

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 361
HOUSE BILL 2326

AN ACT

AMENDING SECTIONS 3-561, 3-563, 42-5009, 42-5022, 42-5061 AND 42-5159,
ARIZONA REVISED STATUTES; RELATING TO AGRICULTURAL FEED TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 3-561, Arizona Revised Statutes, is amended to
3 read:
4 3-561. Definitions
5 In this article, unless the context otherwise requires:
6 ~~2-~~ 1. "Food product" includes:
7 (a) Every product of the soil in its natural or manufactured state.
8 (b) Beef and beef products.
9 (c) Swine and pork products.
10 (d) Fowls and poultry products.
11 (e) Eggs and egg products.
12 (f) Milk and milk products.
13 (g) Lamb and sheep products.
14 (h) ANIMAL FEED THAT IS GROWN OR RAISED BY THE PRODUCER AND SOLD AS
15 FEED FOR LIVESTOCK, POULTRY OR RATITES PURCHASED OR RAISED FOR SLAUGHTER,
16 INCLUDING LIVESTOCK PURCHASED OR RAISED FOR PRODUCTION OR USE, SUCH AS MILK
17 COWS, BREEDING BULLS, LAYING HENS AND RIDING OR WORK HORSES.
18 ~~1-~~ 2. "Producer" includes owners, proprietors or tenants of
19 agricultural lands, orchards, farms and gardens ~~whereon~~ WHERE food products
20 are grown, raised or prepared for market.
21 Sec. 2. Section 3-563, Arizona Revised Statutes, is amended to read:
22 3-563. Tax, license or fee against producers and purchasers
23 prohibited
24 A. ~~No A~~ tax, license or fee ~~shall~~ MAY NOT be imposed, ~~OR levied upon,~~
25 ON OR demanded or collected from:
26 1. A producer for a sale of a food product ~~as defined in this article.~~
27 ~~, and~~
28 2. A PURCHASER OF A FOOD PRODUCT FROM A PRODUCER.
29 B. ~~No A~~ penalty or punishment ~~shall~~ MAY NOT be imposed on account of
30 the sale OF A FOOD PRODUCT, except for A violation of laws providing for
31 inspection.
32 ~~B-~~ C. A municipal ordinance ~~which~~ THAT seeks to impose or subject a
33 producer, OR A PURCHASER OF A FOOD PRODUCT FROM A PRODUCER, to a tax, license
34 or fee ~~shall be~~ IS void, except that all such products in common with similar
35 products offered for sale by persons not the producers thereof ~~shall be~~ ARE
36 subject to inspection. A municipal ordinance providing for inspection ~~shall~~
37 IS not ~~be~~ valid unless it applies in the same manner and terms to other
38 persons offering similar products for sale.
39 Sec. 3. Section 42-5009, Arizona Revised Statutes, is amended to read:
40 42-5009. Certificates establishing deductions; liability for
41 making false certificate
42 A. A person who conducts any business classified under article 2 of
43 this chapter may establish entitlement to the allowable deductions from the
44 tax base of that business by both:

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

4 2. Obtaining a certificate executed by the purchaser indicating the
5 name and address of the purchaser, the precise nature of the business of the
6 purchaser, the purpose for which the purchase was made, the necessary facts
7 to establish the appropriate deduction and the tax license number of the
8 purchaser to the extent the deduction depends on the purchaser conducting
9 business classified under article 2 of this chapter and a certification that
10 the person executing the certificate is authorized to do so on behalf of the
11 purchaser. The certificate may be disregarded if the seller has reason to
12 believe that the information contained in the certificate is not accurate or
13 complete.

14 B. A person who does not comply with subsection A of this section may
15 establish entitlement to the deduction by presenting facts necessary to
16 support the entitlement, but the burden of proof is on that person.

17 C. The department may prescribe a form for the certificate described
18 in subsection A of this section. Under such rules as it may prescribe, the
19 department may also describe transactions with respect to which a person is
20 not entitled to rely solely on the information contained in the certificate
21 provided for in subsection A of this section but must instead obtain such
22 additional information as required by the rules in order to be entitled to
23 the deduction.

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

37 E. If a seller is entitled to a deduction by complying with subsection
38 B of this section, the department may require the purchaser to establish the
39 accuracy and completeness of the information provided to the seller that
40 entitled the seller to the deduction. If the purchaser cannot establish the
41 accuracy and completeness of the information, the purchaser is liable in an
42 amount equal to any tax, penalty and interest that the seller would have been
43 required to pay under this article if the seller had not complied with
44 subsection B of this section. Payment of the amount under this subsection
45 exempts the purchaser from liability for any tax imposed under article 4 of
46 this chapter. The amount shall be treated as tax revenues collected from the

1 seller in order to designate the distribution base for purposes of section
2 42-5029.

3 F. The department may prescribe a form for a certificate used to
4 establish entitlement to the deductions described in section 42-5061,
5 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3.
6 Under rules the department may prescribe, the department may also require
7 additional information for the seller to be entitled to the deduction. If a
8 seller is entitled to the deductions described in section 42-5061, subsection
9 A, paragraph 46 and section 42-5063, subsection B, paragraph 3, the
10 department may require the purchaser who executed the certificate to
11 establish the accuracy and completeness of the information contained in the
12 certificate that would entitle the seller to the deduction. If the purchaser
13 cannot establish the accuracy and completeness of the information, the
14 purchaser is liable in an amount equal to any tax, penalty and interest that
15 the seller would have been required to pay under this article. Payment of
16 the amount under this subsection exempts the purchaser from liability for any
17 tax imposed under article 4 of this chapter. The amount shall be treated as
18 tax revenues collected from the seller in order to designate the distribution
19 base for purposes of section 42-5029.

20 G. If a seller claims a deduction under section 42-5061, subsection A,
21 paragraph 25 and establishes entitlement to the deduction with an exemption
22 letter that the purchaser received from the department and the exemption
23 letter was based on a contingent event, the department may require the
24 purchaser that received the exemption letter to establish the satisfaction of
25 the contingent event within a reasonable time. If the purchaser cannot
26 establish the satisfaction of the event, the purchaser is liable in an amount
27 equal to any tax, penalty and interest that the seller would have been
28 required to pay under this article if the seller had not been furnished the
29 exemption letter. Payment of the amount under this subsection exempts the
30 purchaser from liability for any tax imposed under article 4 of this chapter.
31 The amount shall be treated as tax revenues collected from the seller in
32 order to designate the distribution base for purposes of section 42-5029.
33 For the purposes of this subsection, "reasonable time" means a time
34 limitation that the department determines and that does not exceed the time
35 limitations pursuant to section 42-1104.

36 H. The department shall prescribe forms for certificates used to
37 establish the satisfaction of the criteria necessary to qualify the sale of a
38 motor vehicle for the deductions described in section 42-5061, subsection A,
39 paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and
40 subsection U. Except as provided in subsection J of this section, to
41 establish entitlement to these deductions, a motor vehicle dealer shall
42 retain:

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

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

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

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

11 I. Notwithstanding subsection A, paragraph 2 of this section, if a
12 motor vehicle dealer has established entitlement to a deduction by complying
13 with subsection H of this section, the department may require the purchaser
14 who executed the certificate to establish the accuracy and completeness of
15 the information contained in the certificate that entitled the motor vehicle
16 dealer to the deduction. If the purchaser cannot establish the accuracy and
17 completeness of the information, the purchaser is liable in an amount equal
18 to any tax, penalty and interest that the motor vehicle dealer would have
19 been required to pay under this article and under articles IV and V of the
20 model city tax code as defined in section 42-6051. Payment of the amount
21 under this subsection exempts the purchaser from liability for any tax
22 imposed under article 4 of this chapter and any tax imposed under article VI
23 of the model city tax code as defined in section 42-6051. The amount shall
24 be treated as tax revenues collected from the motor vehicle dealer in order
25 to designate the distribution base for purposes of section 42-5029.

26 J. To establish entitlement to the deduction described in section
27 42-5061, subsection A, paragraph 44, a public consignment auction dealer as
28 defined in section 28-4301 shall submit the valid certificate prescribed by
29 subsection H of this section to the department and retain a copy for its
30 records.

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

34 L. The department shall prescribe a form for a certificate to be used
35 by a person that is not subject to tax under section 42-5075 when the person
36 is engaged by a contractor that is subject to tax under section 42-5075 for a
37 project that is taxable under section 42-5075. The certificate permits the
38 person purchasing tangible personal property to be incorporated or fabricated
39 by the person into any real property, structure, project, development or
40 improvement to provide documentation to a retailer that the sale of tangible
41 personal property qualifies for the deduction under section 42-5061,
42 subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain
43 the certificate from the department and shall provide a copy to any such
44 person working on the project. The prime contractor shall obtain a new
45 certificate for each project to which this subsection applies. For the
46 purposes of this subsection, the following apply:

1 1. The person that is not subject to tax under section 42-5075 may use
2 the certificate issued pursuant to this subsection only with respect to
3 tangible personal property that will be incorporated into a project for which
4 the gross receipts are subject to tax under section 42-5075.

5 2. The department shall issue the certificate to the prime contractor
6 on receiving sufficient documentation to establish that the prime contractor
7 meets the requirements of this subsection.

8 3. If any person uses the certificate provided under this subsection
9 to purchase tangible personal property to be used in a project that is not
10 subject to tax under section 42-5075, the person is liable in an amount equal
11 to any tax, penalty and interest that the seller would have been required to
12 pay under this article if the seller had not complied with subsection A of
13 this section. Payment of the amount under this section exempts the person
14 from liability for any tax imposed under article 4 of this chapter. The
15 amount shall be sourced under section 42-5040, subsection A, paragraph 2.

16 M. Notwithstanding any other law, compliance with subsection L of this
17 section by a person that is not subject to tax under section 42-5075 entitles
18 the person to the exemption allowed by section 465, subsection (k) of the
19 model city tax code when purchasing tangible personal property to be
20 incorporated or fabricated by the person into any real property, structure,
21 project, development or improvement.

22 N. THE REQUIREMENTS OF SUBSECTIONS A AND B OF THIS SECTION DO NOT
23 APPLY TO OWNERS, PROPRIETORS OR TENANTS OF AGRICULTURAL LANDS OR FARMS WHO
24 SELL LIVESTOCK OR POULTRY FEED THAT IS GROWN OR RAISED ON THEIR LANDS TO ANY
25 OF THE FOLLOWING:

26 1. PERSONS WHO FEED THEIR OWN LIVESTOCK OR POULTRY.

27 2. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF PRODUCING LIVESTOCK OR
28 POULTRY COMMERCIALY.

29 3. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF FEEDING LIVESTOCK OR
30 POULTRY COMMERCIALY OR WHO BOARD LIVESTOCK NONCOMMERCIALY.

31 Sec. 4. Section 42-5022, Arizona Revised Statutes, is amended to read:
32 42-5022. Burden of proving sale not at retail

33 The burden of proving that a sale of tangible personal property was not
34 a sale at retail shall be ~~upon~~ ON the person who made ~~it~~ THE SALE, unless
35 EITHER:

36 1. ~~Such~~ THE person has taken from the purchaser a certificate signed
37 by and bearing the name and address of the purchaser that the property was
38 purchased for resale in the ordinary course of business and that he has a
39 valid license, with the number thereof, to sell the kind of property
40 purchased.

41 2. THE PERSON IS EXEMPT FROM THE REQUIREMENT OF A CERTIFICATE PURSUANT
42 TO SECTION 42-5009, SUBSECTION N.

43 Sec. 5. Section 42-5061, Arizona Revised Statutes, is amended to read:
44 42-5061. Retail classification; definitions

45 A. The retail classification is comprised of the business of selling
46 tangible personal property at retail. The tax base for the retail

1 classification is the gross proceeds of sales or gross income derived from
2 the business. The tax imposed on the retail classification does not apply to
3 the gross proceeds of sales or gross income from:

- 4 1. Professional or personal service occupations or businesses that
5 involve sales or transfers of tangible personal property only as
6 inconsequential elements.
- 7 2. Services rendered in addition to selling tangible personal property
8 at retail.
- 9 3. Sales of warranty or service contracts. The storage, use or
10 consumption of tangible personal property provided under the conditions of
11 such contracts is subject to tax under section 42-5156.
- 12 4. Sales of tangible personal property by any nonprofit organization
13 organized and operated exclusively for charitable purposes and recognized by
14 the United States internal revenue service under section 501(c)(3) of the
15 internal revenue code.
- 16 5. Sales to persons engaged in business classified under the
17 restaurant classification of articles used by human beings for food, drink or
18 condiment, whether simple, mixed or compounded.
- 19 6. Business activity that is properly included in any other business
20 classification that is taxable under this article.
- 21 7. The sale of stocks and bonds.
- 22 8. Drugs and medical oxygen, including delivery hose, mask or tent,
23 regulator and tank, on the prescription of a member of the medical, dental or
24 veterinarian profession who is licensed by law to administer such substances.
- 25 9. Prosthetic appliances as defined in section 23-501 **AND AS**
26 prescribed or recommended by a health professional who is licensed pursuant
27 to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 28 10. Insulin, insulin syringes and glucose test strips.
- 29 11. Prescription eyeglasses or contact lenses.
- 30 12. Hearing aids as defined in section 36-1901.
- 31 13. Durable medical equipment that has a centers for medicare and
32 medicaid services common procedure code, is designated reimbursable by
33 medicare, is prescribed by a person who is licensed under title 32, chapter
34 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
35 customarily used to serve a medical purpose, is generally not useful to a
36 person in the absence of illness or injury and is appropriate for use in the
37 home.
- 38 14. Sales of motor vehicles to nonresidents of this state for use
39 outside this state if the motor vehicle dealer ships or delivers the motor
40 vehicle to a destination out of this state.
- 41 15. Food, as provided in and subject to the conditions of article 3 of
42 this chapter and section 42-5074.
- 43 16. Items purchased with United States department of agriculture food
44 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
45 958) or food instruments issued under section 17 of the child nutrition act

1 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
2 section 1786).

3 17. Textbooks by any bookstore that are required by any state
4 university or community college.

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

9 19. Articles of food, drink or condiment and accessory tangible
10 personal property to a school district or charter school if such articles and
11 accessory tangible personal property are to be prepared and served to persons
12 for consumption on the premises of a public school within the district or on
13 the premises of the charter school during school hours.

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

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

23 (a) "Cash equivalents" means items or intangibles, whether or not
24 negotiable, that are sold to one or more persons, through which a value
25 denominated in money is purchased in advance and may be redeemed in full or
26 in part for tangible personal property, intangibles or services. Cash
27 equivalents include gift cards, stored value cards, gift certificates,
28 vouchers, traveler's checks, money orders or other instruments, orders or
29 electronic mechanisms, such as an electronic code, personal identification
30 number or digital payment mechanism, or any other prepaid intangible right to
31 acquire tangible personal property, intangibles or services in the future,
32 whether from the seller of the cash equivalent or from another person. Cash
33 equivalents do not include either of the following:

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

36 (ii) Prepaid calling cards or prepaid authorization numbers for
37 telecommunications services made taxable by subsection P of this section.

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

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

45 22. Motor vehicle fuel and use fuel that are subject to a tax imposed
46 under title 28, chapter 16, article 1, sales of use fuel to a holder of a

1 valid single trip use fuel tax permit issued under section 28-5739, sales of
2 aviation fuel that are subject to the tax imposed under section 28-8344 and
3 sales of jet fuel that are subject to the tax imposed under article 8 of this
4 chapter.

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

9 24. Tangible personal property sold in interstate or foreign commerce
10 if prohibited from being so taxed by the constitution of the United States or
11 the constitution of this state.

12 25. Tangible personal property sold to:

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

14 (b) A qualifying health care organization as defined in section
15 42-5001 if the tangible personal property is used by the organization solely
16 to provide health and medical related educational and charitable services.

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

22 (d) A qualifying community health center as defined in section
23 42-5001.

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

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

35 (g) A qualifying health sciences educational institution as defined in
36 section 42-5001.

37 (h) Any person representing or working on behalf of another person
38 described in subdivisions (a) through (g) of this paragraph if the tangible
39 personal property is incorporated or fabricated into a project described in
40 section 42-5075, subsection 0.

41 26. Magazines or other periodicals or other publications by this state
42 to encourage tourist travel.

43 27. Tangible personal property sold to:

44 (a) A person that is subject to tax under this article by reason of
45 being engaged in business classified under section 42-5075 or to a
46 subcontractor working under the control of a person engaged in business

1 classified under section 42-5075, if the property so sold is any of the
2 following:

3 (i) Incorporated or fabricated by the person into any real property,
4 structure, project, development or improvement as part of the business.

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

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

9 (b) A person that is not subject to tax under section 42-5075 and that
10 has been provided a copy of a certificate under section 42-5009, subsection
11 L, if the property so sold is incorporated or fabricated by the person into
12 the real property, structure, project, development or improvement described
13 in the certificate.

14 28. The sale of a motor vehicle to:

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

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

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

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

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

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

45 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
46 propagative material to persons who use those items to commercially produce

1 agricultural, horticultural, viticultural or floricultural crops in this
2 state.

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

8 35. Sales of natural gas or liquefied petroleum gas used to propel a
9 motor vehicle.

10 36. Paper machine clothing, such as forming fabrics and dryer felts,
11 sold to a paper manufacturer and directly used or consumed in paper
12 manufacturing.

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

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

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

43 (a) "Personal property liquidation transaction" means a sale of
44 personal property made by a personal property liquidator acting solely on
45 behalf of the owner of the personal property sold at the dwelling of the
46 owner or on the death of any owner, on behalf of the surviving spouse, if

1 any, any devisee or heir or the personal representative of the estate of the
2 deceased, if one has been appointed.

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

5 40. Sales of food, drink and condiment for consumption within the
6 premises of any prison, jail or other institution under the jurisdiction of
7 the state department of corrections, the department of public safety, the
8 department of juvenile corrections or a county sheriff.

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

13 42. SALES OF:

14 (a) LIVESTOCK AND POULTRY TO PERSONS ENGAGING IN THE BUSINESSES OF
15 FARMING, RANCHING OR PRODUCING LIVESTOCK OR POULTRY.

16 (b) Livestock and poultry feed, salts, vitamins and other additives
17 for livestock or poultry consumption that are sold to persons ~~who are~~
18 ~~engaged~~ FOR USE OR CONSUMPTION BY THEIR OWN LIVESTOCK OR POULTRY, FOR USE OR
19 CONSUMPTION in THE BUSINESSES OF FARMING, RANCHING AND producing OR FEEDING
20 livestock, poultry, or livestock or poultry products or ~~who are engaged~~
21 ~~in feeding livestock or poultry commercially~~ FOR USE OR CONSUMPTION IN
22 NONCOMMERCIAL BOARDING OF LIVESTOCK. For the purposes of this paragraph,
23 "poultry" includes ratites.

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

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

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

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

43 47. Sales of materials that are purchased by or for publicly funded
44 libraries including school district libraries, charter school libraries,
45 community college libraries, state university libraries or federal, state,
46 county or municipal libraries for use by the public as follows:

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

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

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

11 49. Sales of alternative fuel vehicles if the vehicle was manufactured
12 as a diesel fuel vehicle and converted to operate on alternative fuel and
13 equipment that is installed in a conventional diesel fuel motor vehicle to
14 convert the vehicle to operate on an alternative fuel, as defined in section
15 1-215.

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

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

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

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

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

33 (b) "Curriculum design or enhancement" means planning, implementing or
34 reporting on courses of study, lessons, assignments or other learning
35 activities.

36 54. Sales of motor vehicle fuel and use fuel to a qualified business
37 under section 41-1516 for off-road use in harvesting, processing or
38 transporting qualifying forest products removed from qualifying projects as
39 defined in section 41-1516.

40 55. Sales of repair parts installed in equipment used directly by a
41 qualified business under section 41-1516 in harvesting, processing or
42 transporting qualifying forest products removed from qualifying projects as
43 defined in section 41-1516.

44 56. Sales or other transfers of renewable energy credits or any other
45 unit created to track energy derived from renewable energy resources. For
46 the purposes of this paragraph, "renewable energy credit" means a unit

1 created administratively by the corporation commission or governing body of a
2 public power utility to track kilowatt hours of electricity derived from a
3 renewable energy resource or the kilowatt hour equivalent of conventional
4 energy resources displaced by distributed renewable energy resources.

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

16 58. Orthodontic devices dispensed by a dental professional who is
17 licensed under title 32, chapter 11 to a patient as part of the practice of
18 dentistry.

19 59. Sales of tangible personal property incorporated or fabricated
20 into a project described in section 42-5075, subsection 0, that is located
21 within the exterior boundaries of an Indian reservation for which the owner,
22 as defined in section 42-5075, of the project is an Indian tribe or an
23 affiliated Indian. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

33 (b) Any foreign government.

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

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

45 9. Railroad rolling stock, rails, ties and signal control equipment
46 used 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 and equipment that
20 have 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 used directly in the feeding of poultry,
29 the environmental control of housing for poultry, the movement of eggs within
30 a production and packaging facility or the sorting or cooling of eggs. This
31 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 sold to a person engaged in the
43 commercial production of livestock, livestock products or agricultural,
44 horticultural, viticultural or floricultural crops or products in this state,
45 including a person representing or working on behalf of such a person in a
46 manner described in section 42-5075, subsection 0, if the machinery and

1 equipment are used directly and primarily to prevent, monitor, control or
2 reduce air, water or land pollution.

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

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

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

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

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

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

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

29 2. Janitorial equipment and hand tools.

30 3. Office equipment, furniture and supplies.

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

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

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

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

41 8. Machinery and equipment or other tangible personal property used by
42 a contractor in the performance of a contract.

43 D. In addition to the deductions from the tax base prescribed by
44 subsection A of this section, there shall be deducted from the tax base the
45 gross proceeds of sales or gross income derived from sales of machinery,
46 equipment, materials and other tangible personal property used directly and

1 predominantly to construct a qualified environmental technology
2 manufacturing, producing or processing facility as described in section
3 41-1514.02. This subsection applies for ten full consecutive calendar or
4 fiscal years after the start of initial construction.

5 E. In computing the tax base, gross proceeds of sales or gross income
6 from retail sales of heavy trucks and trailers does not include any amount
7 attributable to federal excise taxes imposed by 26 United States Code section
8 4051.

9 F. If a person is engaged in an occupation or business to which
10 subsection A of this section applies, the person's books shall be kept so as
11 to show separately the gross proceeds of sales of tangible personal property
12 and the gross income from sales of services, and if not so kept the tax shall
13 be imposed on the total of the person's gross proceeds of sales of tangible
14 personal property and gross income from services.

15 G. If a person is engaged in the business of selling tangible personal
16 property at both wholesale and retail, the tax under this section applies
17 only to the gross proceeds of the sales made other than at wholesale if the
18 person's books are kept so as to show separately the gross proceeds of sales
19 of each class, and if the books are not so kept, the tax under this section
20 applies to the gross proceeds of every sale so made.

21 H. A person who engages in manufacturing, baling, crating, boxing,
22 barreling, canning, bottling, sacking, preserving, processing or otherwise
23 preparing for sale or commercial use any livestock, agricultural or
24 horticultural product or any other product, article, substance or commodity
25 and who sells the product of such business at retail in this state is deemed,
26 as to such sales, to be engaged in business classified under the retail
27 classification. This subsection does not apply to:

28 1. AGRICULTURAL PRODUCERS WHO ARE OWNERS, PROPRIETORS OR TENANTS OF
29 AGRICULTURAL LANDS, ORCHARDS, FARMS OR GARDENS WHERE AGRICULTURAL PRODUCTS
30 ARE GROWN, RAISED OR PREPARED FOR MARKET AND WHO ARE MARKETING THEIR OWN
31 AGRICULTURAL PRODUCTS.

32 2. Businesses classified under the:

33 ~~1-~~ (a) Transporting classification.

34 ~~2-~~ (b) Utilities classification.

35 ~~3-~~ (c) Telecommunications classification.

36 ~~4-~~ (d) Pipeline classification.

37 ~~5-~~ (e) Private car line classification.

38 ~~6-~~ (f) Publication classification.

39 ~~7-~~ (g) Job printing classification.

40 ~~8-~~ (h) Prime contracting classification.

41 ~~9-~~ (i) Restaurant classification.

42 I. The gross proceeds of sales or gross income derived from the
43 following shall be deducted from the tax base for the retail classification:

44 1. Sales made directly to the United States government or its
45 departments or agencies by a manufacturer, modifier, assembler or repairer.

1 2. Sales made directly to a manufacturer, modifier, assembler or
2 repairer if such sales are of any ingredient or component part of products
3 sold directly to the United States government or its departments or agencies
4 by the manufacturer, modifier, assembler or repairer.

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

11 4. Sales of overhead materials or other tangible personal property to
12 a manufacturer, modifier, assembler or repairer if the gross proceeds of
13 sales or gross income derived from the property by the manufacturer,
14 modifier, assembler or repairer will be exempt under paragraph 3 of this
15 subsection.

16 J. There shall be deducted from the tax base fifty percent of the
17 gross proceeds or gross income from any sale of tangible personal property
18 made directly to the United States government or its departments or agencies
19 that is not deducted under subsection I of this section.

20 K. The department shall require every person claiming a deduction
21 provided by subsection I or J of this section to file on forms prescribed by
22 the department at such times as the department directs a sworn statement
23 disclosing the name of the purchaser and the exact amount of sales on which
24 the exclusion or deduction is claimed.

25 L. In computing the tax base, gross proceeds of sales or gross income
26 does not include:

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

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

30 M. There shall be deducted from the tax base the amount received from
31 sales of solar energy devices. The retailer shall register with the
32 department as a solar energy retailer. By registering, the retailer
33 acknowledges that it will make its books and records relating to sales of
34 solar energy devices available to the department for examination.

35 N. In computing the tax base in the case of the sale or transfer of
36 wireless telecommunications equipment as an inducement to a customer to enter
37 into or continue a contract for telecommunications services that are taxable
38 under section 42-5064, gross proceeds of sales or gross income does not
39 include any sales commissions or other compensation received by the retailer
40 as a result of the customer entering into or continuing a contract for the
41 telecommunications services.

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

1 P. Retail sales of prepaid calling cards or prepaid authorization
2 numbers for telecommunications services, including sales of reauthorization
3 of a prepaid card or authorization number, are subject to tax under this
4 section.

5 Q. For the purposes of this section, the diversion of gas from a
6 pipeline by a person engaged in the business of:

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

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

13 R. For the purposes of this section, the transfer of title or
14 possession of coal from an owner or operator of a power plant to a person in
15 the business of refining coal is not a sale of coal if both of the following
16 apply:

17 1. The transfer of title or possession of the coal is for the purpose
18 of refining the coal.

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

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

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

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

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

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

16 V. For the purposes of this section:

17 1. "Aircraft" includes:

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

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

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

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

32 W. For the purposes of subsection I of this section:

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

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

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

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

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

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

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

14 Sec. 6. Section 42-5159, Arizona Revised Statutes, is amended to read:
15 42-5159. Exemptions

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

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

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

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

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

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

43 6. Tangible personal property brought into this state by an individual
44 who was a nonresident at the time the property was purchased for storage, use
45 or consumption by the individual if the first actual use or consumption of

1 the property was outside this state, unless the property is used in
2 conducting a business in this state.

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

9 8. PURCHASES OF:

10 (a) LIVESTOCK AND POULTRY TO PERSONS ENGAGING IN THE BUSINESSES OF
11 FARMING, RANCHING OR PRODUCING LIVESTOCK OR POULTRY.

12 (b) Livestock, ~~AND~~ poultry FEED, supplies, ~~feed~~, salts, vitamins and
13 other additives SOLD TO PERSONS for use or consumption in the businesses of
14 farming, ranching and PRODUCING OR feeding livestock or poultry, ~~not~~
15 ~~including fertilizers, herbicides and insecticides~~ OR FOR USE OR CONSUMPTION
16 IN NONCOMMERCIAL BOARDING OF LIVESTOCK. For the purposes of this paragraph,
17 "poultry" includes ratites.

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

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

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

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

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

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

35 13. Tangible personal property purchased by:

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

39 (b) A hospital operated by this state or a political subdivision of
40 this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (m) For taxable periods beginning from and after June 30, 2001, a
45 nonprofit charitable organization that has qualified under section 501(c)(3)
46 of the internal revenue code and that provides residential apartment housing

1 for low income persons over sixty-two years of age in a facility that
2 qualifies for a federal housing subsidy, if the tangible personal property is
3 used by the organization solely to provide residential apartment housing for
4 low income persons over sixty-two years of age in a facility that qualifies
5 for a federal housing subsidy.

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

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

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

17 15. Tangible personal property sold by:

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

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

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

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

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

38 18. Prescription eyeglasses and contact lenses.

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

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

41 21. Durable medical equipment that has a centers for medicare and
42 medicaid services common procedure code, is designated reimbursable by
43 medicare, is prescribed by a person who is licensed under title 32, chapter
44 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
45 used to serve a medical purpose, is generally not useful to a person in the
46 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

19 27. Lottery tickets or shares purchased pursuant to title 5, chapter
20 5.1, article 1.

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

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

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

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

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

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

43 (b) Public educational institutions.

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

1 33. Natural gas or liquefied petroleum gas used to propel a motor
2 vehicle.

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

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

21 36. Food, drink and condiment purchased for consumption within the
22 premises of any prison, jail or other institution under the jurisdiction of
23 the state department of corrections, the department of public safety, the
24 department of juvenile corrections or a county sheriff.

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

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

32 39. Overhead materials or other tangible personal property that is
33 used in performing a contract between the United States government and a
34 manufacturer, modifier, assembler or repairer, including property used in
35 performing a subcontract with a government contractor who is a manufacturer,
36 modifier, assembler or repairer, to which title passes to the government
37 under the terms of the contract or subcontract. For the purposes of this
38 paragraph:

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

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

10 40. Through December 31, 1994, tangible personal property sold
11 pursuant to a personal property liquidation transaction, as defined in
12 section 42-5061. From and after December 31, 1994, tangible personal
13 property sold pursuant to a personal property liquidation transaction, as
14 defined in section 42-5061, if the gross proceeds of the sales were included
15 in the measure of the tax imposed by article 1 of this chapter or if the
16 personal property liquidation was a casual activity or transaction.

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

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

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

31 44. Alternative fuel vehicles if the vehicle was manufactured as a
32 diesel fuel vehicle and converted to operate on alternative fuel and
33 equipment that is installed in a conventional diesel fuel motor vehicle to
34 convert the vehicle to operate on an alternative fuel, as defined in section
35 1-215.

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

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

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

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

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

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

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

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

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

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

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

27 52. Repair parts installed in equipment used directly by a qualified
28 business under section 41-1516 in harvesting, processing or transporting
29 qualifying forest products removed from qualifying projects as defined in
30 section 41-1516.

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

38 54. Computer data center equipment purchased by the owner, operator or
39 qualified colocation tenant of the computer data center or an authorized
40 agent of the owner, operator or qualified colocation tenant during the
41 qualification period for use in a computer data center that is certified by
42 the Arizona commerce authority under section 41-1519. To qualify for this
43 deduction, at the time of purchase, the owner, operator or qualified
44 colocation tenant must present to the retailer its certificate that is issued
45 pursuant to section 41-1519 and that establishes its qualification for the
46 deduction. For the purposes of this paragraph, "computer data center",

1 "computer data center equipment", "qualification period" and "qualified
2 colocation tenant" have the same meanings prescribed in section 41-1519.

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

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

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

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

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

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

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

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

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

38 2. Machinery, or equipment, used directly in the process of extracting
39 ores or minerals from the earth for commercial purposes, including equipment
40 required to prepare the materials for extraction and handling, loading or
41 transporting such extracted material to the surface. "Mining" includes
42 underground, surface and open pit operations for extracting ores and
43 minerals.

44 3. Tangible personal property sold to persons engaged in business
45 classified under the telecommunications classification under section 42-5064,
46 including a person representing or working on behalf of such a person in a

1 manner described in section 42-5075, subsection 0, and consisting of central
2 office switching equipment, switchboards, private branch exchange equipment,
3 microwave radio equipment and carrier equipment including optical fiber,
4 coaxial cable and other transmission media that are components of carrier
5 systems.

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

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

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

17 7. Aircraft, navigational and communication instruments and other
18 accessories and related equipment sold to:

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

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

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

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

34 10. Machinery or equipment used directly to drill for oil or gas or
35 used directly in the process of extracting oil or gas from the earth for
36 commercial purposes.

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

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

45 13. New machinery and equipment consisting of tractors, tractor-drawn
46 implements, self-powered implements, machinery and equipment necessary for

1 extracting milk, and machinery and equipment necessary for cooling milk and
2 livestock, and drip irrigation lines not already exempt under paragraph 6 of
3 this subsection and that are used for commercial production of agricultural,
4 horticultural, viticultural and floricultural crops and products in this
5 state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

44 16. Clean rooms that are used for manufacturing, processing,
45 fabrication or research and development, as defined in paragraph 14 of this
46 subsection, of semiconductor products. For the purposes of this paragraph,

1 "clean room" means all property that comprises or creates an environment
2 where humidity, temperature, particulate matter and contamination are
3 precisely controlled within specified parameters, without regard to whether
4 the property is actually contained within that environment or whether any of
5 the property is affixed to or incorporated into real property. Clean room:

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

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

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

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

28 19. Machinery and equipment that are used in the commercial production
29 of livestock, livestock products or agricultural, horticultural, viticultural
30 or floricultural crops or products in this state and that are used directly
31 and primarily to prevent, monitor, control or reduce air, water or land
32 pollution.

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

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

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

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

1 21. Qualifying equipment that is purchased from and after June 30,
2 2004 through June 30, 2024 by a qualified business under section 41-1516 for
3 harvesting or processing qualifying forest products removed from qualifying
4 projects as defined in section 41-1516. To qualify for this exemption, the
5 qualified business must obtain and present its certification from the Arizona
6 commerce authority at the time of purchase.

7 C. The exemptions provided by subsection B of this section do not
8 include:

9 1. Expendable materials. For the purposes of this paragraph,
10 expendable materials do not include any of the categories of tangible
11 personal property specified in subsection B of this section regardless of the
12 cost or useful life of that property.

13 2. Janitorial equipment and hand tools.

14 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

34 2. Revenues received from providing electricity, including ancillary
35 services, electric distribution services, electric generation services,
36 electric transmission services and other services related to providing
37 electricity with respect to which the transaction privilege tax imposed under
38 section 42-5063 has been paid.

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

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

44 1. Fees charged by a municipally owned utility to persons constructing
45 residential, commercial or industrial developments or connecting residential,
46 commercial or industrial developments to a municipal utility system or

1 systems if the fees are segregated and used only for capital expansion,
2 system enlargement or debt service of the utility system or systems.

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

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

10 1. A business that is principally engaged in manufacturing or smelting
11 operations and that uses at least fifty-one percent of the electricity or
12 natural gas in the manufacturing or smelting operations. This paragraph does
13 not apply to gas transportation services. For the purposes of this
14 paragraph:

15 (a) "Gas transportation services" means the services of transporting
16 natural gas to a natural gas customer or to a natural gas distribution
17 facility if the natural gas was purchased from a supplier other than the
18 utility.

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

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

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

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

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

33 1. "Aircraft" includes:

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

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

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

43 I. For the purposes of subsection D of this section, "ancillary
44 services", "electric distribution service", "electric generation service",
45 "electric transmission service" and "other services" have the same meanings
46 prescribed in section 42-5063.

APPROVED BY THE GOVERNOR MAY 19, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 19, 2016.