTOR IS NOT WORKING FOR THE OWNER OF THE REAL PROPERTY  
11 BUT IS WORKING ON A JOB THAT IS IN THE CONTROL OF A PRIME CONTRACTOR AND THAT  
12 THE PRIME CONTRACTOR IS LIABLE FOR THE TAX ON THE GROSS INCOME, GROSS  
13 PROCEEDS OF SALES OR GROSS RECEIPTS ATTRIBUTABLE TO THE JOB AND FROM WHICH  
14 THE CONTRACTOR IS PAID.

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

18 3. THE DEPARTMENT SHALL ISSUE THE CERTIFICATE TO THE CONTRACTOR ON  
19 RECEIVING SUFFICIENT DOCUMENTATION TO ESTABLISH THAT THE CONTRACTOR MEETS THE  
20 REQUIREMENTS OF THIS SUBSECTION.

21 4. THE DEPARTMENT SHALL NOT ISSUE A CERTIFICATE TO A CONTRACTOR THAT  
22 HAS A DELINQUENT TAX BALANCE OWING THE DEPARTMENT UNDER THIS TITLE OR  
23 TITLE 43.

24 5. IF THE DEPARTMENT DETERMINES THAT THE CONTRACTOR HAS FAILED TO MEET  
25 ANY OF THE REQUIREMENTS OF THIS SUBSECTION, ANY DEDUCTIONS FROM TAXATION FROM  
26 THE USE OF THE CERTIFICATE ARE SUBJECT TO RECAPTURE AND PAYMENT BY THE  
27 CONTRACTOR.

28 Sec. 4. Repeal

29 Section 42-5009, Arizona Revised Statutes, as amended by Laws 2013,  
30 chapter 255, section 5, is repealed.

31 Sec. 5. Section 42-5010, Arizona Revised Statutes, as amended by Laws  
32 2013, chapter 255, section 6, is amended to read:

33 42-5010. Rates; distribution base

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

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

- 39 (a) Transporting classification.
- 40 (b) Utilities classification.
- 41 (c) Telecommunications classification.
- 42 (d) Pipeline classification.
- 43 (e) Private car line classification.
- 44 (f) Publication classification.
- 45 (g) Job printing classification.
- 46 (h) Prime contracting classification.

- 1 (i) Amusement classification.
- 2 (j) Restaurant classification.
- 3 (k) Personal property rental classification.
- 4 (l) Retail classification.

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

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

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

14 B. Except as provided by subsection J of this section, twenty per cent  
15 of the tax revenues collected at the rate prescribed by subsection A,  
16 paragraph 1 of this section from persons on account of engaging in business  
17 under the business classifications listed in subsection A, paragraph 1,  
18 subdivisions (a) through (h) of this section is designated as distribution  
19 base for purposes of section 42-5029.

20 C. Forty per cent of the tax revenues collected at the rate prescribed  
21 by subsection A, paragraph 1 of this section from persons on account of  
22 engaging in business under the business classifications listed in subsection  
23 A, paragraph 1, subdivisions (i) through (l) of this section is designated as  
24 distribution base for purposes of section 42-5029.

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

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

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

37 G. In addition to the rates prescribed by subsection A of this  
38 section, if approved by the qualified electors voting at a statewide general  
39 election, an additional rate increment is imposed and shall be collected  
40 through June 30, 2021. The taxpayer shall pay taxes pursuant to this  
41 subsection at the same time and in the same manner as under subsection A of  
42 this section. The department shall separately account for the revenues  
43 collected with respect to the rates imposed pursuant to this subsection and  
44 the state treasurer shall distribute all of those revenues in the manner  
45 prescribed by section 42-5029, subsection E. The rates imposed pursuant to  
46 this subsection shall not be considered local revenues for purposes of

1 article IX, section 21, Constitution of Arizona. The additional tax rate  
2 increment is levied at the rate of six-tenths of one per cent of the tax base  
3 of every person engaging or continuing in this state in a business  
4 classification listed in subsection A, paragraph 1 of this section.

5 H. Any increase in the rate of tax that is imposed by this chapter and  
6 that is enacted by the legislature or by a vote of the people does not apply  
7 with respect to contracts entered into by prime contractors or pursuant to  
8 written bids made by prime contractors on or before the effective date of the  
9 legislation or the date of the election enacting the increase. To qualify  
10 for the exemption under this subsection, the prime contractor must maintain  
11 sufficient documentation, in a manner and form prescribed by the department,  
12 to verify the date of the contract or written bid.

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

15 1. Any increase in the rate of tax that is levied by this article or  
16 article 2 of this chapter enacted by the legislature or by a vote of the  
17 people does not apply for a period of one hundred twenty days from the date  
18 of the tax rate increase to the gross proceeds of sales or gross income from  
19 the business of the taxpayer with respect to written contracts entered into  
20 before the effective date of the tax rate increase unless the taxpayer has  
21 entered into a contract that contains a provision that entitles the taxpayer  
22 to recover from the purchaser the amount of the additional tax levied.

23 2. The provisions of this subsection apply without regard to the  
24 accounting method used by the taxpayer to report the taxes imposed under  
25 article 2 of this chapter.

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

28 J. Zero per cent of the tax revenues that are collected at the rate  
29 prescribed by subsection A, paragraph 1 of this section from persons on  
30 account of engaging in business under the business classification listed in  
31 subsection A, paragraph 1, subdivision ~~(h)~~ (h) of this section, and that are  
32 subject to any distribution required by section 42-5032.02, is designated as  
33 distribution base for the purposes of section 42-5029 until the total amount  
34 subject to distribution pursuant to section 42-5032.02 has reached the  
35 maximum amount prescribed by section 42-5032.02, subsection C. Thereafter,  
36 twenty per cent of the remaining tax revenues is designated as distribution  
37 base for the purposes of section 42-5029 as provided by subsection B of this  
38 section.

39 Sec. 6. Section 42-5039, Arizona Revised Statutes, is amended to read:

40 42-5039. Qualified destination management companies;  
41 definitions

42 A. A qualified destination management company is not subject to  
43 transaction privilege tax under this chapter on the gross proceeds of ~~sale~~  
44 SALES or gross income derived from a qualified contract for destination  
45 management services. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED BY  
46 A QUALIFIED DESTINATION MANAGEMENT COMPANY FROM TRANSACTIONS THAT ARE NOT

1 PART OF A QUALIFIED CONTRACT FOR DESTINATION MANAGEMENT SERVICES ARE SUBJECT  
2 TO TAX UNDER THIS CHAPTER.

3 B. A qualified destination management company is a final consumer and  
4 user of any tangible personal property, activity or service subject to  
5 transaction privilege tax under article 2 of this chapter that the qualified  
6 destination management company arranges pursuant to a qualified contract for  
7 destination management services.

8 C. For the purposes of this section:

9 1. "Destination management services" means the business of  
10 coordinating, designing and implementing the delivery by a third party of  
11 four or more of the following:

- 12 (a) Transportation.
- 13 (b) Entertainment.
- 14 (c) Food or beverage.
- 15 (d) Recreational or amusement activity.
- 16 (e) Tours.
- 17 (f) Event venue.
- 18 (g) Theme decor.

19 2. "Qualified contract" means a contract for the provision of  
20 destination management services by a qualified destination management company  
21 where both of the following apply:

22 (a) The qualified destination management company receives payment from  
23 or on behalf of the qualified destination management company's client for the  
24 cost of the destination management services arranged by the qualified  
25 destination management company.

26 (b) The qualified destination management company pays the vendor  
27 supplying the destination management services arranged by the qualified  
28 destination management company including any applicable transaction privilege  
29 tax or collection of use tax charged by the vendor to the qualified  
30 destination management company.

31 3. "Qualified destination management company" means a person that  
32 receives on an annual basis at least eighty per cent of its gross proceeds of  
33 sales or gross income derived from destination management services.

34 Sec. 7. Section 42-5069, Arizona Revised Statutes, is amended to read:

35 42-5069. Commercial lease classification; definitions

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

38 B. A person who, as a lessor, leases or rents for a consideration  
39 under one or more leases or rental agreements the use or occupancy of real  
40 property that is used by the lessee for commercial purposes is deemed to be  
41 engaged in business and subject to the tax imposed by article 1 of this  
42 chapter, but this subsection does not include leases or rentals of real  
43 property used for residential or agricultural purposes.

44 C. The commercial lease classification does not include:

45 1. Any business activities that are classified under the transient  
46 lodging classification.

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

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

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

13           5. Leasing real property between affiliated companies, businesses,  
14 persons or reciprocal insurers. For the purposes of this paragraph:

15           (a) "Affiliated companies, businesses, persons or reciprocal insurers"  
16 means the lessor holds a controlling interest in the lessee, the lessee holds  
17 a controlling interest in the lessor, ~~an~~ affiliated ~~entity holds~~ PERSONS HOLD  
18 a controlling interest in both the lessor and the lessee, or an unrelated  
19 person holds a controlling interest in both the lessor and lessee.

20           (b) "AFFILIATED PERSONS" MEANS MEMBERS OF AN INDIVIDUAL'S FAMILY OR  
21 PERSONS WHO HAVE OWNERSHIP OR CONTROL OF A BUSINESS ENTITY.

22           ~~(b)~~ (c) "Controlling interest" means direct or indirect ownership of  
23 at least eighty per cent of the voting shares of a corporation or of the  
24 interests in a company, business or person other than a corporation.

25           (d) "MEMBERS OF AN INDIVIDUAL'S FAMILY" MEANS THE INDIVIDUAL'S SPOUSE  
26 AND BROTHERS AND SISTERS, WHETHER BY WHOLE OR HALF BLOOD, INCLUDING ADOPTED  
27 PERSONS, ANCESTORS AND LINEAL DESCENDANTS.

28           ~~(e)~~ (e) "Reciprocal insurers" has the same meaning prescribed in  
29 section 20-762.

30           6. Leasing real property for boarding horses.

31           7. Leasing or renting real property or the right to use real property  
32 at exhibition events in this state sponsored, operated or conducted by a  
33 nonprofit organization that is exempt from taxation under section 501(c)(3),  
34 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is  
35 associated with major league baseball teams or a national touring  
36 professional golfing association and no part of the organization's net  
37 earnings inures to the benefit of any private shareholder or individual.

38           8. Leasing or renting real property or the right to use real property  
39 for use as a rodeo featuring primarily farm and ranch animals in this state  
40 sponsored, operated or conducted by a nonprofit organization that is exempt  
41 from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or  
42 501(c)(8) of the internal revenue code and no part of the organization's net  
43 earnings inures to the benefit of any private shareholder or individual.

44           9. Leasing or renting dwelling units, lodging facilities or trailer or  
45 mobile home spaces if the units, facilities or spaces are intended to serve  
46 as the principal or permanent place of residence for the lessee or renter or

1 if the unit, facility or space is leased or rented to a single tenant thirty  
2 or more consecutive days.

3 10. Leasing or renting real property and improvements for use primarily  
4 for religious worship by a nonprofit organization that is exempt from  
5 taxation under section 501(c)(3) of the internal revenue code and no part of  
6 the organization's net earnings inures to the benefit of any private  
7 shareholder or individual.

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

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

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

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

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

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

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

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

35 14. Leasing or subleasing real property used by a nursing care  
36 institution as defined in section 36-401 that is licensed pursuant to title  
37 36, chapter 4.

38 15. Leasing or renting an eligible facility as defined in section  
39 28-7701.

40 16. Granting or providing rights to real property that constitute a  
41 profit à prendre for the severance of minerals, including all rights to use  
42 the surface or subsurface of the property as is necessary or convenient to  
43 the right to sever the minerals. This paragraph does not exclude from the  
44 commercial lease classification leasehold rights to the real property that  
45 are granted in addition to and not included within the right of profit à  
46 prendre, but the tax base for the grant of such a leasehold right, if the

1 gross income derived from the grant is not separately stated from the gross  
2 income derived from the grant of the profit à prendre, shall not exceed the  
3 fair market value of the leasehold rights computed after excluding the value  
4 of all rights under the profit à prendre. For the purposes of this  
5 paragraph, "profit à prendre" means a right to use the land of another to  
6 mine minerals, and carries with it the right of entry and the right to remove  
7 and take the minerals from the land and also includes the right to use the  
8 surface of the land as is necessary and convenient for exercise of the  
9 profit.

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

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

20 F. For the purposes of this section:

21 1. "Leasing" includes renting.

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

24 Sec. 8. Section 42-5075, Arizona Revised Statutes, as amended by Laws  
25 2013, first regular session, chapter 153, section 1 and Laws 2013, first  
26 special session, chapter 9, section 6, is amended to read:

27 42-5075. Prime contracting classification; exemptions;  
28 definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (i) Assembling the machinery, equipment or other tangible personal  
44 property.

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

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

4 (iv) Stabilizing or protecting the machinery, equipment or other  
5 tangible personal property during operation by bolting, burying or performing  
6 other similar nonpermanent connections to either real property or real  
7 property improvements.

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

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

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

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

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

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

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

29 11. The gross proceeds of sales or gross income that is derived from  
30 the installation, assembly, repair or maintenance of clean rooms that are  
31 deducted from the tax base of the retail classification pursuant to section  
32 42-5061, subsection B, paragraph 16.

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

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

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

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

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

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

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

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

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

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

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

42           20. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
43 WITH THE OWNER OF REAL PROPERTY FOR THE MAINTENANCE, REPAIR OR REPLACEMENT OF  
44 EXISTING PROPERTY IF THE CONTRACT DOES NOT INCLUDE MODIFICATION ACTIVITIES.  
45 FOR THE PURPOSES OF THIS PARAGRAPH, EACH CONTRACT OR PROJECT IS INDEPENDENT  
46 OF ANOTHER CONTRACT. A CONTRACTOR THAT HAS GROSS PROCEEDS OF SALES OR GROSS

1 INCOME DERIVED FROM A CONTRACT THAT IS NOT SUBJECT TO TAX UNDER THIS  
2 PARAGRAPH IS SUBJECT TO TAX ON A CONTRACT THAT INCLUDES MODIFICATION  
3 ACTIVITIES.

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

6 1. A prime contractor may establish entitlement to the deduction by  
7 both:

8 (a) Marking the invoice for the transaction to indicate that the gross  
9 proceeds of sales or gross income derived from the transaction was deducted  
10 from the base.

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

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

22 3. The department may prescribe a form for the certificate described  
23 in paragraph 1, subdivision (b) of this subsection. The department may also  
24 adopt rules that describe the transactions with respect to which a person is  
25 not entitled to rely solely on the information contained in the certificate  
26 provided in paragraph 1, subdivision (b) of this subsection but must instead  
27 obtain such additional information as required in order to be entitled to the  
28 deduction.

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

43 D. Subcontractors or others who perform services in respect to any  
44 improvement, building, highway, road, railroad, excavation, manufactured  
45 building or other structure, project, development or improvement are not  
46 subject to tax if they can demonstrate that the job was within the control of

1 a prime contractor or contractors or a dealership of manufactured buildings  
2 and that the prime contractor or dealership is liable for the tax on the  
3 gross income, gross proceeds of sales or gross receipts attributable to the  
4 job and from which the subcontractors or others were paid.

5 E. Amounts received by a contractor for a project are excluded from  
6 the contractor's gross proceeds of sales or gross income derived from the  
7 business if the person who hired the contractor executes and provides a  
8 certificate to the contractor stating that the person providing the  
9 certificate is a prime contractor and is liable for the tax under article 1  
10 of this chapter. The department shall prescribe the form of the certificate.  
11 If the contractor has reason to believe that the information contained on the  
12 certificate is erroneous or incomplete, the department may disregard the  
13 certificate. If the person who provides the certificate is not liable for  
14 the tax as a prime contractor, that person is nevertheless deemed to be the  
15 prime contractor in lieu of the contractor and is subject to the tax under  
16 this section on the gross receipts or gross proceeds received by the  
17 contractor.

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

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

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

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

1 J. The gross proceeds of sales or gross income derived from  
2 landscaping activities are subject to tax under this section. Landscaping  
3 includes installing lawns, grading or leveling ground, installing gravel or  
4 boulders, planting trees and other plants, felling trees, removing or  
5 mulching tree stumps, removing other imbedded plants, building or modifying  
6 irrigation berms, repairing sprinkler or watering systems, installing  
7 railroad ties and installing underground sprinkler or watering systems.

8 K. The portion of gross proceeds of sales or gross income attributable  
9 to the actual direct costs of providing architectural or engineering services  
10 that are incorporated in a contract is not subject to tax under this section.  
11 For the purposes of this subsection, "direct costs" means the portion of the  
12 actual costs that are directly expended in providing architectural or  
13 engineering services.

14 L. Operating a landfill or a solid waste disposal facility is not  
15 subject to taxation under this section, including filling, compacting and  
16 creating vehicle access to and from cell sites within the landfill.  
17 Constructing roads to a landfill or solid waste disposal facility and  
18 constructing cells within a landfill or solid waste disposal facility may be  
19 deemed prime contracting under this section.

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

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

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

29 3. For sales in this state where the dealership of manufactured  
30 buildings contracts to deliver the building to a setup site that is outside  
31 this state, the situs is outside this state and the transaction is excluded  
32 from tax.

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

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

45 (a) Administration or supervision of any modification performed on the  
46 project, including team management and coordination, scheduling, cost

1 controls, submittal process management, field management, safety program,  
2 close-out process and warranty period services.

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

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

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

13 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
14 price as set in the contract for modification work. For the purposes of this  
15 item, "guaranteed maximum price" means the amount guaranteed to be the  
16 maximum amount due to a prime contractor for the performance of all  
17 modification work for the project.

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

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

25 (e) Inspection to determine the dates of substantial completion or  
26 final completion.

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

33 (g) Preparation of status reports after modification work has begun  
34 detailing the progress of work performed, including preparation of any of the  
35 following:

36 (i) Master schedule updates.

37 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

17 (d) Preparing an initial schedule for the project, excluding the  
18 preparation of updates to the master schedule after modification work has  
19 begun.

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

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

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

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

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

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

36 (vi) Any bond and insurance premiums.

37 (vii) Any applicable taxes.

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

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

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

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

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

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

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

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

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

40           P. For the purposes of this section:

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

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

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

7 ~~4.~~ 3. "Manufactured building" means a manufactured home, mobile home  
8 or factory-built building, as defined in section 41-2142.

9 ~~3.~~ 4. "~~Dealership of~~ Manufactured ~~buildings~~ BUILDING DEALER" means a  
10 dealer who either:

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

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

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

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

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

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

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

36 Sec. 9. Repeal

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

39 Sec. 10. Section 42-6004, Arizona Revised Statutes, as amended by Laws  
40 2013, first regular session, chapter 27, section 2, chapter 120, section 2,  
41 chapter 153, section 2 and chapter 236, section 6 and Laws 2013, first  
42 special session, chapter 9, section 8, is amended to read:

43 42-6004. Exemption from municipal tax

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

- 1           1. Exhibition events in this state sponsored, conducted or operated by  
2 a nonprofit organization that is exempt from taxation under section  
3 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
4 organization is associated with a major league baseball team or a national  
5 touring professional golfing association and no part of the organization's  
6 net earnings inures to the benefit of any private shareholder or individual.
- 7           2. Interstate telecommunications services, which include that portion  
8 of telecommunications services, such as subscriber line service, allocable by  
9 federal law to interstate telecommunications service.
- 10          3. Sales of warranty or service contracts.
- 11          4. Sales of motor vehicles to nonresidents of this state for use  
12 outside this state if the ~~vendor~~ MOTOR VEHICLE DEALER ships or delivers the  
13 motor vehicle to a destination outside this state.
- 14          5. Interest on finance contracts.
- 15          6. Dealer documentation fees on the sales of motor vehicles.
- 16          7. Sales of food or other items purchased with United States  
17 department of agriculture food stamp coupons issued under the food stamp act  
18 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section  
19 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,  
20 section 4302; 42 United States Code section 1786) but may impose such a tax  
21 on other sales of food. If a city, town or special taxing district exempts  
22 sales of food from its tax or imposes a different transaction privilege rate  
23 on the gross proceeds of sales or gross income from sales of food and nonfood  
24 items, it shall use the definition of food prescribed by rule adopted by the  
25 department pursuant to section 42-5106.
- 26          8. Orthodontic devices dispensed by a dental professional who is  
27 licensed under title 32, chapter 11 to a patient as part of the practice of  
28 dentistry.
- 29          9. Sales of internet access services to the person's subscribers and  
30 customers. For the purposes of this paragraph:  
31           (a) "Internet" means the computer and telecommunications facilities  
32 that comprise the interconnected worldwide network of networks that employ  
33 the transmission control protocol or internet protocol, or any predecessor or  
34 successor protocol, to communicate information of all kinds by wire or radio.  
35           (b) "Internet access" means a service that enables users to access  
36 content, information, electronic mail or other services over the internet.  
37 Internet access does not include telecommunication services provided by a  
38 common carrier.
- 39          10. The gross proceeds of sales or gross income retained by the Arizona  
40 exposition and state fair board from ride ticket sales at the annual Arizona  
41 state fair.
- 42          11. Through August 31, 2014, sales of Arizona centennial medallions by  
43 the historical advisory commission.
- 44          12. Leasing real property between affiliated companies, businesses,  
45 persons or reciprocal insurers. For the purposes of this paragraph:

1 (a) "Affiliated companies, businesses, persons or reciprocal insurers"  
2 means the lessor holds a controlling interest in the lessee, the lessee holds  
3 a controlling interest in the lessor, ~~an~~ affiliated ~~entity holds~~ PERSONS HOLD  
4 a controlling interest in both the lessor and the lessee, or an unrelated  
5 person holds a controlling interest in both the lessor and lessee.

6 (b) "AFFILIATED PERSONS" MEANS MEMBERS OF THE INDIVIDUAL'S FAMILY OR  
7 PERSONS WHO HAVE OWNERSHIP OR CONTROL OF A BUSINESS ENTITY.

8 ~~(b)~~ (c) "Controlling interest" means direct or indirect ownership of  
9 at least eighty per cent of the voting shares of a corporation or of the  
10 interests in a company, business or person other than a corporation.

11 (d) "MEMBERS OF THE INDIVIDUAL'S FAMILY" MEANS THE INDIVIDUAL'S SPOUSE  
12 AND BROTHERS AND SISTERS, WHETHER BY WHOLE OR HALF BLOOD, INCLUDING ADOPTED  
13 PERSONS, ANCESTORS AND LINEAL DESCENDANTS.

14 ~~(e)~~ (e) "Reciprocal insurer" has the same meaning prescribed in  
15 section 20-762.

16 13. The gross proceeds of sales or gross income derived from a contract  
17 for the installation, assembly, repair or maintenance of machinery, equipment  
18 or other tangible personal property described in section 42-5061, subsection  
19 B and that has independent functional utility, pursuant to the following  
20 provisions:

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

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

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

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

33 (b) The deduction provided in this paragraph does not include gross  
34 proceeds of sales or gross income from the portion of any contracting  
35 activity that consists of the development of, or modification to, real  
36 property in order to facilitate the installation, assembly, repair,  
37 maintenance or removal of machinery, equipment or other tangible personal  
38 property described in section 42-5061, subsection B.

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

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

1 (i) Assembling the machinery, equipment or other tangible personal  
2 property.

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

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

8 (iv) Stabilizing or protecting the machinery, equipment or other  
9 tangible personal property during operation by bolting, burying or performing  
10 other dissimilar nonpermanent connections to either real property or real  
11 property improvements.

12 14. The leasing or renting of certified ignition interlock devices  
13 installed pursuant to the requirements prescribed by section 28-1461. For  
14 the purposes of this paragraph, "certified ignition interlock device" has the  
15 same meaning prescribed in section 28-1301.

16 15. Computer data center equipment purchased by the owner, operator or  
17 qualified colocation tenant of the computer data center or an authorized  
18 agent of the owner, operator or qualified colocation tenant during the  
19 qualification period for use in a computer data center that is certified by  
20 the Arizona commerce authority under section 41-1519. To qualify for this  
21 deduction, at the time of purchase, the owner, operator or qualified  
22 colocation tenant must present to the retailer its certificate that is issued  
23 pursuant to section 41-1519 and that establishes its qualification for the  
24 deduction. For the purposes of this paragraph, "computer data center",  
25 "computer data center equipment", "qualification period" and "qualified  
26 colocation tenant" have the same meanings prescribed in section 41-1519.

27 16. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
28 WITH THE OWNER OF REAL PROPERTY FOR THE MAINTENANCE, REPAIR OR REPLACEMENT OF  
29 EXISTING PROPERTY IS NOT SUBJECT TO TAX IF THE CONTRACT DOES NOT INCLUDE  
30 MODIFICATION ACTIVITIES. FOR THE PURPOSES OF THIS PARAGRAPH:

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

32 (b) "MODIFICATION" MEANS CONSTRUCTION, ADDITION, SUBTRACTION,  
33 IMPROVEMENT, MOVEMENT, WRECKAGE OR DEMOLITION.

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

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

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

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

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

6           4. Incarcerating or detaining in a privately operated prison, jail or  
7 detention facility prisoners who are under the jurisdiction of the United  
8 States, this state or any other state or a political subdivision of this  
9 state or of any other state.

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

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

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

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

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

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

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

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

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

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

45          Sec. 11. Repeal

1 Section 42-6004, Arizona Revised Statutes, as amended by Laws 2013,  
2 chapter 255, section 20, is repealed.

3 Sec. 12. Section 42-12001, Arizona Revised Statutes, is amended to  
4 read:

5 42-12001. Class one property

6 For purposes of taxation, class one is established consisting of the  
7 following subclasses:

8 1. Producing mines and mining claims, personal property used on mines  
9 and mining claims, improvements to mines and mining claims and mills and  
10 smelters operated in conjunction with mines and mining claims that are valued  
11 at full cash value pursuant to section 42-14053.

12 2. Standing timber that is valued at full cash value.

13 3. Real and personal property of gas distribution companies, electric  
14 transmission companies, electric distribution companies, combination gas and  
15 electric transmission and distribution companies, AND companies engaged in  
16 the generation of electricity ~~and electric cooperatives~~ that are valued at  
17 full cash value pursuant to section 42-14151.

18 4. Real and personal property of airport fuel delivery companies that  
19 are valued pursuant to section 42-14503.

20 5. Real and personal property that is used by producing oil, gas and  
21 geothermal resource interests that are valued at full cash value pursuant to  
22 section 42-14102.

23 6. Real and personal property of water, sewer and wastewater utility  
24 companies that are valued at full cash value pursuant to section 42-14151.

25 7. Real and personal property of pipeline companies that are valued at  
26 full cash value pursuant to section 42-14201.

27 8. Real and personal property of shopping centers that are valued at  
28 full cash value or pursuant to chapter 13, article 5 of this title, as  
29 applicable, other than property that is included in class nine.

30 9. Real and personal property of golf courses that are valued at full  
31 cash value or pursuant to chapter 13, article 4 of this title.

32 10. All property, both real and personal, of manufacturers, assemblers  
33 or fabricators, other than property that is specifically included in another  
34 class described in this article, that ~~are~~ IS valued under this title.

35 11. Real and personal property that is used in communications  
36 transmission facilities and that provides public telephone or  
37 telecommunications exchange or interexchange access for compensation to  
38 effect two-way communication to, from, through or within this state.

39 12. Real property and improvements that are devoted to any other  
40 commercial or industrial use, other than property that is specifically  
41 included in another class described in this article, and that are valued at  
42 full cash value.

43 13. Personal property that is devoted to any other commercial or  
44 industrial use, other than property that is specifically included in another  
45 class described in this article, and that is valued at full cash value.

1           14. REAL AND PERSONAL PROPERTY OF ELECTRIC COOPERATIVES THAT ARE VALUED  
2 AT FULL CASH VALUE PURSUANT TO SECTION 42-14159.

3           Sec. 13. Section 42-12101, Arizona Revised Statutes, is amended to  
4 read:

5           42-12101. Definitions

6           In this article, unless the context otherwise requires:

7           1. "Commercial historic property" means real property that:

8           (a) Meets the criteria for classification as class one, paragraph 12  
9 pursuant to section 42-12001 or class four pursuant to section 42-12004,  
10 SUBSECTION A, PARAGRAPHS 2 THROUGH 9.

11           (b) Is listed in the national register of historic places established  
12 and maintained under the national historic preservation act (P.L. 89-665; 80  
13 Stat. 915; 16 United States Code section 470 et seq.), as amended.

14           (c) Meets the minimum standards of maintenance established by rule by  
15 the Arizona state parks board.

16           2. "Noncommercial historic property" means real property:

17           (a) That is listed in the national register of historic places  
18 established and maintained under the national historic preservation act  
19 (P.L. 89-665; 80 Stat. 915; 16 United States Code section 470 et seq.), as  
20 amended.

21           (b) That meets the minimum standards of maintenance established by  
22 rule by the Arizona state parks board.

23           (c) On which no business or enterprise is conducted with the intent of  
24 earning a profit.

25           Sec. 14. Section 43-222, Arizona Revised Statutes, is amended to read:

26           43-222. Income tax credit review schedule

27           The joint legislative income tax credit review committee shall review  
28 the following income tax credits:

29           1. For years ending in 0 and 5, sections 43-1079.01, 43-1087, 43-1088,  
30 ~~43-1090.01,~~ 43-1167.01, ~~AND~~ 43-1175 ~~and 43-1182.~~

31           2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,  
32 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

33           3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,  
34 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1090,  
35 43-1164, 43-1167, 43-1169, 43-1176 and 43-1181.

36           4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,  
37 43-1170 and 43-1178.

38           5. For years ending in 4 and 9, sections 43-1076, 43-1076.01,  
39 43-1081.01, 43-1083.01, 43-1084, 43-1162, 43-1162.01, 43-1164.01, 43-1170.01  
40 and 43-1184 and, beginning in 2019, sections 43-1083.03 and 43-1164.04.

41           Sec. 15. Section 43-1021, Arizona Revised Statutes, is amended to  
42 read:

43           43-1021. Additions to Arizona gross income

44           In computing Arizona adjusted gross income, the following amounts shall  
45 be added to Arizona gross income:

1           1. A beneficiary's share of the fiduciary adjustment to the extent  
2 that the amount determined by section 43-1333 increases the beneficiary's  
3 Arizona gross income.

4           2. An amount equal to the ordinary income portion of a lump sum  
5 distribution that was excluded from federal adjusted gross income pursuant to  
6 ~~section 402(d) of the internal revenue code~~ THE SPECIAL RULE FOR INDIVIDUALS  
7 WHO ATTAINED FIFTY YEARS OF AGE BEFORE JANUARY 1, 1986 UNDER PUBLIC LAW  
8 99-514, SECTION 1122(h)(3).

9           3. The amount of interest income received on obligations of any state,  
10 territory or possession of the United States, or any political subdivision  
11 thereof, located outside the state of Arizona, reduced, for tax years  
12 beginning from and after December 31, 1996, by the amount of any interest on  
13 indebtedness and other related expenses that were incurred or continued to  
14 purchase or carry those obligations and that are not otherwise deducted or  
15 subtracted in arriving at Arizona gross income.

16           ~~4. Annuity income received during the taxable year to the extent that  
17 the sum of the proceeds received from such annuity in all taxable years prior  
18 to and including the current taxable year exceeds the total consideration and  
19 premiums paid by the taxpayer. This paragraph applies only to those  
20 annuities with respect to which the first payment was received prior to  
21 December 31, 1978.~~

22           ~~5.~~ 4. The excess of a partner's share of partnership taxable income  
23 required to be included under chapter 14, article 2 of this title over the  
24 income required to be reported under section 702(a)(8) of the internal  
25 revenue code.

26           ~~6.~~ 5. The excess of a partner's share of partnership losses  
27 determined pursuant to section 702(a)(8) of the internal revenue code over  
28 the losses allowable under chapter 14, article 2 of this title.

29           ~~7.~~ 6. The amount by which the adjusted basis of property described in  
30 this paragraph and computed pursuant to the internal revenue code exceeds the  
31 adjusted basis of such property computed pursuant to this title and the  
32 income tax act of 1954, as amended. This paragraph shall apply to all  
33 property that is held for the production of income and that is sold or  
34 otherwise disposed of during the taxable year, except depreciable property  
35 used in a trade or business.

36           ~~8. The amount of depreciation or amortization of costs of any capital  
37 investment that is deducted pursuant to section 167 or 179 of the internal  
38 revenue code by a qualified defense contractor with respect to which an  
39 election is made to amortize pursuant to section 43-1024.~~

40           ~~9. The amount of gain from the sale or other disposition of a capital  
41 investment that a qualified defense contractor has elected to amortize  
42 pursuant to section 43-1024.~~

43           ~~10. Amounts withdrawn from the Arizona state retirement system, the  
44 corrections officer retirement plan, the public safety personnel retirement  
45 system, the elected officials' retirement plan or a county or city retirement~~

1 ~~plan by an employee on termination of employment before retirement to the~~  
2 ~~extent they were deducted in arriving at Arizona taxable income in any year.~~

3 ~~11. That portion of the net operating loss included in federal adjusted~~  
4 ~~gross income that has already been taken as a net operating loss for Arizona~~  
5 ~~purposes or that is separately taken as a subtraction under the special net~~  
6 ~~operating loss transition rule.~~

7 ~~12. Any nonitemized amount deducted pursuant to section 170 of the~~  
8 ~~internal revenue code representing contributions to an educational~~  
9 ~~institution that denies admission, enrollment or board and room~~  
10 ~~accommodations on the basis of race, color or ethnic background except those~~  
11 ~~institutions primarily established for the education of American Indians.~~

12 ~~13. Amounts withdrawn from a medical savings account by the individual~~  
13 ~~during the taxable year computed pursuant to section 220(f) of the internal~~  
14 ~~revenue code and not included in federal adjusted gross income.~~

15 ~~14.~~ 7. Any amount of agricultural water conservation expenses that  
16 were deducted pursuant to the internal revenue code for which a credit is  
17 claimed under section 43-1084.

18 ~~15.~~ 8. The amount by which the depreciation or amortization computed  
19 under the internal revenue code with respect to property for which a credit  
20 was taken under section 43-1080 exceeds the amount of depreciation or  
21 amortization computed pursuant to the internal revenue code on the Arizona  
22 adjusted basis of the property.

23 ~~16.~~ 9. The amount by which the adjusted basis computed under the  
24 internal revenue code with respect to property for which a credit was claimed  
25 under section 43-1080 and that is sold or otherwise disposed of during the  
26 taxable year exceeds the adjusted basis of the property computed under  
27 section 43-1080.

28 ~~17.~~ 10. The amount by which the depreciation or amortization computed  
29 under the internal revenue code with respect to property for which a credit  
30 was taken under either section 43-1081 or 43-1081.01 exceeds the amount of  
31 depreciation or amortization computed pursuant to the internal revenue code  
32 on the Arizona adjusted basis of the property.

33 ~~18.~~ 11. The amount by which the adjusted basis computed under the  
34 internal revenue code with respect to property for which a credit was claimed  
35 under section 43-1074.02, 43-1081 or 43-1081.01 and that is sold or otherwise  
36 disposed of during the taxable year exceeds the adjusted basis of the  
37 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as  
38 applicable.

39 ~~19.~~ 12. The deduction referred to in section 1341(a)(4) of the  
40 internal revenue code for restoration of a substantial amount held under a  
41 claim of right.

42 ~~20.~~ 13. The amount by which a net operating loss carryover or capital  
43 loss carryover allowable pursuant to section 1341(b)(5) of the internal  
44 revenue code exceeds the net operating loss carryover or capital loss  
45 carryover allowable pursuant to section 43-1029, subsection F.

1           ~~21. Any amount deducted pursuant to section 170 of the internal revenue~~  
2 ~~code representing contributions to a school tuition organization or a public~~  
3 ~~school for which a credit is claimed under section 43-1089, 43-1089.01 or~~  
4 ~~43-1089.03.~~

5           22. 14. Any amount deducted in computing Arizona gross income as  
6 expenses for installing solar stub outs or electric vehicle recharge outlets  
7 in this state with respect to which a credit is claimed pursuant to section  
8 43-1090.

9           ~~23.~~ 15. Any wage expenses deducted pursuant to the internal revenue  
10 code for which a credit is claimed under section 43-1087 and representing net  
11 increases in qualified employment positions for employment of temporary  
12 assistance for needy families recipients.

13           ~~24. Any amount deducted for conveying ownership or development rights~~  
14 ~~of property to an agricultural preservation district under section 48-5702~~  
15 ~~for which a credit is claimed under section 43-1081.02.~~

16           ~~25.~~ 16. The amount of any depreciation allowance allowed pursuant to  
17 section 167(a) of the internal revenue code to the extent not previously  
18 added.

19           ~~26.~~ 17. With respect to property for which an expense deduction was  
20 taken pursuant to section 179 of the internal revenue code in a taxable year  
21 beginning before January 1, 2013, the amount in excess of twenty-five  
22 thousand dollars.

23           ~~27. The amount by which the depreciation or amortization computed under~~  
24 ~~the internal revenue code with respect to property for which a credit was~~  
25 ~~taken under section 43-1090.01 exceeds the amount of depreciation or~~  
26 ~~amortization computed pursuant to the internal revenue code on the Arizona~~  
27 ~~adjusted basis of the property.~~

28           ~~28. The amount by which the adjusted basis computed under the internal~~  
29 ~~revenue code with respect to property for which a credit was claimed under~~  
30 ~~section 43-1090.01 and that is sold or otherwise disposed of during the~~  
31 ~~taxable year exceeds the adjusted basis of the property computed under~~  
32 ~~section 43-1090.01.~~

33           ~~29.~~ 18. The amount of a nonqualified withdrawal, as defined in section  
34 15-1871, from a college savings plan established pursuant to section 529 of  
35 the internal revenue code that is made to a distributee to the extent the  
36 amount is not included in computing federal adjusted gross income, except  
37 that the amount added under this paragraph shall not exceed the difference  
38 between the amount subtracted under section 43-1022 in prior taxable years  
39 and the amount added under this section in any prior taxable years.

40           ~~30. The amount of unemployment compensation that is excluded from~~  
41 ~~federal adjusted gross income pursuant to section 85(c) of the internal~~  
42 ~~revenue code as added by section 1007 of the American recovery and~~  
43 ~~reinvestment act of 2009 (P.L. 111-5).~~

44           ~~31.~~ 19. The amount of discharge of indebtedness income that is  
45 deferred and excluded from the computation of federal adjusted gross income  
46 ~~or federal taxable income~~ in the current taxable year pursuant to section

1 108(i) of the internal revenue code as added by section 1231 of the American  
2 recovery and reinvestment act of 2009 (P.L. 111-5).

3 ~~32-~~ 20. The amount of any previously deferred original issue discount  
4 that was deducted in computing federal adjusted gross income ~~or federal~~  
5 ~~taxable income~~ in the current year pursuant to section 108(i) of the internal  
6 revenue code as added by section 1231 of the American recovery and  
7 reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was  
8 previously subtracted from Arizona gross income pursuant to section 43-1022,  
9 paragraph ~~31~~ 24.

10 ~~33-~~ 21. For taxable years beginning from and after December 31, 2011  
11 through December 31, 2014, the amount of any deduction that is claimed in  
12 computing federal adjusted gross income for health insurance premiums or  
13 contributions to a health savings account for which a credit is claimed under  
14 section 43-1087.01 ~~or 43-1185~~.

15 22. AMOUNTS THAT ARE CONSIDERED TO BE INCOME UNDER SECTION 43-1032,  
16 SUBSECTION D BECAUSE THE AMOUNT IS WITHDRAWN FROM A LONG-TERM HEALTH CARE  
17 SAVINGS ACCOUNT AND NOT USED TO PAY THE TAXPAYER'S LONG-TERM HEALTH CARE  
18 EXPENSES.

19 Sec. 16. Section 43-1022, Arizona Revised Statutes, is amended to  
20 read:

21 ~~43-1022~~. Subtractions from Arizona gross income

22 In computing Arizona adjusted gross income, the following amounts shall  
23 be subtracted from Arizona gross income:

24 1. The amount of exemptions allowed by section 43-1023.

25 2. Benefits, annuities and pensions in an amount totaling not more  
26 than two thousand five hundred dollars received from one or more of the  
27 following:

28 (a) The United States government service retirement and disability  
29 fund, retired or retainer pay of the uniformed services of the United States,  
30 the United States foreign service retirement and disability system and any  
31 other retirement system or plan established by federal law.

32 (b) The Arizona state retirement system, the corrections officer  
33 retirement plan, the public safety personnel retirement system, the elected  
34 officials' retirement plan, an optional retirement program established by the  
35 Arizona board of regents under section 15-1628, an optional retirement  
36 program established by a community college district board under section  
37 15-1451 or a retirement plan established for employees of a county, city or  
38 town in this state.

39 3. A beneficiary's share of the fiduciary adjustment to the extent  
40 that the amount determined by section 43-1333 decreases the beneficiary's  
41 Arizona gross income.

42 ~~4. The amount of any distributions from an individual retirement~~  
43 ~~account as provided for in section 408 of the internal revenue code or from a~~  
44 ~~qualified retirement plan of a self-employed individual as provided for in~~  
45 ~~section 401 of the internal revenue code to the extent that total adjustments~~  
46 ~~made pursuant to this paragraph in all tax years do not exceed the total of~~

1 ~~all contributions made by the taxpayer to such plans before December 31,~~  
2 ~~1975, which were included in computing Arizona taxable income.~~

3 ~~5. The amount of income on an installment receivable that is~~  
4 ~~recognized pursuant to the internal revenue code and that has already been~~  
5 ~~recognized on the death of the taxpayer for purposes of this title for tax~~  
6 ~~years ending before January 1, 1990.~~

7 ~~6.~~ 4. Interest income received on obligations of the United States,  
8 less any interest on indebtedness, or other related expenses, and deducted in  
9 arriving at Arizona gross income, which were incurred or continued to  
10 purchase or carry such obligations.

11 ~~7. The amount of any income tax refunds that were received from states~~  
12 ~~other than Arizona and that were included as income in computing federal~~  
13 ~~adjusted gross income.~~

14 ~~8. Annuity income included in federal adjusted gross income pursuant~~  
15 ~~to section 72 of the internal revenue code if the first payment with respect~~  
16 ~~to such annuity was received before December 31, 1978.~~

17 ~~9.~~ 5. The excess of a partner's share of income required to be  
18 included under section 702(a)(8) of the internal revenue code over the income  
19 required to be included under chapter 14, article 2 of this title.

20 ~~10.~~ 6. The excess of a partner's share of partnership losses  
21 determined pursuant to chapter 14, article 2 of this title over the losses  
22 allowable under section 702(a)(8) of the internal revenue code.

23 ~~11.~~ 7. The amount by which the adjusted basis of property described in  
24 this paragraph and computed pursuant to this title and the income tax act of  
25 1954, as amended, exceeds the adjusted basis of such property computed  
26 pursuant to the internal revenue code. This paragraph shall apply to all  
27 property that is held for the production of income and that is sold or  
28 otherwise disposed of during the taxable year other than depreciable property  
29 used in a trade or business.

30 ~~12. The amount allowed by section 43-1024 for amortization, by a~~  
31 ~~qualified defense contractor certified by the Arizona commerce authority~~  
32 ~~under section 41-1508, of a capital investment for private commercial~~  
33 ~~activities.~~

34 ~~13. The amount of gain included in federal adjusted gross income on the~~  
35 ~~sale or other disposition of a capital investment that a qualified defense~~  
36 ~~contractor has elected to amortize pursuant to section 43-1024.~~

37 ~~14.~~ 8. The amount allowed by section 43-1025 for contributions during  
38 the taxable year of agricultural crops to charitable organizations.

39 ~~15.~~ 9. The portion of any wages or salaries paid or incurred by the  
40 taxpayer for the taxable year that is equal to the amount of the federal work  
41 opportunity credit, the empowerment zone employment credit, the credit for  
42 employer paid social security taxes on employee cash tips and the Indian  
43 employment credit that the taxpayer received under sections 45A, 45B, 51(a)  
44 and 1396 of the internal revenue code.

45 ~~16.~~ 10. The amount of prizes or winnings less than five thousand  
46 dollars in a single taxable year from any of the state lotteries established

1 and operated pursuant to title 5, chapter 5.1, article 1, ~~except that all~~  
2 ~~such winnings before March 22, 1983, including periodic distributions from~~  
3 ~~such winnings made after March 22, 1983, may be subtracted.~~

4 ~~17.~~ 11. The amount of exploration expenses that is determined pursuant  
5 to section 617 of the internal revenue code, that has been deferred in a  
6 taxable year ending before January 1, 1990 and for which a subtraction has  
7 not previously been made. The subtraction shall be made on a ratable basis  
8 as the units of produced ores or minerals discovered or explored as a result  
9 of this exploration are sold.

10 ~~18.~~ 12. The amount included in federal adjusted gross income pursuant  
11 to section 86 of the internal revenue code, relating to taxation of social  
12 security and railroad retirement benefits.

13 ~~19.~~ 13. To the extent not already excluded from Arizona gross income  
14 under the internal revenue code, compensation received for active service as  
15 a member of the reserves, the national guard or the armed forces of the  
16 United States, including compensation for service in a combat zone as  
17 determined under section 112 of the internal revenue code.

18 ~~20.~~ 14. The amount of unreimbursed medical and hospital costs,  
19 adoption counseling, legal and agency fees and other nonrecurring costs of  
20 adoption not to exceed three thousand dollars. In the case of a husband and  
21 wife who file separate returns, the subtraction may be taken by either  
22 taxpayer or may be divided between them, but the total subtractions allowed  
23 both husband and wife shall not exceed three thousand dollars. The  
24 subtraction under this paragraph may be taken for the costs that are  
25 described in this paragraph and that are incurred in prior years, but the  
26 subtraction may be taken only in the year during which the final adoption  
27 order is granted.

28 ~~21.~~ 15. The amount authorized by section 43-1027 for the taxable year  
29 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

30 ~~22. With respect to a medical savings account established pursuant to~~  
31 ~~section 43-1028:~~

32 ~~(a) An eligible individual may subtract:~~

33 ~~(i) The amount of contributions made by the individual's employer~~  
34 ~~during the taxable year to the individual's medical savings account pursuant~~  
35 ~~to section 43-1028 to the extent that the employer contributions are included~~  
36 ~~in the individual's federal adjusted gross income.~~

37 ~~(ii) The amount deposited by the individual in the account during the~~  
38 ~~taxable year to the extent that the individual's contributions are included~~  
39 ~~in the individual's federal adjusted gross income.~~

40 ~~(b) The individual's employer may subtract the amount of contributions~~  
41 ~~made by the employer to a medical savings account established on the~~  
42 ~~individual's behalf to the extent that the contributions are not deductible~~  
43 ~~under the internal revenue code.~~

44 ~~23.~~ 16. The amount by which a net operating loss carryover or capital  
45 loss carryover allowable pursuant to section 43-1029, subsection F exceeds

1 the net operating loss carryover or capital loss carryover allowable pursuant  
2 to section 1341(b)(5) of the internal revenue code.

3 ~~24-~~ 17. Any amount of qualified educational expenses that is  
4 distributed from a qualified state tuition program determined pursuant to  
5 section 529 of the internal revenue code and that is included in income in  
6 computing federal adjusted gross income.

7 ~~25-~~ 18. Any item of income resulting from an installment sale that has  
8 been properly subjected to income tax in another state in a previous taxable  
9 year and that is included in Arizona gross income in the current taxable  
10 year.

11 ~~26-~~ 19. The amount authorized by section 43-1030 relating to holocaust  
12 survivors.

13 ~~27-~~ 20. For property placed in service:

14 (a) In taxable years beginning before December 31, 2012, an amount  
15 equal to the depreciation allowable pursuant to section 167(a) of the  
16 internal revenue code for the taxable year computed as if the election  
17 described in section 168(k)(2)(D)(iii) of the internal revenue code had been  
18 made for each applicable class of property in the year the property was  
19 placed in service.

20 (b) In taxable years beginning from and after December 31, 2012  
21 through December 31, 2013, an amount determined in the year the asset was  
22 placed in service based on the calculation in subdivision (a) of this  
23 paragraph. In the first taxable year beginning from and after December 31,  
24 2013, the taxpayer may elect to subtract the amount necessary to make the  
25 depreciation claimed to date for the purposes of this title the same as it  
26 would have been if subdivision (c) of this paragraph had applied for the  
27 entire time the asset was in service. Subdivision (c) of this paragraph  
28 applies for the remainder of the asset's life. If the taxpayer does not make  
29 the election under this subdivision, subdivision (a) of this paragraph  
30 applies for the remainder of the asset's life.

31 (c) In taxable years beginning from and after December 31, 2013, an  
32 amount equal to the depreciation allowable pursuant to section 167(a) of the  
33 internal revenue code for the taxable year as computed as if the additional  
34 allowance for depreciation had been ten per cent of the amount allowed  
35 pursuant to section 168(k) of the internal revenue code.

36 ~~28-~~ 21. With respect to property that is sold or otherwise disposed of  
37 during the taxable year by a taxpayer that complied with section 43-1021,  
38 paragraph ~~25~~ 16 with respect to that property, the amount of depreciation  
39 that has been allowed pursuant to section 167(a) of the internal revenue code  
40 to the extent that the amount has not already reduced Arizona taxable income  
41 in the current or prior taxable years.

42 ~~29-~~ 22. With respect to property for which an adjustment was made  
43 under section 43-1021, paragraph ~~26~~ 17, an amount equal to one-fifth of the  
44 amount of the adjustment pursuant to section 43-1021, paragraph ~~26~~ 17 in the  
45 year in which the amount was adjusted under section 43-1021, paragraph ~~26~~ 17  
46 and in each of the following four years.

1       ~~30-~~ 23. The amount contributed during the taxable year to college  
2 savings plans established pursuant to section 529 of the internal revenue  
3 code to the extent that the contributions were not deducted in computing  
4 federal adjusted gross income. The amount subtracted shall not exceed:

5       (a) Two thousand dollars for a single individual or a head of  
6 household.

7       (b) Four thousand dollars for a married couple filing a joint return.  
8 In the case of a husband and wife who file separate returns, the subtraction  
9 may be taken by either taxpayer or may be divided between them, but the total  
10 subtractions allowed both husband and wife shall not exceed four thousand  
11 dollars.

12       ~~31-~~ 24. The amount of any original issue discount that was deferred  
13 and not allowed to be deducted in computing federal adjusted gross income ~~or~~  
14 ~~federal taxable income~~ in the current taxable year pursuant to section 108(i)  
15 of the internal revenue code as added by section 1231 of the American  
16 recovery and reinvestment act of 2009 (P.L. 111-5).

17       ~~32-~~ 25. The amount of previously deferred discharge of indebtedness  
18 income that is included in the computation of federal adjusted gross income  
19 ~~or federal taxable income~~ in the current taxable year pursuant to section  
20 108(i) of the internal revenue code as added by section 1231 of the American  
21 recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the  
22 amount was previously added to Arizona gross income pursuant to section  
23 43-1021, paragraph ~~31~~ 19.

24       ~~33-~~ 26. The portion of the net operating loss carryforward that would  
25 have been allowed as a deduction in the current year pursuant to section 172  
26 of the internal revenue code if the election described in section  
27 172(b)(1)(H) of the internal revenue code had not been made in the year of  
28 the loss that exceeds the actual net operating loss carryforward that was  
29 deducted in arriving at federal adjusted gross income. This subtraction only  
30 applies to taxpayers who made an election under section 172(b)(1)(H) of the  
31 internal revenue code as amended by section 1211 of the American recovery and  
32 reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the  
33 worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

34       ~~34-~~ 27. For taxable years beginning from and after December 31, 2013,  
35 the amount of any net capital gain included in federal adjusted gross income  
36 for the taxable year derived from investment in a qualified small business as  
37 determined by the Arizona commerce authority pursuant to section 41-1518.

38       ~~35-~~ 28. An amount of any net long-term capital gain included in  
39 federal adjusted gross income for the taxable year that is derived from an  
40 investment in an asset acquired after December 31, 2011, as follows:

41       (a) For taxable years beginning from and after December 31, 2012  
42 through December 31, 2013, ten per cent of the net long-term capital gain  
43 included in federal adjusted gross income.

44       (b) For taxable years beginning from and after December 31, 2013  
45 through December 31, 2014, twenty per cent of the net long-term capital gain  
46 included in federal adjusted gross income.

1 (c) For taxable years beginning from and after December 31, 2014,  
2 twenty-five per cent of the net long-term capital gain included in federal  
3 adjusted gross income.

4 For the purposes of this paragraph, a transferee that receives an asset by  
5 gift or at the death of a transferor is considered to have acquired the asset  
6 when the asset was acquired by the transferor. If the date an asset is  
7 acquired cannot be verified, a subtraction under this paragraph is not  
8 allowed.

9 ~~36-~~ 29. If an individual is not claiming itemized deductions pursuant  
10 to section 43-1042, the amount of premium costs for long-term care insurance,  
11 as defined in section 20-1691.

12 ~~37-~~ 30. With respect to a long-term health care savings account  
13 established pursuant to section 43-1032, the amount deposited by the taxpayer  
14 in the account during the taxable year to the extent that the taxpayer's  
15 contributions are included in the taxpayer's federal adjusted gross income.

16 Sec. 17. Repeal

17 Sections 43-1024 and 43-1028, Arizona Revised Statutes, are repealed.

18 Sec. 18. Section 43-1029, Arizona Revised Statutes, is amended to  
19 read:

20 43-1029. Restoration of a substantial amount held under claim  
21 of right; computation of tax

22 A. This section applies if:

23 1. An item of income was included in gross income for a prior taxable  
24 year or years because it appeared that the taxpayer had an unrestricted right  
25 to the item.

26 2. A deduction would be allowable under the internal revenue code or  
27 this title for the taxable year, without application of section 1341(b)(3) of  
28 the internal revenue code or section 43-1021, paragraph ~~19~~ 12, because after  
29 the close of the prior taxable year or years it was established that the  
30 taxpayer did not have an unrestricted right to all or part of the item.

31 3. The amount of the deduction exceeds three thousand dollars.

32 B. If all of the conditions in subsection A of this section apply, the  
33 tax imposed by this chapter for the taxable year is an amount equal to the  
34 tax for the taxable year computed without the deduction, minus the decrease  
35 in tax under this chapter for the prior taxable year or years that would  
36 result solely from excluding the item or portion of the item from gross  
37 income for the prior taxable year or years.

38 C. If the decrease in tax exceeds the tax imposed by this chapter for  
39 the taxable year, computed without the deduction, the excess is considered to  
40 be a payment of tax on the last day prescribed by law for the payment of tax  
41 for the taxable year and shall be refunded or credited in the same manner as  
42 if it were an overpayment for the taxable year.

43 D. Subsection B of this section does not apply to any deduction that  
44 is allowable with respect to an item that was included in gross income by  
45 reason of the sale or other disposition of stock in trade of the taxpayer, or  
46 other property of a kind that would properly have been included in the

1 inventory of the taxpayer on hand at the close of the prior taxable year, or  
2 property that is held by the taxpayer primarily for sale to customers in the  
3 ordinary course of the taxpayer's trade or business. This subsection does  
4 not apply if the deduction arises out of refunds or repayments with respect  
5 to rates made by a regulated public utility that is listed in section  
6 7701(a)(33)(A) through (H) of the internal revenue code, if the refunds or  
7 repayments are:

8 1. Required to be made by the government, political subdivision,  
9 agency or instrumentality referred to in that section.

10 2. Required to be made by an order of a court.

11 3. Made in settlement of litigation or under threat or imminence of  
12 litigation.

13 E. If the exclusion under subsection B of this section results in:

14 1. A net operating loss for the prior taxable year or years for  
15 purposes of computing the decrease in tax for the prior year or years under  
16 subsection B of this section:

17 (a) The loss shall be:

18 (i) Carried over under this chapter to the same extent and in the same  
19 manner as was provided under prior law for taxable years beginning on or  
20 before December 31, 1989.

21 (ii) Carried back and carried over to the same extent and in the same  
22 manner as provided under section 172 of the internal revenue code for taxable  
23 years beginning from and after December 31, 1989.

24 (b) No carryover beyond the taxable year may be taken into account.

25 2. A capital loss for the prior taxable year or years, for purposes of  
26 computing the decrease in tax for the prior taxable year or years under  
27 subsection B of this section:

28 (a) The loss shall be carried back and carried over to the same extent  
29 and in the same manner as is provided under section 1212 of the internal  
30 revenue code.

31 (b) No carryover beyond the taxable year may be taken into account.

32 F. In computing Arizona taxable income for taxable years subsequent to  
33 the current taxable year, the net operating loss or capital loss determined  
34 in subsection E of this section shall be taken into account to the same  
35 extent and in the same manner as a net operating loss or capital loss  
36 sustained for prior taxable years.

37 Sec. 19. Section 43-1032, Arizona Revised Statutes, is amended to  
38 read:

39 43-1032. Long-term health care savings accounts; report;  
40 definitions

41 A. For taxable years beginning from and after December 31, 2012, in  
42 computing Arizona adjusted gross income ~~a~~ AN ARIZONA RESIDENT taxpayer may  
43 subtract amounts contributed IN CASH DURING THE TAXABLE YEAR to a long-term  
44 health care savings account as provided by this section to the extent that  
45 the contributions are included in the individual's federal adjusted gross  
46 income.

1 B. For the purposes of this section, a taxpayer may establish a  
2 long-term health care savings account with an account administrator. To  
3 establish an account, the taxpayer shall enter into an agreement with the  
4 account administrator. The account administrator shall administer the  
5 account and has a fiduciary duty to the taxpayer who makes contributions to  
6 the account.

7 C. The account administrator shall use monies in the account only to  
8 pay for the taxpayer's long-term health care expenses. The account  
9 administrator shall pay for the taxpayer's long-term health care expenses  
10 that are directly based on bills or other evidence of debt. The account  
11 administrator shall reimburse the taxpayer from the taxpayer's long-term  
12 health care savings account for any long-term health care expenses that the  
13 taxpayer directly paid for based on documentation that the taxpayer submits  
14 TO the account administrator.

15 D. If the taxpayer makes any other withdrawal from THE long-term  
16 health care savings account for purposes other than paying long-term health  
17 care expenses, the taxpayer shall pay a penalty, equal to ten per cent of the  
18 amount of the withdrawal, to the department at the same time as the  
19 individual files the income tax return under this title for the taxable year.  
20 Money withdrawn pursuant to this subsection is considered income for the  
21 purposes of computing Arizona adjusted gross income. The department shall  
22 credit penalty monies to the state general fund.

23 E. THE ACCOUNT ADMINISTRATOR SHALL MAKE AN ANNUAL REPORT TO THE  
24 DEPARTMENT AND TO THE TAXPAYER REGARDING THE LONG-TERM HEALTH CARE SAVINGS  
25 ACCOUNT. THE REPORT MUST BE IN A FORM PRESCRIBED BY THE DEPARTMENT AND BE  
26 FURNISHED TO THE DEPARTMENT AND THE TAXPAYER ON OR BEFORE JANUARY 31 OF THE  
27 YEAR FOLLOWING THE CALENDAR YEAR TO WHICH THE REPORT RELATES. THE REPORT  
28 MUST INCLUDE THE FOLLOWING INFORMATION:

29 1. THE DATE AND AMOUNT OF EVERY CONTRIBUTION MADE TO THE ACCOUNT  
30 DURING THE TAXABLE YEAR.

31 2. THE DATE, DESCRIPTION AND AMOUNT OF EVERY DISTRIBUTION MADE FROM  
32 THE ACCOUNT DURING THE TAXABLE YEAR.

33 3. A STATEMENT REGARDING EACH DISTRIBUTION INDICATING WHETHER THE  
34 DISTRIBUTION WAS FOR A LONG-TERM HEALTH CARE EXPENSE OR FOR A WITHDRAWAL THAT  
35 IS REQUIRED TO BE INCLUDED IN INCOME AND IS SUBJECT TO A PENALTY PURSUANT TO  
36 SUBSECTION D OF THIS SECTION.

37 4. THE BALANCE REMAINING IN THE ACCOUNT AT THE END OF THE YEAR.

38 5. ANY OTHER INFORMATION THE DEPARTMENT MAY REQUIRE.

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

40 1. "Account administrator" means A TRUSTEE THAT IS a bank, trust  
41 company, savings and loan association or credit union AND that is authorized  
42 to act as a fiduciary in this state.

43 2. "Long-term health care expense" means any expense paid by the  
44 taxpayer for long-term health care costs, including expenses for skilled  
45 nursing care, home health care, personal care or supportive services due to

1 the loss of some capacity for self-care based on a chronic illness or  
2 condition.

3 3. "LONG-TERM HEALTH CARE SAVINGS ACCOUNT" MEANS A TRUST ESTABLISHED  
4 OR ORGANIZED IN THIS STATE EXCLUSIVELY FOR THE PURPOSE OF PAYING THE  
5 LONG-TERM HEALTH CARE EXPENSES OF THE TAXPAYER WHO ESTABLISHED AND MADE  
6 CONTRIBUTIONS TO THE ACCOUNT.

7 Sec. 20. Section 43-1042, Arizona Revised Statutes, is amended to  
8 read:

9 43-1042. Itemized deductions

10 A. Except as provided by subsections B, ~~AND D and F~~ of this section,  
11 at the election of the taxpayer, and in lieu of the standard deduction  
12 allowed by section 43-1041, in computing taxable income the taxpayer may take  
13 the amount of itemized deductions allowable for the taxable year pursuant to  
14 subtitle A, chapter 1, subchapter B, parts VI and VII, but subject to the  
15 limitations prescribed by sections 67, 68 and 274, of the internal revenue  
16 code.

17 B. In lieu of the amount of the federal itemized deduction for  
18 expenses paid for medical care allowed under section 213 of the internal  
19 revenue code, the taxpayer may deduct the full amount of such expenses.

20 C. Notwithstanding subsection B of this section, expenses for ~~medical~~  
21 ~~care~~ LONG-TERM HEALTH CARE that are paid or reimbursed from the taxpayer's  
22 ~~medical-savings~~ LONG-TERM HEALTH CARE SAVINGS account pursuant to section  
23 ~~43-1028~~ 43-1032 shall not be deducted pursuant to this section.

24 D. A taxpayer shall not claim both a deduction provided by this  
25 section and a credit allowed by this title with respect to the same  
26 charitable contributions.

27 E. The taxpayer may add any interest expense paid by the taxpayer for  
28 the taxable year that is equal to the amount of federal credit for interest  
29 on certain home mortgages allowed by section 25 of the internal revenue code.

30 ~~F. A taxpayer shall not claim any amount that was deducted pursuant to~~  
31 ~~section 164(b)(6) of the internal revenue code, as added by section 1008 of~~  
32 ~~the American recovery and reinvestment act of 2009 (P.L. 111-5), for~~  
33 ~~qualified motor vehicle taxes.~~

34 Sec. 21. Repeal

35 Sections 43-1081.02, 43-1082 and 43-1090.01, Arizona Revised Statutes,  
36 are repealed.

37 Sec. 22. Section 43-1121, Arizona Revised Statutes, is amended to  
38 read:

39 43-1121. Additions to Arizona gross income; corporations

40 In computing Arizona taxable income for a corporation, the following  
41 amounts shall be added to Arizona gross income:

42 ~~1. The amounts computed pursuant to section 43-1021, paragraphs 3~~  
43 ~~through 9, 12, 25, 26, 31, 32 and 33.~~

44 1. THE AMOUNT OF INTEREST INCOME RECEIVED ON OBLIGATIONS OF ANY STATE,  
45 TERRITORY OR POSSESSION OF THE UNITED STATES, OR ANY POLITICAL SUBDIVISION  
46 THEREOF, LOCATED OUTSIDE THIS STATE, REDUCED, FOR TAX YEARS BEGINNING FROM

1 AND AFTER DECEMBER 31, 1996, BY THE AMOUNT OF ANY INTEREST ON INDEBTEDNESS  
2 AND OTHER RELATED EXPENSES THAT WERE INCURRED OR CONTINUED TO PURCHASE OR  
3 CARRY THOSE OBLIGATIONS AND THAT ARE NOT OTHERWISE DEDUCTED OR SUBTRACTED IN  
4 ARRIVING AT ARIZONA GROSS INCOME.

5 2. THE EXCESS OF A PARTNER'S SHARE OF PARTNERSHIP TAXABLE INCOME  
6 REQUIRED TO BE INCLUDED UNDER CHAPTER 14, ARTICLE 2 OF THIS TITLE OVER THE  
7 INCOME REQUIRED TO BE REPORTED UNDER SECTION 702(a)(8) OF THE INTERNAL  
8 REVENUE CODE.

9 3. THE EXCESS OF A PARTNER'S SHARE OF PARTNERSHIP LOSSES DETERMINED  
10 PURSUANT TO SECTION 702(a)(8) OF THE INTERNAL REVENUE CODE OVER THE LOSSES  
11 ALLOWABLE UNDER CHAPTER 14, ARTICLE 2 OF THIS TITLE.

12 4. THE AMOUNT BY WHICH THE ADJUSTED BASIS OF PROPERTY DESCRIBED IN  
13 THIS PARAGRAPH AND COMPUTED PURSUANT TO THE INTERNAL REVENUE CODE EXCEEDS THE  
14 ADJUSTED BASIS OF SUCH PROPERTY COMPUTED PURSUANT TO THIS TITLE AND THE  
15 INCOME TAX ACT OF 1954, AS AMENDED. THIS PARAGRAPH APPLIES TO ALL PROPERTY  
16 THAT IS HELD FOR THE PRODUCTION OF INCOME AND THAT IS SOLD OR OTHERWISE  
17 DISPOSED OF DURING THE TAXABLE YEAR, EXCEPT DEPRECIABLE PROPERTY USED IN A  
18 TRADE OR BUSINESS.

19 5. THE AMOUNT OF ANY DEPRECIATION ALLOWANCE ALLOWED PURSUANT TO  
20 SECTION 167(a) OF THE INTERNAL REVENUE CODE TO THE EXTENT NOT PREVIOUSLY  
21 ADDED.

22 6. WITH RESPECT TO PROPERTY FOR WHICH AN EXPENSE DEDUCTION WAS TAKEN  
23 PURSUANT TO SECTION 179 OF THE INTERNAL REVENUE CODE IN A TAXABLE YEAR  
24 BEGINNING BEFORE JANUARY 1, 2013, THE AMOUNT IN EXCESS OF TWENTY-FIVE  
25 THOUSAND DOLLARS.

26 7. THE AMOUNT OF DISCHARGE OF INDEBTEDNESS INCOME THAT IS DEFERRED AND  
27 EXCLUDED FROM THE COMPUTATION OF FEDERAL TAXABLE INCOME IN THE CURRENT  
28 TAXABLE YEAR PURSUANT TO SECTION 108(i) OF THE INTERNAL REVENUE CODE AS ADDED  
29 BY SECTION 1231 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009  
30 (P.L. 111-5).

31 8. THE AMOUNT OF ANY PREVIOUSLY DEFERRED ORIGINAL ISSUE DISCOUNT THAT  
32 WAS DEDUCTED IN COMPUTING FEDERAL TAXABLE INCOME IN THE CURRENT YEAR PURSUANT  
33 TO SECTION 108(i) OF THE INTERNAL REVENUE CODE AS ADDED BY SECTION 1231 OF  
34 THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5), TO THE  
35 EXTENT THAT THE AMOUNT WAS PREVIOUSLY SUBTRACTED FROM ARIZONA GROSS INCOME  
36 PURSUANT TO SECTION 43-1122, PARAGRAPH 8.

37 9. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2011  
38 THROUGH DECEMBER 31, 2014, THE AMOUNT OF ANY DEDUCTION THAT IS CLAIMED IN  
39 COMPUTING FEDERAL TAXABLE INCOME FOR HEALTH INSURANCE PREMIUMS OR  
40 CONTRIBUTIONS TO A HEALTH SAVINGS ACCOUNT FOR WHICH A CREDIT IS CLAIMED UNDER  
41 SECTION 43-1185.

42 ~~2-~~ 10. The amount of dividend income received from corporations and  
43 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal  
44 revenue code.

1           ~~3-~~ 11. Taxes which are based on income paid to states, local  
2 governments or foreign governments and which were deducted in computing  
3 federal taxable income.

4           ~~4-~~ 12. Expenses and interest relating to tax-exempt income on  
5 indebtedness incurred or continued to purchase or carry obligations the  
6 interest on which is wholly exempt from the tax imposed by this title.  
7 Financial institutions, as defined in section 6-101, shall be governed by  
8 section 43-961, paragraph 2.

9           ~~5-~~ 13. Commissions, rentals and other amounts paid or accrued to a  
10 domestic international sales corporation controlled by the payor corporation  
11 if the domestic international sales corporation is not required to report its  
12 taxable income to this state because its income is not derived from or  
13 attributable to sources within this state. If the domestic international  
14 sales corporation is subject to article 4 of this chapter, the department  
15 shall prescribe by rule the method of determining the portion of the  
16 commissions, rentals and other amounts which are paid or accrued to the  
17 controlled domestic international sales corporation and which shall be  
18 deducted by the payor. For the purposes of this paragraph, "control" means  
19 direct or indirect ownership or control of fifty per cent or more of the  
20 voting stock of the domestic international sales corporation by the payor  
21 corporation.

22           ~~6-~~ ~~Federal income tax refunds received during the taxable year to the~~  
23 ~~extent they were deducted in arriving at Arizona taxable income in a previous~~  
24 ~~year-~~

25           ~~7-~~ 14. The amount of net operating loss taken pursuant to section 172  
26 of the internal revenue code.

27           ~~8-~~ 15. The amount of exploration expenses determined pursuant to  
28 section 617 of the internal revenue code to the extent that they exceed  
29 seventy-five thousand dollars and to the extent that the election is made to  
30 defer those expenses not in excess of seventy-five thousand dollars.

31           ~~9-~~ 16. Amortization of costs incurred to install pollution control  
32 devices and deducted pursuant to the internal revenue code or the amount of  
33 deduction for depreciation taken pursuant to the internal revenue code on  
34 pollution control devices for which an election is made pursuant to section  
35 43-1129.

36           ~~10-~~ 17. The amount of depreciation or amortization of costs of child  
37 care facilities deducted pursuant to section 167 or 188 of the internal  
38 revenue code for which an election is made to amortize pursuant to section  
39 43-1130.

40           ~~11-~~ ~~Arizona state income tax refunds received, to the extent the amount~~  
41 ~~of the refunds is not already included in Arizona gross income, if a tax~~  
42 ~~benefit was derived by deduction of this amount in a prior year-~~

43           ~~12-~~ 18. The loss of an insurance company that is exempt under section  
44 43-1201 to the extent that it is included in computing Arizona gross income  
45 on a consolidated return pursuant to section 43-947.

1       ~~13.~~ 19. The amount by which the depreciation or amortization computed  
2 under the internal revenue code with respect to property for which a credit  
3 was taken under section 43-1169 exceeds the amount of depreciation or  
4 amortization computed pursuant to the internal revenue code on the Arizona  
5 adjusted basis of the property.

6       ~~14.~~ 20. The amount by which the adjusted basis computed under the  
7 internal revenue code with respect to property for which a credit was claimed  
8 under section 43-1169 and which is sold or otherwise disposed of during the  
9 taxable year exceeds the adjusted basis of the property computed under  
10 section 43-1169.

11       ~~15.~~ 21. The amount by which the depreciation or amortization computed  
12 under the internal revenue code with respect to property for which a credit  
13 was taken under either section 43-1170 or 43-1170.01 exceeds the amount of  
14 depreciation or amortization computed pursuant to the internal revenue code  
15 on the Arizona adjusted basis of the property.

16       ~~16.~~ 22. The amount by which the adjusted basis computed under the  
17 internal revenue code with respect to property for which a credit was claimed  
18 under either section 43-1170 or 43-1170.01 and which is sold or otherwise  
19 disposed of during the taxable year exceeds the adjusted basis of the  
20 property computed under section 43-1170 or 43-1170.01, as applicable.

21       ~~17.~~ 23. The deduction referred to in section 1341(a)(4) of the  
22 internal revenue code for restoration of a substantial amount held under a  
23 claim of right.

24       ~~18.~~ 24. The amount by which a capital loss carryover allowable  
25 pursuant to section 1341(b)(5) of the internal revenue code exceeds the  
26 capital loss carryover allowable pursuant to section 43-1130.01,  
27 subsection F.

28       ~~19.~~ 25. Any amount deducted in computing Arizona taxable income as  
29 expenses for installing solar stub outs or electric vehicle recharge outlets  
30 in this state with respect to which a credit is claimed pursuant to section  
31 43-1176.

32       ~~20.~~ 26. Any wage expenses deducted pursuant to the internal revenue  
33 code for which a credit is claimed under section 43-1175 and representing net  
34 increases in qualified employment positions for employment of temporary  
35 assistance for needy families recipients.

36       ~~21.~~ 27. Any amount of expenses that were deducted pursuant to the  
37 internal revenue code and for which a credit is claimed under section  
38 43-1178.

39       ~~22. Any amount deducted for conveying ownership or development rights  
40 of property to an agricultural preservation district under section 48-5702  
41 for which a credit is claimed under section 43-1180.~~

42       ~~23.~~ 28. The amount of any deduction that is claimed in computing  
43 Arizona gross income and that represents a donation of a school site for  
44 which a credit is claimed under section 43-1181.

1           ~~24. Any amount deducted in computing Arizona taxable income as expenses~~  
2 ~~for installing water conservation system plumbing stub outs in this state~~  
3 ~~with respect to which a credit is claimed pursuant to section 43-1182.~~

4           ~~25.~~ 29. Any amount deducted pursuant to section 170 of the internal  
5 revenue code representing contributions to a school tuition organization for  
6 which a credit is claimed under section 43-1183 or 43-1184.

7           Sec. 23. Section 43-1122, Arizona Revised Statutes, is amended to  
8 read:

9           43-1122. Subtractions from Arizona gross income; corporations

10           In computing Arizona taxable income for a corporation, the following  
11 amounts shall be subtracted from Arizona gross income:

12           ~~1. The amounts computed pursuant to section 43-1022, paragraphs 8~~  
13 ~~through 15, 27, 28, 30 and 31. For the purposes of this paragraph, "federal~~  
14 ~~adjusted gross income" as used in section 43-1022 means "federal taxable~~  
15 ~~income".~~

16           ~~2. The amount of Arizona capital loss carryover as defined in section~~  
17 ~~43-1124 in an amount not to exceed one thousand dollars.~~

18           1. THE EXCESS OF A PARTNER'S SHARE OF INCOME REQUIRED TO BE INCLUDED  
19 UNDER SECTION 702(a)(8) OF THE INTERNAL REVENUE CODE OVER THE INCOME REQUIRED  
20 TO BE INCLUDED UNDER CHAPTER 14, ARTICLE 2 OF THIS TITLE.

21           2. THE EXCESS OF A PARTNER'S SHARE OF PARTNERSHIP LOSSES DETERMINED  
22 PURSUANT TO CHAPTER 14, ARTICLE 2 OF THIS TITLE OVER THE LOSSES ALLOWABLE  
23 UNDER SECTION 702(a)(8) OF THE INTERNAL REVENUE CODE.

24           3. THE AMOUNT BY WHICH THE ADJUSTED BASIS OF PROPERTY DESCRIBED IN  
25 THIS PARAGRAPH AND COMPUTED PURSUANT TO THIS TITLE AND THE INCOME TAX ACT OF  
26 1954, AS AMENDED, EXCEEDS THE ADJUSTED BASIS OF SUCH PROPERTY COMPUTED  
27 PURSUANT TO THE INTERNAL REVENUE CODE. THIS PARAGRAPH APPLIES TO ALL  
28 PROPERTY THAT IS HELD FOR THE PRODUCTION OF INCOME AND THAT IS SOLD OR  
29 OTHERWISE DISPOSED OF DURING THE TAXABLE YEAR OTHER THAN DEPRECIABLE PROPERTY  
30 USED IN A TRADE OR BUSINESS.

31           4. THE AMOUNT ALLOWED BY SECTION 43-1025 FOR CONTRIBUTIONS DURING THE  
32 TAXABLE YEAR OF AGRICULTURAL CROPS TO CHARITABLE ORGANIZATIONS.

33           5. THE PORTION OF ANY WAGES OR SALARIES PAID OR INCURRED BY THE  
34 TAXPAYER FOR THE TAXABLE YEAR THAT IS EQUAL TO THE AMOUNT OF THE FEDERAL WORK  
35 OPPORTUNITY CREDIT, THE EMPOWERMENT ZONE EMPLOYMENT CREDIT, THE CREDIT FOR  
36 EMPLOYER PAID SOCIAL SECURITY TAXES ON EMPLOYEE CASH TIPS AND THE INDIAN  
37 EMPLOYMENT CREDIT THAT THE TAXPAYER RECEIVED UNDER SECTIONS 45A, 45B, 51(a)  
38 AND 1396 OF THE INTERNAL REVENUE CODE.

39           6. WITH RESPECT TO PROPERTY THAT IS SOLD OR OTHERWISE DISPOSED OF  
40 DURING THE TAXABLE YEAR BY A TAXPAYER THAT COMPLIED WITH SECTION 43-1121,  
41 PARAGRAPH 5 WITH RESPECT TO THAT PROPERTY, THE AMOUNT OF DEPRECIATION THAT  
42 HAS BEEN ALLOWED PURSUANT TO SECTION 167(a) OF THE INTERNAL REVENUE CODE TO  
43 THE EXTENT THAT THE AMOUNT HAS NOT ALREADY REDUCED ARIZONA TAXABLE INCOME IN  
44 THE CURRENT OR PRIOR TAXABLE YEARS.

45           7. WITH RESPECT TO PROPERTY FOR WHICH AN ADJUSTMENT WAS MADE UNDER  
46 SECTION 43-1121, PARAGRAPH 6, AN AMOUNT EQUAL TO ONE-FIFTH OF THE AMOUNT OF

1 THE ADJUSTMENT PURSUANT TO SECTION 43-1121, PARAGRAPH 6 IN THE YEAR IN WHICH  
2 THE AMOUNT WAS ADJUSTED UNDER SECTION 43-1121, PARAGRAPH 6 AND IN EACH OF THE  
3 FOLLOWING FOUR YEARS.

4 8. THE AMOUNT OF ANY ORIGINAL ISSUE DISCOUNT THAT WAS DEFERRED AND NOT  
5 ALLOWED TO BE DEDUCTED IN COMPUTING FEDERAL TAXABLE INCOME IN THE CURRENT  
6 TAXABLE YEAR PURSUANT TO SECTION 108(i) OF THE INTERNAL REVENUE CODE AS ADDED  
7 BY SECTION 1231 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009  
8 (P.L. 111-5).

9 9. THE AMOUNT OF PREVIOUSLY DEFERRED DISCHARGE OF INDEBTEDNESS INCOME  
10 THAT IS INCLUDED IN THE COMPUTATION OF FEDERAL TAXABLE INCOME IN THE CURRENT  
11 TAXABLE YEAR PURSUANT TO SECTION 108(i) OF THE INTERNAL REVENUE CODE AS ADDED  
12 BY SECTION 1231 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009  
13 (P.L. 111-5), TO THE EXTENT THAT THE AMOUNT WAS PREVIOUSLY ADDED TO ARIZONA  
14 GROSS INCOME PURSUANT TO SECTION 43-1121, PARAGRAPH 7.

15 ~~3-~~ 10. With respect to a financial institution as defined in section  
16 6-101, expenses and interest relating to tax-exempt income disallowed  
17 pursuant to section 265 of the internal revenue code.

18 ~~4-~~ 11. Dividends received from another corporation owned or  
19 controlled directly or indirectly by a recipient corporation. For the  
20 purposes of this paragraph, "control" means direct or indirect ownership or  
21 control of fifty per cent or more of the voting stock of the payor  
22 corporation by the recipient corporation. Dividends shall have the meaning  
23 provided in section 316 of the internal revenue code. This subtraction shall  
24 apply without regard to section 43-961, paragraph 2 and article 4 of this  
25 chapter. ~~A corporation that has its commercial domicile, as defined in~~  
26 ~~section 43-1131, in this state may subtract the full amount of the dividends.~~  
27 ~~A corporation that does not have its commercial domicile in this state may~~  
28 ~~subtract:~~

29 ~~(a) For its taxable year beginning in 1990, an amount equal to~~  
30 ~~one half of the dividends.~~

31 ~~(b) For taxable years beginning in 1991 and thereafter, the full~~  
32 ~~amount of the dividends.~~

33 ~~5-~~ 12. Interest income received on obligations of the United States.

34 ~~6-~~ 13. The amount of dividend income from foreign corporations.

35 ~~7-~~ 14. The amount of net operating loss allowed by section 43-1123.

36 ~~8-~~ 15. The amount of any state income tax refunds received which were  
37 included as income in computing federal taxable income.

38 ~~9-~~ 16. The amount of expense recapture included in income pursuant to  
39 section 617 of the internal revenue code for mine exploration expenses.

40 ~~10-~~ 17. The amount of deferred exploration expenses allowed by section  
41 43-1127.

42 ~~11-~~ 18. The amount of exploration expenses related to the exploration  
43 of oil, gas or geothermal resources, computed in the same manner and on the  
44 same basis as a deduction for mine exploration pursuant to section 617 of the  
45 internal revenue code. This computation is subject to the adjustments

1 contained in section 43-1121, paragraph ~~8-~~ 15 and paragraphs ~~9-~~ 16 and ~~10~~ 17  
2 of this section relating to exploration expenses.

3 ~~12-~~ 19. The amortization of pollution control devices allowed by  
4 section 43-1129.

5 ~~13-~~ 20. The amount of amortization of the cost of child care  
6 facilities pursuant to section 43-1130.

7 ~~14-~~ 21. The amount of income from a domestic international sales  
8 corporation required to be included in the income of its shareholders  
9 pursuant to section 995 of the internal revenue code.

10 ~~15-~~ 22. The income of an insurance company that is exempt under  
11 section 43-1201 to the extent that it is included in computing Arizona gross  
12 income on a consolidated return pursuant to section 43-947.

13 ~~16-~~ ~~The amount of contributions by the taxpayer during the taxable year~~  
14 ~~to medical savings accounts established on behalf of the taxpayer's employees~~  
15 ~~as provided by section 43-1028, to the extent that the contributions are not~~  
16 ~~deductible under the internal revenue code.~~

17 ~~17-~~ 23. The amount by which a capital loss carryover allowable  
18 pursuant to section 43-1130.01, subsection F exceeds the capital loss  
19 carryover allowable pursuant to section 1341(b)(5) of the internal revenue  
20 code.

21 ~~18-~~ 24. An amount equal to the depreciation allowable pursuant to  
22 section 167(a) of the internal revenue code for the taxable year computed as  
23 if the election described in section 168(k)(2)(D)(iii) of the internal  
24 revenue code had been made for each applicable class of property in the year  
25 the property was placed in service.

26 Sec. 24. Section 43-1123, Arizona Revised Statutes, is amended to  
27 read:

28 43-1123. Net operating loss; definition

29 A. For the purposes of this section, "net operating loss" means:

30 1. In the case of a taxpayer who has a net operating loss for the  
31 taxable year within the meaning of section 172(c) of the internal revenue  
32 code, the amount of the net operating loss increased by the subtractions  
33 specified in section 43-1122, except the subtraction allowed in section  
34 43-1122, paragraph ~~7-~~ 14, and reduced by the additions specified in section  
35 43-1121.

36 2. In the case of a taxpayer not described in paragraph 1 of this  
37 subsection, any excess of the subtractions specified in section 43-1122,  
38 except the subtraction allowed in section 43-1122, paragraph ~~7-~~ 14, over the  
39 sum of the Arizona gross income plus the additions specified in section  
40 43-1121.

41 B. If for any taxable year the taxpayer has a net operating loss:

42 1. Such net operating loss shall be a net operating loss carryover  
43 for:

44 (a) Each of the five succeeding taxable years for net operating losses  
45 arising in taxable periods through December 31, 2011.

1 (b) Each of the twenty succeeding taxable years for net operating  
2 losses arising in taxable periods beginning from and after December 31, 2011.

3 2. The carryover in the case of each such succeeding taxable year,  
4 other than the first succeeding taxable year, shall be the excess, if any, of  
5 the amount of such net operating loss over the sum of the taxable income for  
6 each of the intervening years computed by determining the net operating loss  
7 subtraction for each intervening taxable year, without regard to such net  
8 operating loss or to the net operating loss for any succeeding taxable year.

9 C. The amount of the net operating loss subtraction shall be the  
10 aggregate of the net operating loss carryovers to the taxable year.

11 Sec. 25. Repeal

12 Section ~~43-1124~~, Arizona Revised Statutes, is repealed.

13 Sec. 26. Section 43-1127, Arizona Revised Statutes, is amended to  
14 read:

15 ~~43-1127~~. Deferred exploration expenses

16 A. The amount of exploration expenses added to Arizona gross income  
17 pursuant to section 43-1121, paragraph ~~8- 15~~ may be subtracted on a ratable  
18 basis as the units of produced ores or minerals discovered or explored by  
19 reason of such expenditures are sold. An election made for any taxable year  
20 shall be binding for such year.

21 B. If such property is sold, it shall be treated in the same manner  
22 and on the same basis as property held for the production of income pursuant  
23 to section ~~43-1021~~ 43-1121, paragraph ~~7- 4~~ or section ~~43-1022~~ 43-1122,  
24 paragraph ~~11~~ 3.

25 Sec. 27. Section 43-1130.01, Arizona Revised Statutes, is amended to  
26 read:

27 ~~43-1130.01~~. Restoration of a substantial amount held under  
28 claim of right; computation of tax

29 A. This section applies if:

30 1. An item of income was included in gross income for a prior taxable  
31 year or years because it appeared that the taxpayer had an unrestricted right  
32 to the item.

33 2. A deduction would be allowable under the internal revenue code or  
34 this title for the taxable year, without application of section 1341(b)(3) of  
35 the internal revenue code or section 43-1121, paragraph ~~15~~ 23, because after  
36 the close of the prior taxable year or years it was established that the  
37 taxpayer did not have an unrestricted right to all or part of the item.

38 3. The amount of the deduction exceeds three thousand dollars.

39 B. If all of the conditions in subsection A of this section apply, the  
40 tax imposed by this chapter for the taxable year is an amount equal to the  
41 tax for the taxable year computed without the deduction, minus the decrease  
42 in tax under this chapter for the prior taxable year or years that would  
43 result solely from excluding the item or portion of the item from gross  
44 income for the prior taxable year or years.

45 C. If the decrease in tax exceeds the tax imposed by this chapter for  
46 the taxable year, computed without the deduction, the excess is considered to

1 be a payment of tax on the last day prescribed by law for the payment of tax  
2 for the taxable year and shall be refunded or credited in the same manner as  
3 if it were an overpayment for the taxable year.

4 D. Subsection B of this section does not apply to any deduction that  
5 is allowable with respect to an item that was included in gross income by  
6 reason of the sale or other disposition of stock in trade of the taxpayer, or  
7 other property of a kind that would properly have been included in the  
8 inventory of the taxpayer on hand at the close of the prior taxable year, or  
9 property that is held by the taxpayer primarily for sale to customers in the  
10 ordinary course of the taxpayer's trade or business. This subsection does  
11 not apply if the deduction arises out of refunds or repayments with respect  
12 to rates made by a regulated public utility that is listed in section  
13 7701(a)(33)(A) through (H) of the internal revenue code, if the refunds or  
14 repayments are:

- 15 1. Required to be made by the government, political subdivision,  
16 agency or instrumentality referred to in that section.
- 17 2. Required to be made by an order of a court.
- 18 3. Made in settlement of litigation or under threat or imminence of  
19 litigation.

20 E. If the exclusion under subsection B of this section results in:

21 1. A net operating loss for the prior taxable year or years for  
22 purposes of computing the decrease in tax for the prior year or years under  
23 subsection B of this section:

24 (a) The loss shall be carried over under this chapter to the same  
25 extent and in the same manner as provided under section 43-1123, and under  
26 prior law.

27 (b) No carryover beyond the taxable year may be taken into account.

28 2. A capital loss for the prior taxable year or years, for purposes of  
29 computing the decrease in tax for the prior taxable year or years under  
30 subsection B of this section:

31 (a) The loss shall be:

32 (i) Carried over under this chapter to the same extent and in the same  
33 manner as was provided under prior law for taxable years beginning on or  
34 before December 31, 1987.

35 (ii) Carried back and carried over to the same extent and in the same  
36 manner as provided under section 1212 of the internal revenue code for  
37 taxable years beginning from and after December 31, 1987.

38 (b) No carryover beyond the taxable year may be taken into account.

39 F. In computing Arizona taxable income for taxable years subsequent to  
40 the current taxable year, the net operating loss or capital loss determined  
41 in subsection E of this section shall be taken into account to the same  
42 extent and in the same manner as a net operating loss or capital loss  
43 sustained for prior taxable years.

44 Sec. 28. Repeal

45 Sections 43-1180 and 43-1182, Arizona Revised Statutes, are repealed.



1 ~~F. Notwithstanding subsection A of this section, a trust established~~  
2 ~~as a medical savings account trust pursuant to section 43-1028 shall not add~~  
3 ~~the amount of interest income received on obligations of a state, territory~~  
4 ~~or possession of the United States, or a political subdivision of a state,~~  
5 ~~territory or possession of the United States that is located outside of this~~  
6 ~~state.~~

7 Sec. 31. Section 43-1504, Arizona Revised Statutes, is amended to  
8 read:

9 43-1504. Special provisions: corporate donations for low-income  
10 scholarships: rules

11 A. A school tuition organization that receives contributions from a  
12 corporation for the purposes of section 20-224.06 or 43-1183 must use at  
13 least ninety per cent of those contributions to provide educational  
14 scholarships or tuition grants only to children whose family income does not  
15 exceed one hundred eighty-five per cent of the income limit required to  
16 qualify a child for reduced price lunches under the national school lunch and  
17 child nutrition acts (42 United States Code sections 1751 through 1785) and  
18 to whom any of the following applies:

19 1. Attended a governmental primary or secondary school as a full-time  
20 student as defined in section 15-901 or attended a preschool program that  
21 offers services to students with disabilities at a governmental school for at  
22 least ninety days of the prior fiscal year or one full semester and  
23 transferred from a governmental school to a qualified school.

24 2. Enroll in a qualified school in a kindergarten program or a  
25 preschool program that offers services to students with disabilities.

26 3. Is the dependent of a member of the armed forces of the United  
27 States who is stationed in this state pursuant to military orders.

28 4. Received an educational scholarship or tuition grant under  
29 paragraph 1, 2 or 3 of this subsection or chapter 16, article 1 of this title  
30 if the children continue to attend a qualified school in a subsequent year.

31 B. A child is eligible to receive an educational scholarship or  
32 tuition grant under subsection A of this section if the child meets the  
33 criteria to receive a reduced price lunch but does not actually claim that  
34 benefit.

35 C. In 2006, a school tuition organization shall not issue an  
36 educational scholarship or a tuition grant for the purposes of section  
37 20-224.06 or 43-1183 in an amount that exceeds four thousand two hundred  
38 dollars for students in a ~~kindergarten~~ **DISABLED PRESCHOOL OR KINDERGARTEN**  
39 program or grades one through eight or five thousand five hundred dollars for  
40 students in grades nine through twelve. In each year after 2006, the  
41 limitation amount for a scholarship or a grant under this subsection shall be  
42 increased by one hundred dollars.

43 D. A school tuition organization shall require that student  
44 beneficiaries use the educational scholarships or tuition grants on a  
45 full-time basis. If a child leaves the school before completing an entire  
46 school year, the school shall refund a prorated amount of the educational

1 scholarship or tuition grant to the school tuition organization that issued  
2 the scholarship or grant. The school tuition organization shall allocate any  
3 refunds it receives under this subsection for educational scholarships or  
4 tuition grants.

5 E. Students who receive an educational scholarship or tuition grant  
6 under this section shall be allowed to attend any qualified school of their  
7 parents' choice.

8 F. The department of revenue, with the cooperation of the department  
9 of insurance, shall adopt rules and publish and prescribe forms and  
10 procedures necessary for the administration of this section.

11 Sec. 32. Section 43-1603, Arizona Revised Statutes, is amended to  
12 read:

13 43-1603. Operational requirements for school tuition  
14 organizations; notice; qualified schools

15 A. A certified school tuition organization must be established to  
16 receive contributions from taxpayers for the purposes of income tax credits  
17 under sections 43-1089 and 43-1089.03 and to pay educational scholarships or  
18 tuition grants to allow students to attend any qualified school of their  
19 parents' choice.

20 B. To be eligible for certification and retain certification, the  
21 school tuition organization:

22 1. Must allocate at least ninety per cent of its annual revenue from  
23 contributions made for the purposes of sections 43-1089 and 43-1089.03 for  
24 educational scholarships or tuition grants.

25 2. Shall not limit the availability of educational scholarships or  
26 tuition grants to only students of one school.

27 3. May allow donors to recommend student beneficiaries, but shall not  
28 award, designate or reserve scholarships solely on the basis of donor  
29 recommendations.

30 4. Shall not allow donors to designate student beneficiaries as a  
31 condition of any contribution to the organization, or facilitate, encourage  
32 or knowingly permit the exchange of beneficiary student designations in  
33 violation of section 43-1089, subsection F.

34 C. A school tuition organization shall include the following notice in  
35 any printed materials soliciting donations, in applications for scholarships  
36 and on its website:

37 Notice

38 A school tuition organization cannot award, restrict or  
39 reserve scholarships solely on the basis of a donor's  
40 recommendation.

41 A taxpayer may not claim a tax credit if the taxpayer  
42 agrees to swap donations with another taxpayer to benefit either  
43 taxpayer's own dependent.

1 D. In evaluating applications and awarding, designating or reserving  
2 scholarships, a school tuition organization:

3 1. Shall not award, designate or reserve a scholarship solely on the  
4 recommendation of any person contributing money to the organization, but may  
5 consider the recommendation among other factors.

6 2. Shall consider the financial need of applicants.

7 E. A taxpayer's contribution to a school tuition organization that  
8 exceeds the amount of the credit allowed by section 43-1089 but does not  
9 exceed the amount of the credit allowed by section 43-1089.03 is considered a  
10 contribution pursuant to section 43-1089.03. A school tuition organization  
11 must use at least ninety per cent of contributions made pursuant to section  
12 43-1089.03 for educational scholarships or tuition grants for students to  
13 whom any of the following applies:

14 1. Attended a governmental primary or secondary school as a full-time  
15 student as defined in section 15-901 or attended a preschool program that  
16 offers services to students with disabilities at a governmental school for at  
17 least ninety days of the prior fiscal year and transferred from a  
18 governmental school to a qualified school.

19 2. Enrolls in a qualified school in a kindergarten program or a  
20 preschool program that offers services to students with disabilities.

21 3. Is the dependent of a member of the armed forces of the United  
22 States who is stationed in this state pursuant to military orders.

23 4. Received an educational scholarship or tuition grant under  
24 paragraph 1, 2 or 3 of this subsection or under chapter 15 of this title if  
25 the student continues to attend a qualified school in a subsequent year.

26 F. In awarding educational scholarships or tuition grants from  
27 contributions made pursuant to section 43-1089.03, a school tuition  
28 organization shall give priority to students and siblings of students on a  
29 waiting list for scholarships if the school tuition organization maintains a  
30 waiting list.

31 G. If an individual educational scholarship or tuition grant exceeds  
32 the school's ~~total cost of educating that student~~ TUITION, the amount in  
33 excess shall be returned to the school tuition organization that made the  
34 award or grant. The school tuition organization may allocate the returned  
35 monies as a multiyear award for that student and report the award pursuant to  
36 section 43-1604, paragraph 5, subdivision (b) or may allocate the returned  
37 monies for educational scholarships or tuition grants for other students.

38 Sec. 33. Effect on preexisting tax credits

39 The repeal of sections 43-1090.01 and 43-1182, Arizona Revised  
40 Statutes, by this act, does not affect the use of any carryovers from unused  
41 credits earned before the repeal.

42 Sec. 34. Effective date

43 Section 42-2003, Arizona Revised Statutes, as amended by Laws 2013,  
44 first regular session, chapter 40, section 2, chapter 114, section 6 and  
45 chapter 222, section 3 and Laws 2013, first special session, chapter 9,  
46 section 3 and this act, section 42-5009, Arizona Revised Statutes, as amended

1 by Laws 2013, chapter 40, section 3 and this act, section 42-5010, Arizona  
2 Revised Statutes, as amended by Laws 2013, chapter 255, section 6 and this  
3 act, section 42-5075, Arizona Revised Statutes, as amended by Laws 2013,  
4 first regular session, chapter 153, section 1 and Laws 2013, first special  
5 session, chapter 9, section 6 and this act, and section 42-6004, Arizona  
6 Revised Statutes, as amended by Laws 2013, first regular session, chapter 27,  
7 section 2, chapter 120, section 2, chapter 153, section 2 and chapter 236,  
8 section 6 and Laws 2013, first special session, chapter 9, section 8 and this  
9 act, are effective from and after December 31, 2014.

APPROVED BY THE GOVERNOR APRIL 30, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2014.