PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1245

(Reference to printed bill)

1 Strike everything after the enactment clause insert:
2 "Section 1. Section 41-1519, Arizona Revised Statutes, is amended to
3 read:
4 41-1519. Computer data center tax relief; definitions
5 A. From and after August 31, 2013, tax relief is allowed for the owner
6 or operator of a computer data center certified pursuant to this section.
7 The same tax relief is allowed for qualified colocation tenants of the
8 computer data center. All tax relief applies during the qualification
9 period.
10 B. To qualify for the tax relief, the owner or operator shall submit
11 to the authority AN APPLICATION ON a form prescribed by the authority that
12 includes all of the following:
13 1. The owner's or operator's name, address and telephone number.
14 2. The address of the site where the facility is or will be located, including, if applicable, information sufficient to identify the specific
15 portion or portions of the facility composing the computer data center.
16 3. If the computer data center is to qualify under subsection E, paragraph 1 of this section, both of the following:
17     (a) The anticipated investment associated with the computer data
18     center for which the tax relief is being sought and whether the computer data
19     center is anticipated to qualify as a sustainable redevelopment project.
20     (b) An affirmation, signed by an authorized executive representing the
21 owner or operator, that the computer data center is expected to satisfy one
22 of the certification requirements prescribed in subsection E, paragraph 1 of
23 this section and that the computer data center will not violate subsection L
24 of this section.
25 4. If the computer data center is to qualify under subsection E, paragraph 2 of this section, an affirmation, signed by an authorized
26 executive representing the owner or operator, that the computer data center
27 has satisfied the certification requirements prescribed in subsection E, paragraph 2 of this section, whether the computer data center qualifies as a
28 sustainable redevelopment project and that the computer data center will not
29 violate subsection L of this section.
C. Within sixty days after receiving a complete and correct form APPLICATION, the authority shall review the form APPLICATION and either issue a written certification that the computer data center qualifies for the tax relief or provide written reasons for its denial. Failure to approve or deny the form APPLICATION within sixty days after the date the owner or operator submits the form APPLICATION to the authority constitutes certification of the computer data center, and the authority shall issue written certification to the owner or operator within fourteen days. THE EFFECTIVE DATE OF THE CERTIFICATION IS THE DATE ON WHICH THE APPLICATION WAS SUBMITTED TO THE AUTHORITY. The authority shall send a copy of the certification, INCLUDING ITS EFFECTIVE DATE, to the department of revenue. The authority shall not certify any new computer data center after December 31, 2023.

D. An owner or operator may separate a facility into one or more computer data centers, which may each receive a separate certification if each computer data center individually meets the requirements prescribed in subsection E of this section. A portion of a facility or an article of computer data CENTER equipment shall not be deemed to be a part of more than one computer data center. The owner or operator may aggregate one or more of the parcels, buildings, condominiums or modular data centers in a facility into a single computer data center if, in the aggregate, the parcels, buildings, condominiums and modular data centers meet the requirements of subsection E of this section.

E. A computer data center must meet one of the following requirements after taking into account the combined investments made by the owner, operator or qualified colocation tenants of a computer data center:
   1. On or before the fifth anniversary of certification, the computer data center creates a minimum investment of at least:
      (a) Twenty-five million dollars of new investment, including costs of land, buildings, IMPROVEMENTS, modular data centers and computer data center equipment, if the computer data center is located in a county with a population of eight hundred thousand or less persons.
      (b) Fifty million dollars of new investment, including costs of land, buildings, IMPROVEMENTS, modular data centers and computer data center equipment, if the computer data center is located in a county with a population of more than eight hundred thousand persons.
   2. During the seventy-two months immediately before September 1, 2013, the computer data center created an investment of at least two hundred fifty million dollars, including costs of land, buildings, IMPROVEMENTS, modular data centers and computer data center equipment.

F. On or before the fifth anniversary of the certification of a new computer data center, the owner or operator shall notify the authority in writing that the computer data center for which the certification is requested has or has not satisfied the requirements prescribed in subsection
E, paragraph 1 of this section. Until a new computer data center satisfies
the requirements prescribed in subsection E, paragraph 1 of this section, the
owner or operator shall keep detailed records of all investment created by
the new computer data center, including costs of land, buildings, IMPROVEMENTS, modular data centers and computer data center equipment, and
all tax relief directly received by the owner or operator. This subsection
and subsection G of this section do DOES not apply to an existing computer
data center.

G. If the department of revenue determines that the requirements of
subsection E, paragraph 1 of this section have not been satisfied or that
there has been a violation of subsection L of this section, the department
may revoke the certification of a new computer data center and the owner or
operator may appeal the revocation pursuant to title 42, chapter 1,
article 6. If certification is revoked pursuant to this subsection, the
qualification period of any owner, operator or qualified colocation tenant of
the new computer data center expires and the department may recapture from
the owner or operator all or part of the tax relief provided directly to the
owner or operator. The department may give special consideration or allow a
temporary exemption from recapture of the tax relief if there is
extraordinary hardship due to factors beyond the control of the owner or
operator. The department may require the owner or operator to file
appropriate amended tax returns to reflect any recapture of the tax relief.

G. IF THE AUTHORITY DETERMINES THAT:

1. A NEW COMPUTER DATA CENTER THAT IS QUALIFIED UNDER SUBSECTION E,
   PARAGRAPH 1 OF THIS SECTION HAS NOT COMPLIED WITH THE REQUIREMENTS AND TIME
   PERIODS PRESCRIBED BY THAT PARAGRAPH, THE AUTHORITY SHALL REVOKE THE COMPUTER
   DATA CENTER'S CERTIFICATION. IF THE CERTIFICATION IS REVOKED, THE
   QUALIFICATION PERIOD OF ANY OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT OF
   THE COMPUTER DATA CENTER AUTOMATICALLY EXPIRES, AND THE DEPARTMENT OF REVENUE
   MAY RECAPTURE ALL OR PART OF THE TAX RELIEF PROVIDED DIRECTLY TO THE OWNERS,
   OPERATORS AND CONTRIBUTING QUALIFIED COLOCATION TENANTS OF THE COMPUTER DATA
   CENTER. THE AUTHORITY MAY GIVE SPECIAL CONSIDERATION OR ALLOW TEMPORARY
   EXEMPTION FROM RECAPTURE OF TAX RELIEF IN THE CASE OF EXTRAORDINARY HARDSHIP
   DUE TO FACTORS BEYOND THE CONTROL OF THE OWNERS, OPERATORS AND CONTRIBUTING
   QUALIFIED COLOCATION TENANTS. NONCONTRIBUTING QUALIFIED COLOCATION TENANTS
   ARE NOT SUBJECT TO RECAPTURE OF ANY PART OF TAX RELIEF RECEIVED. THIS
   PARAGRAPH DOES NOT APPLY TO AN EXISTING COMPUTER DATA CENTER. AN OWNER OR
   OPERATOR MAY APPEAL ANY REVOCATION UNDER THIS PARAGRAPH PURSUANT TO CHAPTER
   6, ARTICLE 10 OF THIS TITLE.

2. THERE HAS BEEN A VIOLATION OF SUBSECTION L OF THIS SECTION WITH
   RESPECT TO A COMPUTER DATA CENTER:
   (a) THE AUTHORITY SHALL REVOKE THE COMPUTER DATA CENTER'S
   CERTIFICATION AND, IF REVOKED, THE QUALIFICATION PERIOD OF ANY OWNER,
OPERATOR OR QUALIFIED COLOCATION TENANT OF THE COMPUTER DATA CENTER AUTOMATICALLY EXPIRES.

(b) THE DEPARTMENT OF REVENUE MAY NOT RECAPTURE ANY TAX RELIEF PROVIDED DIRECTLY TO THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT BEFORE THE DATE OF REVOCATION.

(c) THE OWNER OR OPERATOR MAY APPEAL THE REVOCATION UNDER THIS PARAGRAPH PURSUANT TO CHAPTER 6, ARTICLE 10 OF THIS TITLE.

H. The authority and the department of revenue shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The authority and the department shall collaborate in adopting rules as necessary to avoid duplication and inconsistencies while accomplishing the purposes of this section. THE AUTHORITY HAS EXCLUSIVE AUTHORITY OVER ISSUES RELATED TO CERTIFICATION, INCLUDING DETERMINATIONS AS TO WHETHER A COMPUTER DATA CENTER HAS SATISFIED THE REQUIREMENTS OF SUBSECTION E OF THIS SECTION, CONSTITUTES A QUALIFIED SUSTAINABLE REDEVELOPMENT PROJECT OR HAS COMMITTED A VIOLATION OF THIS SECTION. THE DEPARTMENT OF REVENUE HAS EXCLUSIVE AUTHORITY OVER THE ADMINISTRATION OF TAX RELIEF.

I. Proprietary business information contained in the form APPLICATION described in subsection B of this section, and the written notice described in subsection F of this section AND THE LIST DESCRIBED IN SUBSECTION J OF THIS SECTION are confidential and shall not be disclosed to the public except that the information shall be transmitted to the department of revenue. The authority or the department may disclose the name of a computer data center that has been certified pursuant to this section.

J. The owner or operator shall provide the authority and the department of revenue with a list of qualified colocation tenants, including the commencement and expiration dates of each qualified colocation tenant's agreement to use or occupy all or part of the computer data center, and shall notify the authority and the department within thirty days after any changes to the list of ANY CHANGES WITHIN THIRTY DAYS. THE FAILURE OF AN OWNER OR OPERATOR TO PROVIDE THE LIST OR NOTIFY THE AUTHORITY AND DEPARTMENT OF CHANGES WITHIN THE REQUIRED TIME ARE NOT GROUNDS FOR TERMINATION OF THE COMPUTER DATA CENTER'S CERTIFICATION, BUT MAY PRECLUDE UNLISTED COLOCATION TENANTS FROM RECEIVING TAX RELIEF UNTIL THE LIST IS PROVIDED OR UPDATED.

K. Except as provided in subsection G of this section, on certification, the IF A computer data center remains certified regardless HAS BEEN CERTIFIED, THE CERTIFICATION REMAINS IN EFFECT, EVEN IN THE EVENT of a future transfer, sale or disposition, directly or indirectly, of the computer data center.

L. This section does not allow a computer data center to do either of the following:

1. Generate electricity for resale purposes.
2. Generate, provide or sell electricity outside of the computer data center.

M. The owner or operator may include single entities or BE A SINGLE INDIVIDUAL OR ENTITY OR MULTIPLE affiliated entities.

N. For the purposes of this section:

1. "Computer data center" means all or part of a facility that may be composed of multiple businesses or owners, that is or will be predominantly used to house working servers and that may have uninterruptible energy supply or generator backup power, or both, cooling systems, towers and other temperature control infrastructure.

2. "Computer data center equipment" means equipment that is used to outfit, operate or benefit a computer data center and component parts, installations, refreshments, replacements and upgrades to this equipment, REGARDLESS OF whether any of the property is affixed to or incorporated into real property, including:

   (a) All equipment necessary for the transformation, generation, distribution or management of electricity that is required to operate computer server equipment, including generators, uninterruptible energy supplies, conduit, gaseous fuel piping, cabling, duct banks, switches, switchboards, batteries and testing equipment.

   (b) All equipment necessary to cool and maintain a controlled environment for the operation of the computer server and other components of the computer data center, including mechanical equipment, refrigerant piping, gaseous fuel piping, adiabatic and free cooling systems, cooling towers, water softeners, air handling units, indoor direct exchange units, fans, ducting and filters.

   (c) All water conservation systems, including facilities or mechanisms that are designed to collect, conserve and reuse water.

   (d) All enabling software, computer server equipment, chassis, networking equipment, switches, racks, cabling, trays and conduit.

   (e) All monitoring equipment and security systems.

   (f) Modular data centers and preassembled components of any item described in this paragraph, including components used in the manufacturing of modular data centers.

   (g) Other tangible personal property that is essential to the operations of a computer data center.

3. “CONTRIBUTING QUALIFIED COLOCATION TENANT” MEANS A QUALIFIED COLOCATION TENANT THAT IS AN OPERATOR OR THAT HAD ITS ANTICIPATED INVESTMENT INCLUDED IN AN APPLICATION FOR CERTIFICATION FOR THE PURPOSES OF SATISFYING SUBSECTION E, PARAGRAPH 1 OF THIS SECTION.

4. “EXISTING BUILDING” MEANS ANY EXISTING VERTICAL BUILDING IMPROVEMENT LOCATED AT A FACILITY USED FOR COMMERCIAL PURPOSES AT THE TIME OF
ITS ACQUISITION BY AN OWNER, BUT NOT INCLUDING SINGLE FAMILY RESIDENTIAL
STRUCTURES, BARN OR OTHER AGRICULTURAL STRUCTURES.

3. "Existing computer data center" means a computer data center
that is certified under subsection E, paragraph 2 of this section.

4. "Facility" means one or more parcels of land in this state and
any structures and personal property contained on the land.

5. "Modular data center" means a portable system of information
technology, climate control, energy supply and energy distribution machinery,
equipment and related tangible personal property contained in an intermodal
freight container or similar structure.

6. "New computer data center" means a computer data center that is
certified under subsection E, paragraph 1 of this section.

7. "Operator" means any individual or entity that operates a computer
data center as an owner or lessor or pursuant to a contract with an owner or
lessor. An owner may be a licensed property management company, a property
lessor or any other individual or entity responsible for the control,
oversight and maintenance of a facility. Operator does not include a
qualified colocation tenant that contracts to use or occupy space within a
computer data center, unless the authority expressly agrees.

7. "Qualification period" means:

(a) With respect to the owner or operator of a computer data center, a
period of time beginning on the EFFECTIVE date of certification of the
computer data center's certification and expiring at the end of the
tenth full calendar year following the calendar year in which the owner or
operator filed the form for certification containing the EFFECTIVE DATE,
except, if a computer data center is a sustainable redevelopment project,
qualification period means a period of time beginning on the EFFECTIVE date
of certification of the computer data center's certification and
expiring at the end of the twentieth full calendar year following the
calendar year in which the owner or operator filed the form for certification
containing the EFFECTIVE DATE.

(b) With respect to the qualified colocation tenant of the owner or
operator of a computer data center certified under this section, a period of
time beginning on the date that the qualified colocation tenant enters into
an agreement concerning the use or occupancy of the computer data center and
expiring at the earlier of the expiration of the term of this agreement
or the tenth full calendar year following the calendar year in which the
qualified colocation tenant enters into this agreement, except,
if a computer data center is a sustainable redevelopment project,
qualification period means a period of time beginning on the date that the
qualified colocation tenant enters into an agreement concerning the use or
occupancy of the computer data center and expiring at the earlier of the
expiration of the term of this agreement or the twentieth full calendar
year following the calendar year in which the tenant enters into this agreement. The qualification period for a qualified colocation tenant may not extend beyond the qualification period for the owner or operator of the computer data center.

8. "Qualified colocation tenant" means an entity that contracts with the owner or operator of a computer data center that is certified pursuant to this section to use or occupy all or part of the computer data center for at least five hundred kilowatts per month for a period of two or more years.

12. "SOFTWARE" MEANS ANY SOFTWARE PURCHASED, LEASED OR LICENSED TO SUPPORT ANY ASPECT OF THE COMPUTER DATA CENTER OR ITS COMPUTER DATA CENTER EQUIPMENT, INCLUDING SOFTWARE AFFECTING OPERATIONS, NETWORKING, OPERATING SYSTEMS, DATA STORAGE AND MANIPULATION, CLOUD COMPUTING, AUTOMATION, VIRTUALIZATION, MANAGEMENT AND SECURITY.

9. "Sustainable redevelopment project" means a computer data center that satisfies the requirements in subsection E of this section and that occupies or will occupy the structural improvements at an existing facility that either:

(a) Was acquired by the owner through purchase or lease after September 1, 2006 and was at least fifty percent vacant for six of the twelve months before the acquisition by purchase or lease of or with respect to the facility.

(b) Attains certification under the energy star or green globes standard, the leadership in energy and environmental design green building rating standard developed by the United States green building council or an equivalent green building standard and was not previously certified under these standards.

For the purposes of subdivisions (a) and (b) of this paragraph, after receiving certification, an owner may substantially demolish all or part of an existing building to the extent reasonably necessary to accommodate future computer data center use and the demolition is not cause for loss of certification as a sustainable redevelopment project. Existing buildings that have been substantially demolished before certification are not eligible to qualify as sustainable redevelopment projects. An owner or operator may increase the size of an existing building within a sustainable redevelopment project in an unlimited manner to the extent the expansion fits within the computer data center boundary described in its application to the authority. Expansion activities do not prevent a facility from maintaining its classification as a sustainable redevelopment project. All construction activities and investments related to demolition and expansion activities described in this paragraph are considered to be part of the sustainable redevelopment project.
10. 14. "Tax relief" means the deduction of the gross proceeds of sale or gross income from the sale of qualified equipment as prescribed by section 42-5061, 42-5159 or 42-6004 that is installed in a computer data center.

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

42-5061. Retail classification; definitions

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

1. Professional or personal service occupations or businesses that involve sales or transfers of tangible personal property only as inconsequential elements.
2. Services rendered in addition to selling tangible personal property at retail.
3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.
4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.
5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.
6. Business activity that is properly included in any other business classification that is taxable under this article.
7. The sale of stocks and bonds.
8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.
9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional who is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
10. Insulin, insulin syringes and glucose test strips.
11. Prescription eyeglasses or contact lenses.
12. Hearing aids as defined in section 36-1901.
13. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a
person in the absence of illness or injury and is appropriate for use in the
home.

14. Sales of motor vehicles to nonresidents of this state for use
outside this state if the motor vehicle dealer ships or delivers the motor
vehicle to a destination out of this state.

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

16. Items purchased with United States department of agriculture food
stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
958) or food instruments issued under section 17 of the child nutrition act
section 1786).

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

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

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

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

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

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

- 9 -
(i) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.
(ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection Q of this section.
(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.
(c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.
22. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel that are subject to the tax imposed under section 28-8344 and sales of jet fuel that are subject to the tax imposed under article 8 of this chapter.
23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.
24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the Constitution of the United States or the constitution of this state.
25. Tangible personal property sold to:
   (a) A qualifying hospital as defined in section 42-5001.
   (b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.
   (c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiples of disabilities from the time of birth to age twenty-one.
   (d) A qualifying community health center as defined in section 42-5001.
   (e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.
   (f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is
used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

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

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

27. Tangible personal property sold to a person that is subject to tax under this article by reason of being engaged in business classified under the prime contracting classification under section 42-5075 or to a subcontractor working under the control of a prime contractor that is subject to tax under article 1 of this chapter, if the property so sold is any of the following:
   
   (a) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.
   
   (b) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

28. The sale of a motor vehicle to:

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

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

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

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

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.
32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization’s net earnings inures to the benefit of any private shareholder or individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47. Sales of materials that are purchased by or for publicly funded
libraries including school district libraries, charter school libraries,
community college libraries, state university libraries or federal, state,
county or municipal libraries for use by the public as follows:
   (a) Printed or photographic materials, beginning August 7, 1985.
   (b) Electronic or digital media materials, beginning July 17, 1994.

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

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

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

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

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

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

54. Application services that are designed to assess or test student
learning or to promote curriculum design or enhancement purchased by or for
any school district, charter school, community college or state university.
For the purposes of this paragraph:
   (a) "Application services" means software applications provided
remotely using hypertext transfer protocol or another network protocol.
(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

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

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

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

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

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

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

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.
2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

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

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

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

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

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:
   (a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.
   (b) Any foreign government.
   (c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.
9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

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

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


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

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

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

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

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

   (a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.
(b) Any satellite television or data transmission facility, if both of
the following conditions are met:

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

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

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

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

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

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

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

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

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

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:
   (a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.
   (b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.
   (c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

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

C. The deductions provided by subsection B of this section do not include sales of:
   1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.
   2. Janitorial equipment and hand tools.
   3. Office equipment, furniture and supplies.
   4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.
   5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.
6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

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

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

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

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

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

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

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

1. Transporting classification.

2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.

J. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:
1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.
2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.
3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.
4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

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

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

M. In computing the tax base, gross proceeds of sales or gross income does not include:
1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.
2. The waste tire disposal fee imposed pursuant to section 44-1302.

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

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

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

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

R. For the purposes of this section, the diversion of gas from a
pipeline by a person engaged in the business of:
   1. Operating a natural or artificial gas pipeline, for the sole
      purpose of fueling compressor equipment to pressurize the pipeline, is not a
      sale of the gas to the operator of the pipeline.
   2. Converting natural gas into liquefied natural gas, for the sole
      purpose of fueling compressor equipment used in the conversion process, is
      not a sale of gas to the operator of the compressor equipment.

S. For the purposes of this section, the transfer of title or
possession of coal from an owner or operator of a power plant to a person in
the business of refining coal is not a sale of coal if both of the following
apply:
   1. The transfer of title or possession of the coal is for the purpose
      of refining the coal.
   2. The title or possession of the coal is transferred back to the
      owner or operator of the power plant after completion of the coal refining
      process. For the purposes of this paragraph, "coal refining process"
      means the application of a coal additive system that aids in the reduction of
      power plant emissions during the combustion of coal and the treatment of flue
gas.

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

U. For the purposes of section 42-5032.01, the department shall
separately account for revenues collected under the retail classification
from businesses selling tangible personal property at retail:
   1. On the premises of a multipurpose facility that is owned, leased or
      operated by the tourism and sports authority pursuant to title 5, chapter 8.
   2. At professional football contests that are held in a stadium
      located on the campus of an institution under the jurisdiction of the Arizona
      board of regents.

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

W. For the purposes of this section:
   1. "Aircraft" includes:
      (a) An airplane flight simulator that is approved by the federal
          aviation administration for use as a phase II or higher flight simulator
      (b) Tangible personal property that is permanently affixed or attached
          as a component part of an aircraft that is owned or operated by a
          certificated or licensed carrier of persons or property.
   2. "Other accessories and related equipment" includes aircraft
      accessories and equipment such as ground service equipment that physically
      contact aircraft at some point during the overall carrier operation.
   3. "Selling at retail" means a sale for any purpose other than for
      resale in the regular course of business in the form of tangible personal
property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

X. For the purposes of subsection J of this section:

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

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

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

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

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

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract. For the purposes of this paragraph, "contractor" has its ordinary and common meaning and does not have the meaning prescribed by section 42-5001.

Sec. 3. Section 42-5159, Arizona Revised Statutes, is amended to read:

42-5159. Exemptions

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

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

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

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

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

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

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

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

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

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

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

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

12. Materials that are purchased by or for publicly funded libraries
including school district libraries, charter school libraries, community
college libraries, state university libraries or federal, state, county or
municipal libraries for use by the public as follows:
(a) Printed or photographic materials, beginning August 7, 1985.
(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:
(a) A hospital organized and operated exclusively for charitable
purposes, no part of the net earnings of which inures to the benefit of any
private shareholder or individual.
(b) A hospital operated by this state or a political subdivision of
this state.
(c) A licensed nursing care institution or a licensed residential care
institution or a residential care facility operated in conjunction with a
licensed nursing care institution or a licensed kidney dialysis center, which
provides medical services, nursing services or health related services and is
not used or held for profit.
(d) A qualifying health care organization, as defined in section
42-5001, if the tangible personal property is used by the organization solely
to provide health and medical related educational and charitable services.
(e) A qualifying health care organization as defined in section
42-5001 if the organization is dedicated to providing educational,
therapeutic, rehabilitative and family medical education training for blind
and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.
(f) A nonprofit charitable organization that has qualified under
section 501(c)(3) of the United States internal revenue code and that engages
in and uses such property exclusively in programs for persons with mental or
physical disabilities if the programs are exclusively for training, job
placement, rehabilitation or testing.
(g) A person that is subject to tax under article 1 of this chapter by
reason of being engaged in business classified under the prime contracting
classification under section 42-5075, or a subcontractor working under the
control of a prime contractor, if the tangible personal property is any of
the following:
(i) Incorporated or fabricated by the contractor into a structure,
project, development or improvement in fulfillment of a contract.
(ii) Used in environmental response or remediation activities under
section 42-5075, subsection B, paragraph 6.
(h) A nonprofit charitable organization that has qualified under
section 501(c)(3) of the internal revenue code if the property is purchased
from the parent or an affiliate organization that is located outside this
state.

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

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

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

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

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

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

15. Tangible personal property sold by:

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

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

(c) A nonprofit organization that is exempt from taxation under
section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
internal revenue code if the organization sponsors or operates a rodeo
featuring primarily farm and ranch animals and no part of the organization's
net earnings inures to the benefit of any private shareholder or individual.
16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

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

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

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

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

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


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

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

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

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

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

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

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

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:
   (a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.
   (b) Public educational institutions.
   (c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

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

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

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

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.
37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

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

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

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

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

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

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

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.
43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

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

45. Gas diverted from a pipeline, by a person engaged in the business of:
   (a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.
   (b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

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

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

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

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

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:
   (a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.
(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:
   (a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.
   (b) Any foreign government, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.
9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.
10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.
11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.
13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:
   (a) "New machinery and equipment" means machinery or equipment that has never been sold at retail except pursuant to leases or rentals that do not total two years or more.
   (b) "Self-powered implements" includes machinery and equipment that are electric-powered.
14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.
15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:
   (a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.
(b) Any satellite television or data transmission facility, if both of
the following conditions are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

5. Motor vehicles required to be licensed by this state, except buses
or other urban mass transit vehicles specifically exempted pursuant to
subsection B, paragraph 11 of this section, without regard to the use of such
motor vehicles.
6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

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

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

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

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

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

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

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

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

G. The tax levied by this article does not apply to the purchase price of electricity or natural gas by a business that is principally engaged in manufacturing or smelting operations and that uses at least fifty-one percent \( \text{PERCENT} \) of the electricity or natural gas in the manufacturing or smelting operations. This subsection does not apply to gas transportation services. For the purposes of this subsection:

1. "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.
2. "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include processing, fabricating, job printing, mining, generating electricity or operating a restaurant.

3. "Principally engaged" means at least fifty-one percent of the business is a manufacturing or smelting operation.

4. "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

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

1. "Aircraft" includes:
   (a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.
   (b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

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

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

Sec. 4. Section 42-6004, Arizona Revised Statutes, is amended to read:

42-6004. Exemption from municipal tax

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

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

2. Interstate telecommunications services, which include that portion of telecommunications services, such as subscriber line service, allocable by federal law to interstate telecommunications service.

3. Sales of warranty or service contracts.

4. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination outside this state.

5. Interest on finance contracts.
6. Dealer documentation fees on the sales of motor vehicles.
7. Sales of food or other items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786) but may impose such a tax on other sales of food. If a city, town or special taxing district exempts sales of food from its tax or imposes a different transaction privilege rate on the gross proceeds of sales or gross income from sales of food and nonfood items, it shall use the definition of food prescribed by rule adopted by the department pursuant to section 42-5106.
8. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.
9. Sales of internet access services to the person's subscribers and customers. For the purposes of this paragraph:
   (a) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.
   (b) "Internet access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.
10. The gross proceeds of sales or gross income retained by the Arizona exposition and state fair board from ride ticket sales at the annual Arizona state fair.
12. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:
   (a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.
   (b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.
   (c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.
(d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.

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

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

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

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

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

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

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

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

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

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

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

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

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

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

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

16. The gross proceeds of sales or gross income derived from a contract
with the owner of real property or the person owning the improvements to the
real property for the maintenance, repair, replacement or alteration of
existing property is not subject to tax under this section if the contract
does not include modification activities, except as specified in this
paragraph. The gross proceeds of sales or gross income derived from a
deminimis amount of modification activity that is essential to the
completion of the maintenance, repair, replacement or alteration contract
does not subject the entire contract to tax under this section. For the
purposes of this paragraph:

(a) Each contract or project is independent of another contract.

(b) "Modification" means construction, alteration, addition, subtraction, improvement, movement, wreckage or demolition.

17. Monitoring services relating to an alarm system as defined in
section 32-101.

18. Tangible personal property, job printing or publications sold to or
purchased by, or tangible personal property leased, rented or licensed for
use to or by, a qualifying health sciences educational institution as defined
in section 42-5001.

19. The transfer of title or possession of coal back and forth between
an owner or operator of a power plant and a person who is responsible for
refining coal if both of the following apply:

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

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

20. The gross proceeds of sales or gross income from sales of low or reduced cost articles of food or drink to eligible elderly OR PERSONS WITH A DISABILITY by a business subject to tax under section 42-5074 that contracts with the department of economic security and that is approved by the food and nutrition service of the United States department of agriculture pursuant to the supplemental nutrition assistance program established by the food and nutrition act of 2008 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the purchases are made with the benefits issued pursuant to the supplemental nutrition assistance program.

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

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

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

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

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

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

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

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

   (a) The attributable amount shall not exceed the value of the development fees actually imposed.
Senate Amendments to S.B. 1245

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

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

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

E. In computing the tax base, any city, town or other taxing jurisdiction shall not include in the gross proceeds of sales or gross income:
   1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.
   2. The waste tire disposal fee imposed pursuant to section 44-1302.

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

Amend title to conform

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