

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 357
SENATE BILL 1505

AN ACT

AMENDING SECTIONS 42-5063, 42-5159 AND 42-6012, ARIZONA REVISED STATUTES;
RELATING TO NATURAL GAS DELIVERY TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5063, Arizona Revised Statutes, is amended to
3 read:

4 42-5063. Utilities classification; definitions

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

6 1. Producing and furnishing or furnishing to consumers natural or
7 artificial gas and water.

8 2. Providing to retail electric customers ancillary services, electric
9 distribution services, electric generation services, electric transmission
10 services and other services related to providing electricity.

11 B. The utilities classification does not include:

12 1. Sales of ancillary services, electric distribution services,
13 electric generation services, electric transmission services and other
14 services related to providing electricity, gas or water to a person who
15 resells the services.

16 2. Sales of natural gas or liquefied petroleum gas used to propel a
17 motor vehicle.

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

21 4. Sales of ancillary services, electric distribution services,
22 electric generation services, electric transmission services and other
23 services that are related to providing electricity to a retail electric
24 customer who is located outside this state for use outside this state if the
25 electricity is delivered to a point of sale outside this state.

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

33 6. The leasing or renting of space to make attachments to utility
34 poles as follows:

35 (a) By a person that is engaged in business under this section.

36 (b) To a person that is engaged in business under this section or
37 section 42-5064 or that is a cable operator.

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

41 1. Revenues received by a municipally owned utility in the form of
42 fees charged to persons constructing residential, commercial or industrial
43 developments or connecting residential, commercial or industrial developments
44 to a municipal utility system or systems if the fees are segregated and used
45 only for capital expansion, system enlargement or debt service of the utility
46 system or systems.

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

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

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

9 (b) A qualifying health care organization as defined in section
10 42-5001 if the tangible personal property is used by the organization solely
11 to provide health and medical related educational and charitable services.

12 4. The portion of gross proceeds of sales or gross income that is
13 derived from sales to a qualified environmental technology manufacturer,
14 producer or processor as defined in section 41-1514.02 of a utility product
15 and that is used directly in environmental technology manufacturing,
16 producing or processing. This paragraph shall apply for twenty full
17 consecutive calendar or fiscal years from the date the first paper
18 manufacturing machine is placed in service. In the case of a qualified
19 environmental technology manufacturer, producer or processor who does not
20 manufacture paper, the time period shall begin with the date the first
21 manufacturing, processing or production equipment is placed in service.

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

26 6. Gross proceeds of sales or gross income derived from sales of
27 electricity or natural gas to a business that is principally engaged in
28 manufacturing or smelting operations and that uses at least fifty-one percent
29 of the electricity or natural gas in the manufacturing or smelting
30 operations. This paragraph ~~does not apply~~ APPLIES to gas transportation
31 services. For the purposes of this paragraph:

32 (a) "Gas transportation services" means the services of transporting
33 natural gas to a natural gas customer or to a natural gas distribution
34 facility if the natural gas was purchased from a supplier other than the
35 utility.

36 (b) "Manufacturing" means the performance as a business of an
37 integrated series of operations that places tangible personal property in a
38 form, composition or character different from that in which it was acquired
39 and transforms it into a different product with a distinctive name, character
40 or use. Manufacturing does not include processing, fabricating, job
41 printing, mining, generating electricity or operating a restaurant.

42 (c) "Principally engaged" means at least fifty-one percent of the
43 business is a manufacturing or smelting operation.

44 (d) "Smelting" means to melt or fuse a metalliferous mineral, often
45 with an accompanying chemical change, usually to separate the metal.

1 7. Gross proceeds of sales or gross income derived from sales of
2 electricity or natural gas to a business that operates an international
3 operations center in this state and that is certified by the Arizona commerce
4 authority pursuant to section 41-1520.

5 D. For the purposes of this section:

6 1. "Ancillary services" means those services so designated in federal
7 energy regulatory commission order 888 adopted in 1996 that include the
8 services necessary to support the transmission of electricity from resources
9 to loads while maintaining reliable operation of the transmission system
10 according to good utility practice.

11 2. "Cable operator" has the same meaning prescribed in section 9-505.

12 3. "Electric distribution service" means distributing electricity to
13 retail electric customers through the use of electric distribution
14 facilities.

15 4. "Electric generation service" means providing electricity for sale
16 to retail electric customers but excluding electric distribution or
17 transmission services.

18 5. "Electric transmission service" means transmitting electricity to
19 retail electric customers or to electric distribution facilities so
20 classified by the federal energy regulatory commission or, to the extent
21 permitted by law, so classified by the Arizona corporation commission.

22 6. "Other services" includes metering, meter reading services, billing
23 and collecting services.

24 7. "Retail electric customer" means a person who purchases electricity
25 for that person's own use, including use in that person's trade or business
26 and not for resale, redistribution or retransmission.

27 8. "Utility pole" means any wooden, metal or other pole used for
28 utility purposes and the pole's appurtenances that are attached or authorized
29 for attachment by the person controlling the pole.

30 Sec. 2. Section 42-5159, Arizona Revised Statutes, is amended to read:

31 42-5159. Exemptions

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

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

38 2. Tangible personal property the sale or use of which has already
39 been subjected to an excise tax at a rate equal to or exceeding the tax
40 imposed by this article under the laws of another state of the United States.
41 If the excise tax imposed by the other state is at a rate less than the tax
42 imposed by this article, the tax imposed by this article is reduced by the
43 amount of the tax already imposed by the other state.

44 3. Tangible personal property, the storage, use or consumption of
45 which the constitution or laws of the United States prohibit this state from

1 taxing or to the extent that the rate or imposition of tax is
2 unconstitutional under the laws of the United States.

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

6 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
7 which in this state is subject to the tax imposed under title 28, chapter 16,
8 article 1, use fuel that is sold to or used by a person holding a valid
9 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
10 the sales, distribution or use of which in this state is subject to the tax
11 imposed under section 28-8344, and jet fuel, the sales, distribution or use
12 of which in this state is subject to the tax imposed under article 8 of this
13 chapter.

14 6. Tangible personal property brought into this state by an individual
15 who was a nonresident at the time the property was purchased for storage, use
16 or consumption by the individual if the first actual use or consumption of
17 the property was outside this state, unless the property is used in
18 conducting a business in this state.

19 7. Purchases of implants used as growth promotants and injectable
20 medicines, not already exempt under paragraph 16 of this subsection, for
21 livestock and poultry owned by, or in possession of, persons who are engaged
22 in producing livestock, poultry, or livestock or poultry products, or who are
23 engaged in feeding livestock or poultry commercially. For the purposes of
24 this paragraph, "poultry" includes ratites.

25 8. Livestock, poultry, supplies, feed, salts, vitamins and other
26 additives for use or consumption in the businesses of farming, ranching and
27 feeding livestock or poultry, not including fertilizers, herbicides and
28 insecticides. For the purposes of this paragraph, "poultry" includes
29 ratites.

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

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

37 11. Advertising supplements that are intended for sale with newspapers
38 published in this state and that have already been subjected to an excise tax
39 under the laws of another state in the United States that equals or exceeds
40 the tax imposed by this article.

41 12. Materials that are purchased by or for publicly funded libraries
42 including school district libraries, charter school libraries, community
43 college libraries, state university libraries or federal, state, county or
44 municipal libraries for use by the public as follows:

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

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

1 13. Tangible personal property purchased by:

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

5 (b) A hospital operated by this state or a political subdivision of
6 this state.

7 (c) A licensed nursing care institution or a licensed residential care
8 institution or a residential care facility operated in conjunction with a
9 licensed nursing care institution or a licensed kidney dialysis center, which
10 provides medical services, nursing services or health related services and is
11 not used or held for profit.

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

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

20 (f) A nonprofit charitable organization that has qualified under
21 section 501(c)(3) of the United States internal revenue code and that engages
22 in and uses such property exclusively in programs for persons with mental or
23 physical disabilities if the programs are exclusively for training, job
24 placement, rehabilitation or testing.

25 (g) A person that is subject to tax under this chapter by reason of
26 being engaged in business classified under section 42-5075, or a
27 subcontractor working under the control of a person that is engaged in
28 business classified under section 42-5075, if the tangible personal property
29 is any of the following:

30 (i) Incorporated or fabricated by the person into a structure,
31 project, development or improvement in fulfillment of a contract.

32 (ii) Incorporated or fabricated by the person into any project
33 described in section 42-5075, subsection 0.

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

36 (h) A person that is not subject to tax under section 42-5075 and that
37 has been provided a copy of a certificate described in section 42-5009,
38 subsection L, if the property purchased is incorporated or fabricated by the
39 person into the real property, structure, project, development or improvement
40 described in the certificate.

41 (i) A nonprofit charitable organization that has qualified under
42 section 501(c)(3) of the internal revenue code if the property is purchased
43 from the parent or an affiliate organization that is located outside this
44 state.

45 (j) A qualifying community health center as defined in section
46 42-5001.

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

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

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

17 (n) A qualifying health sciences educational institution as defined in
18 section 42-5001.

19 (o) A person representing or working on behalf of any person described
20 in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) or (n) of
21 this paragraph, if the tangible personal property is incorporated or
22 fabricated into a project described in section 42-5075, subsection 0.

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

28 15. Tangible personal property sold by:

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

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

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

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

45 17. Prosthetic appliances, as defined in section 23-501, prescribed or
46 recommended by a person who is licensed, registered or otherwise

1 professionally credentialed as a physician, dentist, podiatrist,
2 chiropractor, naturopath, homeopath, nurse or optometrist.

3 18. Prescription eyeglasses and contact lenses.

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

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

6 21. Durable medical equipment that has a centers for medicare and
7 medicaid services common procedure code, is designated reimbursable by
8 medicare, is prescribed by a person who is licensed under title 32, chapter
9 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
10 used to serve a medical purpose, is generally not useful to a person in the
11 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

30 27. Lottery tickets or shares purchased pursuant to title 5, chapter
31 5.1, article 1.

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

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

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

39 31. Coal, petroleum, coke, natural gas, virgin fuel oil and
40 electricity purchased by a qualified environmental technology manufacturer,
41 producer or processor as defined in section 41-1514.02 and directly used or
42 consumed in the generation or provision of on-site power or energy solely for
43 environmental technology manufacturing, producing or processing or
44 environmental protection. This paragraph shall apply for twenty full
45 consecutive calendar or fiscal years from the date the first paper
46 manufacturing machine is placed in service. In the case of an environmental

1 technology manufacturer, producer or processor who does not manufacture
2 paper, the time period shall begin with the date the first manufacturing,
3 processing or production equipment is placed in service.

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

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

8 (b) Public educational institutions.

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

12 33. Natural gas or liquefied petroleum gas used to propel a motor
13 vehicle.

14 34. Machinery, equipment, technology or related supplies that are only
15 useful to assist a person with a physical disability as defined in section
16 46-191 or a person who has a developmental disability as defined in section
17 36-551 or has a head injury as defined in section 41-3201 to be more
18 independent and functional.

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

32 36. Food, drink and condiment purchased for consumption within the
33 premises of any prison, jail or other institution under the jurisdiction of
34 the state department of corrections, the department of public safety, the
35 department of juvenile corrections or a county sheriff.

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

40 38. Tangible personal property that is or directly enters into and
41 becomes an ingredient or component part of cards used as prescription plan
42 identification cards.

43 39. Overhead materials or other tangible personal property that is
44 used in performing a contract between the United States government and a
45 manufacturer, modifier, assembler or repairer, including property used in
46 performing a subcontract with a government contractor who is a manufacturer,

1 modifier, assembler or repairer, to which title passes to the government
2 under the terms of the contract or subcontract. For the purposes of this
3 paragraph:

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

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

20 40. Through December 31, 1994, tangible personal property sold
21 pursuant to a personal property liquidation transaction, as defined in
22 section 42-5061. From and after December 31, 1994, tangible personal
23 property sold pursuant to a personal property liquidation transaction, as
24 defined in section 42-5061, if the gross proceeds of the sales were included
25 in the measure of the tax imposed by article 1 of this chapter or if the
26 personal property liquidation was a casual activity or transaction.

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

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

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

41 44. Alternative fuel vehicles if the vehicle was manufactured as a
42 diesel fuel vehicle and converted to operate on alternative fuel and
43 equipment that is installed in a conventional diesel fuel motor vehicle to
44 convert the vehicle to operate on an alternative fuel, as defined in section
45 1-215.

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

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

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

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

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

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

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

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

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

30 (b) "Curriculum design or enhancement" means planning, implementing or
31 reporting on courses of study, lessons, assignments or other learning
32 activities.

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

37 52. Repair parts installed in equipment used directly by a qualified
38 business under section 41-1516 in harvesting, processing or transporting
39 qualifying forest products removed from qualifying projects as defined in
40 section 41-1516.

41 53. Renewable energy credits or any other unit created to track energy
42 derived from renewable energy resources. For the purposes of this paragraph,
43 "renewable energy credit" means a unit created administratively by the
44 corporation commission or governing body of a public power entity to track
45 kilowatt hours of electricity derived from a renewable energy resource or the

1 kilowatt hour equivalent of conventional energy resources displaced by
2 distributed renewable energy resources.

3 54. Computer data center equipment purchased by the owner, operator or
4 qualified colocation tenant of the computer data center or an authorized
5 agent of the owner, operator or qualified colocation tenant during the
6 qualification period for use in a computer data center that is certified by
7 the Arizona commerce authority under section 41-1519. To qualify for this
8 deduction, at the time of purchase, the owner, operator or qualified
9 colocation tenant must present to the retailer its certificate that is issued
10 pursuant to section 41-1519 and that establishes its qualification for the
11 deduction. For the purposes of this paragraph, "computer data center",
12 "computer data center equipment", "qualification period" and "qualified
13 colocation tenant" have the same meanings prescribed in section 41-1519.

14 55. Coal acquired from an owner or operator of a power plant by a
15 person who is responsible for refining coal if both of the following apply:

16 (a) The transfer of title or possession of the coal is for the purpose
17 of refining the coal.

18 (b) The title or possession of the coal is transferred back to the
19 owner or operator of the power plant after completion of the coal refining
20 process. For the purposes of this subdivision, "coal refining process" means
21 the application of a coal additive system that aids the reduction of power
22 plant emissions during the combustion of coal and the treatment of flue gas.

23 56. Tangible personal property incorporated or fabricated into a
24 project described in section 42-5075, subsection 0, that is located within
25 the exterior boundaries of an Indian reservation for which the owner, as
26 defined in section 42-5075, of the project is an Indian tribe or an
27 affiliated Indian. For the purposes of this paragraph:

28 (a) "Affiliated Indian" means an individual native American Indian who
29 is duly registered on the tribal rolls of the Indian tribe for whose benefit
30 the Indian reservation was established.

31 (b) "Indian reservation" means all lands that are within the limits of
32 areas set aside by the United States for the exclusive use and occupancy of
33 an Indian tribe by treaty, law or executive order and that are recognized as
34 Indian reservations by the United States department of the interior.

35 (c) "Indian tribe" means any organized nation, tribe, band or
36 community that is recognized as an Indian tribe by the United States
37 department of the interior and includes any entity formed under the laws of
38 the Indian tribe.

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

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

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

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

9 3. Tangible personal property sold to persons engaged in business
10 classified under the telecommunications classification under section 42-5064,
11 including a person representing or working on behalf of such a person in a
12 manner described in section 42-5075, subsection 0, and consisting of central
13 office switching equipment, switchboards, private branch exchange equipment,
14 microwave radio equipment and carrier equipment including optical fiber,
15 coaxial cable and other transmission media that are components of carrier
16 systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 2. Janitorial equipment and hand tools.

28 3. Office equipment, furniture and supplies.

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

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

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

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

39 8. Machinery and equipment or tangible personal property used by a
40 contractor in the performance of a contract.

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

43 1. Revenues received from sales of ancillary services, electric
44 distribution services, electric generation services, electric transmission
45 services and other services related to providing electricity to a retail

1 electric customer who is located outside this state for use outside this
2 state if the electricity is delivered to a point of sale outside this state.

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

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

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

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

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

23 G. The tax levied by this article does not apply to the purchase price
24 of electricity or natural gas by:

25 1. A business that is principally engaged in manufacturing or smelting
26 operations and that uses at least fifty-one percent of the electricity or
27 natural gas in the manufacturing or smelting operations. This paragraph ~~does~~
28 ~~not apply~~ APPLIES to gas transportation services. For the purposes of this
29 paragraph:

30 (a) "Gas transportation services" means the services of transporting
31 natural gas to a natural gas customer or to a natural gas distribution
32 facility if the natural gas was purchased from a supplier other than the
33 utility.

34 (b) "Manufacturing" means the performance as a business of an
35 integrated series of operations that places tangible personal property in a
36 form, composition or character different from that in which it was acquired
37 and transforms it into a different product with a distinctive name, character
38 or use. Manufacturing does not include processing, fabricating, job
39 printing, mining, generating electricity or operating a restaurant.

40 (c) "Principally engaged" means at least fifty-one percent of the
41 business is a manufacturing or smelting operation.

42 (d) "Smelting" means to melt or fuse a metalliferous mineral, often
43 with an accompanying chemical change, usually to separate the metal.

44 2. A business that operates an international operations center in this
45 state and that is certified by the Arizona commerce authority pursuant to
46 section 41-1520.

1 H. For the purposes of subsection B of this section:

2 1. "Aircraft" includes:

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

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

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

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

16 Sec. 3. Section 42-6012, Arizona Revised Statutes, is amended to read:

17 42-6012. Municipal transaction privilege tax; sales of
18 electricity or natural gas

19 A city or town that levies a transaction privilege, sales, gross
20 receipts, use, franchise or other similar fee or tax, however denominated, on
21 the business of producing, providing or furnishing electricity, electric
22 lights, current, power or natural gas shall either tax or exempt in whole the
23 gross proceeds of sales or gross income from sales by those businesses to
24 either of the following businesses:

25 1. Businesses that use at least fifty-one percent of the electricity,
26 electric lights, current, power or natural gas in a manufacturing or smelting
27 operation located in that city or town. This paragraph ~~does not apply~~
28 **APPLIES** to gas transportation services. For the purposes of this paragraph:

29 (a) "Gas transportation services" means the services of transporting
30 natural gas to a natural gas customer or to a natural gas distribution
31 facility if the natural gas was purchased from a supplier other than the
32 utility.

33 (b) "Manufacturing" means the performance as a business of an
34 integrated series of operations that places tangible personal property in a
35 form, composition or character different from that in which it was acquired
36 and transforms it into a different product with a distinctive name, character
37 or use. Manufacturing does not include processing, fabricating, job
38 printing, mining, generating electricity or operating a restaurant.

39 (c) "Smelting" means to melt or fuse a metalliferous mineral, often
40 with an accompanying chemical change, usually to separate the metal.

41 2. Businesses that operate an international operations center in this
42 state and that are certified by the Arizona commerce authority pursuant to
43 section 41-1520.

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