

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2147

AN ACT

AMENDING SECTIONS 42-5063, 42-5064, 42-5069 AND 42-5071, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5075, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 11; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 13; RELATING TO TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-5063, Arizona Revised Statutes, is amended to
3 read:
4 42-5063. Utilities classification; definitions
5 A. The utilities classification is comprised of the business of:
6 1. Producing and furnishing or furnishing to consumers natural or
7 artificial gas and water.
8 2. Providing to retail electric customers ancillary services, electric
9 distribution services, electric generation services, electric transmission
10 services and other services related to providing electricity.
11 B. The utilities classification does not include:
12 1. Sales of ancillary services, electric distribution services,
13 electric generation services, electric transmission services and other
14 services related to providing electricity, gas or water to a person who
15 resells the services.
16 2. Sales of natural gas or liquefied petroleum gas used to propel a
17 motor vehicle.
18 3. Sales of alternative fuel, as defined in section 1-215, to a used
19 oil fuel burner who has received a permit to burn used oil or used oil fuel
20 under section 49-426 or 49-480.
21 4. Sales of ancillary services, electric distribution services,
22 electric generation services, electric transmission services and other
23 services that are related to providing electricity to a retail electric
24 customer who is located outside this state for use outside this state if the
25 electricity is delivered to a point of sale outside this state.
26 5. Sales or other transfers of renewable energy credits or any other
27 unit created to track energy derived from renewable energy resources. For
28 the purposes of this paragraph, "renewable energy credit" means a unit
29 created administratively by the corporation commission or governing body of a
30 public power utility to track kilowatt hours of electricity derived from a
31 renewable energy resource or the kilowatt hour equivalent of conventional
32 energy resources displaced by distributed renewable energy resources.
33 6. THE LEASING OR RENTING OF SPACE TO MAKE ATTACHMENTS TO UTILITY
34 POLES AS FOLLOWS:
35 (a) BY A PERSON THAT IS ENGAGED IN BUSINESS UNDER THIS SECTION.
36 (b) TO A PERSON THAT IS ENGAGED IN BUSINESS UNDER THIS SECTION OR
37 SECTION 42-5064 OR THAT IS A CABLE OPERATOR.
38 C. The tax base for the utilities classification is the gross proceeds
39 of sales or gross income derived from the business, but the following shall
40 be deducted from the tax base:
41 1. Revenues received by a municipally owned utility in the form of
42 fees charged to persons constructing residential, commercial or industrial
43 developments or connecting residential, commercial or industrial developments
44 to a municipal utility system or systems if the fees are segregated and used

1 only for capital expansion, system enlargement or debt service of the utility
2 system or systems.

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

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

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

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

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

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

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

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

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

44 (c) "Principally engaged" means at least fifty-one ~~per cent~~ PERCENT of
45 the business is a manufacturing or smelting operation.

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

3 D. For the purposes of this section:

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

9 2. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 9-505.

10 ~~2-~~ 3. "Electric distribution service" means distributing electricity
11 to retail electric customers through the use of electric distribution
12 facilities.

13 ~~3-~~ 4. "Electric generation service" means providing electricity for
14 sale to retail electric customers but excluding electric distribution or
15 transmission services.

16 ~~4-~~ 5. "Electric transmission service" means transmitting electricity
17 to retail electric customers or to electric distribution facilities so
18 classified by the federal energy regulatory commission or, to the extent
19 permitted by law, so classified by the Arizona corporation commission.

20 ~~5-~~ 6. "Other services" includes metering, meter reading services,
21 billing and collecting services.

22 ~~6-~~ 7. "Retail electric customer" means a person who purchases
23 electricity for that person's own use, including use in that person's trade
24 or business and not for resale, redistribution or retransmission.

25 8. "UTILITY POLE" MEANS ANY WOODEN, METAL OR OTHER POLE USED FOR
26 UTILITY PURPOSES AND THE POLE'S APPURTENANCES THAT ARE ATTACHED OR AUTHORIZED
27 FOR ATTACHMENT BY THE PERSON CONTROLLING THE POLE.

28 Sec. 2. Section 42-5064, Arizona Revised Statutes, is amended to read:

29 42-5064. Telecommunications classification; definitions

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

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

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

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

1 (b) "Curriculum design or enhancement" means planning, implementing or
2 reporting on courses of study, lessons, assignments or other learning
3 activities.

4 3. THE LEASING OR RENTING OF SPACE TO MAKE ATTACHMENTS TO UTILITY
5 POLES AS FOLLOWS:

6 (a) BY A PERSON THAT IS ENGAGED IN BUSINESS UNDER THIS SECTION.

7 (b) TO A PERSON THAT IS ENGAGED IN BUSINESS UNDER SECTION 42-5063 OR
8 THIS SECTION OR THAT IS A CABLE OPERATOR.

9 B. The tax base for the telecommunications classification is the gross
10 proceeds of sales or gross income derived from the business, including the
11 gross income derived from tolls, subscriptions and services on behalf of
12 subscribers or from the publication of a directory of the names of
13 subscribers. However, the gross proceeds of sales or gross income derived
14 from the following shall be deducted from the tax base:

15 1. Sales of intrastate telecommunications services to:

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

18 (b) A direct broadcast satellite television or data transmission
19 service that operates pursuant to 47 Code of Federal Regulations part 25 for
20 use in its direct broadcast satellite television or data transmission
21 operation by a facility described in section 42-5061, subsection B, paragraph
22 15, subdivision (b).

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

25 3. Carrier access charges established by federal communications
26 commission regulations (47 Code of Federal Regulations sections 69.105(a)
27 through 69.118).

28 4. Sales of direct broadcast satellite television services pursuant to
29 47 Code of Federal Regulations part 25 by a direct broadcast satellite
30 television service that operates pursuant to 47 Code of Federal Regulations
31 part 25.

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

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

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

44 1. A telecommunications service provider who can reasonably identify
45 the portion of the sales price of the bundled transaction derived from

1 charges for nontaxable services is subject to tax only on the gross proceeds
2 of sales or gross income derived from the taxable services. For the purposes
3 of this section, the telecommunications service provider may elect to
4 reasonably identify the portion of the sales price of the bundled transaction
5 derived from charges for nontaxable services by using allocation percentages
6 derived from the telecommunications service provider's entire service area,
7 including territories outside of this state. On request, the department may
8 require the telecommunications service provider to provide this allocation
9 information. The reasonableness of the allocation is subject to audit by the
10 department.

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

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

19 E. For the purposes of this section:

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

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

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

26 2. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 9-505.

27 ~~2-~~ 3. "Internet" means the computer and telecommunications facilities
28 that comprise the interconnected worldwide network of networks that employ
29 the transmission control protocol or internet protocol, or any predecessor or
30 successor protocol, to communicate information of all kinds by wire or radio.

31 ~~3-~~ 4. "Internet access" means a service that enables users to access
32 content, information, electronic mail or other services over the internet.
33 Internet access does not include telecommunications services provided by a
34 common carrier.

35 ~~4-~~ 5. "Intrastate telecommunications services" means transmitting
36 signs, signals, writings, images, sounds, messages, data or other information
37 of any nature by wire, radio waves, light waves or other electromagnetic
38 means if the information transmitted originates and terminates in this state.

39 6. "UTILITY POLE" MEANS ANY WOODEN, METAL OR OTHER POLE USED FOR
40 UTILITY PURPOSES AND THE POLE'S APPURTENANCES THAT ARE ATTACHED OR AUTHORIZED
41 FOR ATTACHMENT BY THE PERSON CONTROLLING THE POLE.

42 Sec. 3. Section 42-5069, Arizona Revised Statutes, is amended to read:

43 42-5069. Commercial lease classification; definitions

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

- 1 B. A person who, as a lessor, leases or rents for a consideration
2 under one or more leases or rental agreements the use or occupancy of real
3 property that is used by the lessee for commercial purposes is deemed to be
4 engaged in business and subject to the tax imposed by article 1 of this
5 chapter, but this subsection does not include leases or rentals of real
6 property used for residential or agricultural purposes.
- 7 C. The commercial lease classification does not include:
- 8 1. Any business activities that are classified under the transient
9 lodging classification.
- 10 2. Activities engaged in by the Arizona exposition and state fair
11 board or county fair commissions in connection with events sponsored by those
12 entities.
- 13 3. Leasing real property to a lessee who subleases the property if the
14 lessee is engaged in business classified under the commercial lease
15 classification or the transient lodging classification.
- 16 4. Leasing real property pursuant to a written lease agreement entered
17 into before December 1, 1967. This exclusion does not apply to the
18 businesses of hotels, guest houses, dude ranches and resorts, rooming houses,
19 apartment houses, office buildings, automobile storage garages, parking lots
20 or tourist camps, or to the extension or renewal of any such written lease
21 agreement.
- 22 5. Leasing real property between affiliated companies, businesses,
23 persons or reciprocal insurers. For the purposes of this paragraph:
- 24 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
25 means the lessor holds a controlling interest in the lessee, the lessee holds
26 a controlling interest in the lessor, affiliated persons hold a controlling
27 interest in both the lessor and the lessee, or an unrelated person holds a
28 controlling interest in both the lessor and lessee.
- 29 (b) "Affiliated persons" means members of an individual's family or
30 persons who have ownership or control of a business entity.
- 31 (c) "Controlling interest" means direct or indirect ownership of at
32 least eighty ~~per-cent~~ PERCENT of the voting shares of a corporation or of the
33 interests in a company, business or person other than a corporation.
- 34 (d) "Members of an individual's family" means the individual's spouse
35 and brothers and sisters, whether by whole or half blood, including adopted
36 persons, ancestors and lineal descendants.
- 37 (e) "Reciprocal insurers" has the same meaning prescribed in section
38 20-762.
- 39 6. Leasing real property for boarding horses.
- 40 7. Leasing or renting real property or the right to use real property
41 at exhibition events in this state sponsored, operated or conducted by a
42 nonprofit organization that is exempt from taxation under section 501(c)(3),
43 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is
44 associated with major league baseball teams or a national touring

1 professional golfing association and no part of the organization's net
2 earnings inures to the benefit of any private shareholder or individual.

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

9 9. Leasing or renting dwelling units, lodging facilities or trailer or
10 mobile home spaces if the units, facilities or spaces are intended to serve
11 as the principal or permanent place of residence for the lessee or renter or
12 if the unit, facility or space is leased or rented to a single tenant thirty
13 or more consecutive days.

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

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

21 (a) The lease or rental is between family members, trusts, estates,
22 corporations, partnerships, joint venturers or similar entities, or any
23 combination thereof, if the individuals or at least eighty ~~per cent~~ PERCENT
24 of the beneficiaries, shareholders, partners or joint venturers share a
25 family relationship as parents or ancestors of parents, children or
26 descendants of children, siblings, cousins of the first degree, aunts,
27 uncles, nieces or nephews of the first degree, spouses of any of the listed
28 relatives and listed relatives by the half-blood or by adoption.

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

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

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

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

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

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

1 14. Leasing or subleasing real property used by a nursing care
2 institution as defined in section 36-401 that is licensed pursuant to title
3 36, chapter 4.

4 15. Leasing or renting an eligible facility as defined in section
5 28-7701.

6 16. Granting or providing rights to real property that constitute a
7 profit à prendre for the severance of minerals, including all rights to use
8 the surface or subsurface of the property as is necessary or convenient to
9 the right to sever the minerals. This paragraph does not exclude from the
10 commercial lease classification leasehold rights to the real property that
11 are granted in addition to and not included within the right of profit à
12 prendre, but the tax base for the grant of such a leasehold right, if the
13 gross income derived from the grant is not separately stated from the gross
14 income derived from the grant of the profit à prendre, shall not exceed the
15 fair market value of the leasehold rights computed after excluding the value
16 of all rights under the profit à prendre. For the purposes of this
17 paragraph, "profit à prendre" means a right to use the land of another to
18 mine minerals, and carries with it the right of entry and the right to remove
19 and take the minerals from the land and also includes the right to use the
20 surface of the land as is necessary and convenient for exercise of the
21 profit.

22 17. THE LEASING OR RENTING OF SPACE TO MAKE ATTACHMENTS TO UTILITY
23 POLES AS FOLLOWS:

24 (a) BY A PERSON THAT IS ENGAGED IN BUSINESS UNDER SECTION 42-5063 OR
25 42-5064 OR THAT IS A CABLE OPERATOR.

26 (b) TO A PERSON THAT IS ENGAGED IN BUSINESS UNDER SECTION 42-5063 OR
27 42-5064 OR THAT IS A CABLE OPERATOR.

28 D. The tax base for the commercial lease classification is the gross
29 proceeds of sales or gross income derived from the business, but
30 reimbursements to the lessor for utility service shall be deducted from the
31 tax base.

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

38 F. For the purposes of this section:

39 1. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED BY SECTION 9-505.

40 ~~2.~~ 2. "Leasing" includes renting.

41 ~~3.~~ 3. "Real property" includes any improvements, rights or interest
42 in such property.

43 4. "UTILITY POLE" MEANS ANY WOODEN, METAL OR OTHER POLE USED FOR
44 UTILITY PURPOSES AND THE POLE'S APPURTENANCES THAT ARE ATTACHED OR AUTHORIZED
45 FOR ATTACHMENT BY THE PERSON CONTROLLING THE POLE.

1 Sec. 4. Section 42-5071, Arizona Revised Statutes, is amended to read:
2 42-5071. Personal property rental classification; definitions

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

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

9 2. Activities engaged in by the Arizona exposition and state fair
10 board or county fair commissions in connection with events sponsored by such
11 entities.

12 3. Leasing or renting tangible personal property by a parent
13 corporation to a subsidiary corporation or by a subsidiary corporation to
14 another subsidiary of the same parent corporation if taxes were paid under
15 this chapter on the gross proceeds or gross income accruing from the initial
16 sale of the tangible personal property. For the purposes of this paragraph,
17 "subsidiary" means a corporation of which at least eighty ~~per-cent~~ PERCENT of
18 the voting shares are owned by the parent corporation.

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

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

27 6. Leasing or renting aircraft, flight simulators or similar training
28 equipment to students or staff by nonprofit, accredited educational
29 institutions that offer associate or baccalaureate degrees in aviation or
30 aerospace related fields.

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

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

38 9. THE LEASING OR RENTING OF SPACE TO MAKE ATTACHMENTS TO UTILITY
39 POLES, AS FOLLOWS:

40 (a) BY A PERSON THAT IS ENGAGED IN BUSINESS UNDER SECTION 42-5063 OR
41 42-5064 OR THAT IS A CABLE OPERATOR.

42 (b) TO A PERSON THAT IS ENGAGED IN BUSINESS UNDER SECTION 42-5063 OR
43 42-5064 OR THAT IS A CABLE OPERATOR.

44 B. The tax base for the personal property rental classification is the
45 gross proceeds of sales or gross income derived from the business, but the

1 gross proceeds of sales or gross income derived from the following shall be
2 deducted from the tax base:

3 1. Reimbursements by the lessee to the lessor of a motor vehicle for
4 payments by the lessor of the applicable fees and taxes imposed by sections
5 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
6 article 2 and article IX, section 11, Constitution of Arizona, to the extent
7 such amounts are separately identified as such fees and taxes and are billed
8 to the lessee.

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

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

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

16 (i) Section 42-5061, subsection B, paragraph 13 if the lease is for
17 less than two years.

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

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

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

21 3. Motor vehicle fuel and use fuel that are subject to a tax imposed
22 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
23 valid single trip use fuel tax permit issued under section 28-5739 and sales
24 of aviation fuel that are subject to the tax imposed under section 28-8344.

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

27 5. Amounts received by a motor vehicle dealer for the first month of a
28 lease payment if the lease and the lease payment for the first month of the
29 lease are transferred to a third-party leasing company.

30 C. Sales of tangible personal property to be leased or rented to a
31 person engaged in a business classified under the personal property rental
32 classification are deemed to be resale sales.

33 D. In computing the tax base, the gross proceeds of sales or gross
34 income from the lease or rental of a motor vehicle does not include any
35 amount attributable to the car rental surcharge under section 5-839, 28-5810
36 or 48-4234.

37 E. Until December 31, 1988, leasing or renting animals for
38 recreational purposes is exempt from the tax imposed by this section.
39 Beginning January 1, 1989, the gross proceeds or gross income from leasing or
40 renting animals for recreational purposes is subject to taxation under this
41 section. Tax liabilities, penalties and interest paid for taxable periods
42 before January 1, 1989 shall not be refunded unless the taxpayer requesting
43 the refund provides proof satisfactory to the department that the monies paid
44 as taxes will be returned to the customer.

1 F. FOR THE PURPOSES OF THIS SECTION:

2 1. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED BY SECTION 9-505.

3 2. "UTILITY POLE" MEANS ANY WOODEN, METAL OR OTHER POLE USED FOR
4 UTILITY PURPOSES AND THE POLE'S APPURTENANCES THAT ARE ATTACHED OR AUTHORIZED
5 FOR ATTACHMENT BY THE PERSON CONTROLLING THE POLE.

6 Sec. 5. Section 42-5075, Arizona Revised Statutes, as amended by Laws
7 2015, chapter 4, section 11, is amended to read:

8 42-5075. Prime contracting classification; exemptions;
9 definitions

10 A. The prime contracting classification is comprised of the business
11 of prime contracting and the business of manufactured building dealer. Sales
12 for resale to another manufactured building dealer are not subject to
13 tax. Sales for resale do not include sales to a lessor of manufactured
14 buildings. The sale of a used manufactured building is not taxable under
15 this chapter.

16 B. The tax base for the prime contracting classification is sixty-five
17 percent of the gross proceeds of sales or gross income derived from the
18 business. The following amounts shall be deducted from the gross proceeds of
19 sales or gross income before computing the tax base:

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

22 2. Sales and installation of groundwater measuring devices required
23 under section 45-604 and groundwater monitoring wells required by law,
24 including monitoring wells installed for acquiring information for a permit
25 required by law.

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

31 4. The gross proceeds of sales or gross income received from a
32 contract entered into for the modification of any building, highway, road,
33 railroad, excavation, manufactured building or other structure, project,
34 development or improvement located in a military reuse zone for providing
35 aviation or aerospace services or for a manufacturer, assembler or fabricator
36 of aviation or aerospace products within an active military reuse zone after
37 the zone is initially established or renewed under section 41-1531. To be
38 eligible to qualify for this deduction, before beginning work under the
39 contract, the prime contractor must have applied for a letter of
40 qualification from the department of revenue.

41 5. The gross proceeds of sales or gross income derived from a contract
42 to construct a qualified environmental technology manufacturing, producing or
43 processing facility, as described in section 41-1514.02, and from subsequent
44 construction and installation contracts that begin within ten years after the
45 start of initial construction. To qualify for this deduction, before

1 beginning work under the contract, the prime contractor must obtain a letter
2 of qualification from the department of revenue. This paragraph shall apply
3 for ten full consecutive calendar or fiscal years after the start of initial
4 construction.

5 6. The gross proceeds of sales or gross income from a contract to
6 provide for one or more of the following actions, or a contract for site
7 preparation, constructing, furnishing or installing machinery, equipment or
8 other tangible personal property, including structures necessary to protect
9 exempt incorporated materials or installed machinery or equipment, and
10 tangible personal property incorporated into the project, to perform one or
11 more of the following actions in response to a release or suspected release
12 of a hazardous substance, pollutant or contaminant from a facility to the
13 environment, unless the release was authorized by a permit issued by a
14 governmental authority:

15 (a) Actions to monitor, assess and evaluate such a release or a
16 suspected release.

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

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

22 (d) Pumping and treatment or in situ treatment of contaminated
23 groundwater or surface water to reduce the concentration or toxicity of a
24 contaminant.

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

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

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

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

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

44 (ii) Any activity performed on any tangible personal property relating
45 to machinery, equipment or other tangible personal property with independent

1 functional utility in furtherance of any of the purposes provided for under
2 subdivision (d) of this paragraph.

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

6 (b) The deduction provided in this paragraph does not include gross
7 proceeds of sales or gross income from the portion of any contracting
8 activity that consists of the development of, or modification to, real
9 property in order to facilitate the installation, assembly, repair,
10 maintenance or removal of machinery, equipment or other tangible personal
11 property that is either deducted from the tax base of the retail
12 classification under section 42-5061, subsection B or exempt from use tax
13 under section 42-5159, subsection B.

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

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

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

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

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

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

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

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

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

37 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
38 (c), (d), (e), (f), (j), (k), (l), (m) or (n) or paragraph 54.

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

40 9. The gross proceeds of sales or gross income received from a
41 contract for the construction of an environmentally controlled facility for
42 the raising of poultry for the production of eggs and the sorting, cooling
43 and packaging of eggs.

44 10. The gross proceeds of sales or gross income that is derived from a
45 contract entered into with a person who is engaged in the commercial

1 production of livestock, livestock products or agricultural, horticultural,
2 viticultural or floricultural crops or products in this state for the
3 modification of any building, highway, road, excavation, manufactured
4 building or other structure, project, development or improvement used
5 directly and primarily to prevent, monitor, control or reduce air, water or
6 land pollution.

7 11. The gross proceeds of sales or gross income that is derived from
8 the installation, assembly, repair or maintenance of clean rooms that are
9 deducted from the tax base of the retail classification pursuant to section
10 42-5061, subsection B, paragraph 16.

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

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

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

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

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

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

40 18. The gross proceeds of sales or gross income received from a
41 contract for the construction of any building, or other structure, project,
42 development or improvement owned by a qualified business under section
43 41-1516 for harvesting or processing qualifying forest products removed from
44 qualifying projects as defined in section 41-1516 if actual construction
45 begins before January 1, 2024. To qualify for this deduction, the prime

1 contractor must obtain a letter of qualification from the Arizona commerce
2 authority before beginning work under the contract.

3 19. Any amount of the gross proceeds of sales or gross income
4 attributable to development fees that are incurred in relation to a contract
5 for construction, development or improvement of real property and that are
6 paid by a prime contractor or subcontractor. For the purposes of this
7 paragraph:

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

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

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

20 20. The gross proceeds of sales or gross income derived from a contract
21 entered into for the construction of a mixed waste processing facility that
22 is located on a municipal solid waste landfill and that is constructed for
23 the purpose of recycling solid waste or producing renewable energy from
24 landfill waste. For the purposes of this paragraph:

25 (a) "Mixed waste processing facility" means a solid waste facility
26 that is owned, operated or used for the treatment, processing or disposal of
27 solid waste, recyclable solid waste, conditionally exempt small quantity
28 generator waste or household hazardous waste. For the purposes of
29 this subdivision, "conditionally exempt small quantity generator waste",
30 "household hazardous waste" and "solid waste facility" have the same meanings
31 prescribed in section 49-701, except that solid waste facility does include a
32 site that stores, treats or processes paper, glass, wood, cardboard,
33 household textiles, scrap metal, plastic, vegetative waste, aluminum, steel
34 or other recyclable material.

35 (b) "Municipal solid waste landfill" has the same meaning prescribed
36 in section 49-701.

37 (c) "Recycling" means collecting, separating, cleansing, treating and
38 reconstituting recyclable solid waste that would otherwise become solid
39 waste, but does not include incineration or other similar processes.

40 (d) "Renewable energy" has the same meaning prescribed in section
41 41-1511.

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

44 1. A prime contractor may establish entitlement to the deduction by
45 both:

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

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

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

15 3. The department may prescribe a form for the certificate described
16 in paragraph 1, subdivision (b) of this subsection. The department may also
17 adopt rules that describe the transactions with respect to which a person is
18 not entitled to rely solely on the information contained in the certificate
19 provided in paragraph 1, subdivision (b) of this subsection but must instead
20 obtain such additional information as required in order to be entitled to the
21 deduction.

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

36 D. Subcontractors or others who perform modification activities are
37 not subject to tax if they can demonstrate that the job was within the
38 control of a prime contractor or contractors or a dealership of manufactured
39 buildings and that the prime contractor or dealership is liable for the tax
40 on the gross income, gross proceeds of sales or gross receipts attributable
41 to the job and from which the subcontractors or others were paid.

42 E. Amounts received by a contractor for a project are excluded from
43 the contractor's gross proceeds of sales or gross income derived from the
44 business if the person who hired the contractor executes and provides a
45 certificate to the contractor stating that the person providing the

1 certificate is a prime contractor and is liable for the tax under article 1
2 of this chapter. The department shall prescribe the form of the certificate.
3 If the contractor has reason to believe that the information contained on the
4 certificate is erroneous or incomplete, the department may disregard the
5 certificate. If the person who provides the certificate is not liable for
6 the tax as a prime contractor, that person is nevertheless deemed to be the
7 prime contractor in lieu of the contractor and is subject to the tax under
8 this section on the gross receipts or gross proceeds received by the
9 contractor.

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

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

21 H. For the purposes of section 42-5032.02, from and after
22 September 30, 2013, the department shall separately account for revenues
23 reported and collected under the prime contracting classification from any
24 prime contractor engaged in the construction of any buildings and associated
25 improvements that are for the benefit of a manufacturing facility. For the
26 purposes of this subsection, "associated improvements" and "manufacturing
27 facility" have the same meanings prescribed in section 42-5032.02.

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

38 J. Except as provided in subsection 0 of this section, the gross
39 proceeds of sales or gross income derived from landscaping activities are
40 subject to tax under this section. Landscaping includes installing lawns,
41 grading or leveling ground, installing gravel or boulders, planting trees and
42 other plants, felling trees, removing or mulching tree stumps, removing other
43 imbedded plants, building irrigation berms, installing railroad ties and
44 installing underground sprinkler or watering systems.

1 K. The portion of gross proceeds of sales or gross income attributable
2 to the actual direct costs of providing architectural or engineering services
3 that are incorporated in a contract is not subject to tax under this section.
4 For the purposes of this subsection, "direct costs" means the portion of the
5 actual costs that are directly expended in providing architectural or
6 engineering services.

7 L. Operating a landfill or a solid waste disposal facility is not
8 subject to taxation under this section, including filling, compacting and
9 creating vehicle access to and from cell sites within the landfill.
10 Constructing roads to a landfill or solid waste disposal facility and
11 constructing cells within a landfill or solid waste disposal facility may be
12 deemed prime contracting under this section.

13 M. The following apply in determining the taxable situs of sales of
14 manufactured buildings:

15 1. For sales in this state where the manufactured building dealer
16 contracts to deliver the building to a setup site or to perform the setup in
17 this state, the taxable situs is the setup site.

18 2. For sales in this state where the manufactured building dealer does
19 not contract to deliver the building to a setup site or does not perform the
20 setup, the taxable situs is the location of the dealership where the building
21 is delivered to the buyer.

22 3. For sales in this state where the manufactured building dealer
23 contracts to deliver the building to a setup site that is outside this state,
24 the situs is outside this state and the transaction is excluded from tax.

25 N. The gross proceeds of sales or gross income attributable to a
26 written contract for design phase services or professional services, executed
27 before modification begins and with terms, conditions and pricing of all of
28 these services separately stated in the contract from those for construction
29 phase services, is not subject to tax under this section, regardless of
30 whether the services are provided sequential to or concurrent with prime
31 contracting activities that are subject to tax under this section. This
32 subsection does not include the gross proceeds of sales or gross income
33 attributable to construction phase services. For the purposes of this
34 subsection:

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

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

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

1 (c) Administration or supervision of any modification performed
2 pursuant to change orders. For the purposes of this subdivision, "change
3 order" means a written instrument issued after execution of a contract for
4 modification work, providing for all of the following:
5 (i) The scope of a change in the modification work, contract for
6 modification work or other contract documents.
7 (ii) The amount of an adjustment, if any, to the guaranteed maximum
8 price as set in the contract for modification work. For the purposes of this
9 item, "guaranteed maximum price" means the amount guaranteed to be the
10 maximum amount due to a prime contractor for the performance of all
11 modification work for the project.
12 (iii) The extent of an adjustment, if any, to the contract time of
13 performance set forth in the contract.
14 (d) Administration or supervision of any modification performed
15 pursuant to change directives. For the purposes of this subdivision, "change
16 directive" means a written order directing a change in modification work
17 before agreement on an adjustment of the guaranteed maximum price or contract
18 time.
19 (e) Inspection to determine the dates of substantial completion or
20 final completion.
21 (f) Preparation of any manuals, warranties, as-built drawings, spares
22 or other items the prime contractor must furnish pursuant to the contract for
23 modification work. For the purposes of this subdivision, "as-built drawing"
24 means a drawing that indicates field changes made to adapt to field
25 conditions, field changes resulting from change orders or buried and
26 concealed installation of piping, conduit and utility services.
27 (g) Preparation of status reports after modification work has begun
28 detailing the progress of work performed, including preparation of any of the
29 following:
30 (i) Master schedule updates.
31 (ii) Modification work cash flow projection updates.
32 (iii) Site reports made on a periodic basis.
33 (iv) Identification of discrepancies, conflicts or ambiguities in
34 modification work documents that require resolution.
35 (v) Identification of any health and safety issues that have arisen in
36 connection with the modification work.
37 (h) Preparation of daily logs of modification work, including
38 documentation of personnel, weather conditions and on-site occurrences.
39 (i) Preparation of any submittals or shop drawings used by the prime
40 contractor to illustrate details of the modification work performed.
41 (j) Administration or supervision of any other activities for which a
42 prime contractor receives a certificate for payment or certificate for final
43 payment based on the progress of modification work performed on the project.

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

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

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

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

14 (d) Preparing an initial schedule for the project, excluding the
15 preparation of updates to the master schedule after modification work has
16 begun.

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

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

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

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

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

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

33 (vi) Any bond and insurance premiums.

34 (vii) Any applicable taxes.

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

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

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

44 3. "Professional services" means architect services, assayer services,
45 engineer services, geologist services, land surveying services or landscape

1 architect services that are within the scope of those services as provided in
2 title 32, chapter 1 and for which gross proceeds of sales or gross income has
3 not otherwise been deducted under subsection K of this section.

4 O. The gross proceeds of sales or gross income derived from a contract
5 with the owner of real property or improvements to real property for the
6 maintenance, repair, replacement or alteration of existing property is not
7 subject to tax under this section if the contract does not include
8 modification activities, except as specified in this subsection. The gross
9 proceeds of sales or gross income derived from a de minimis amount of
10 modification activity does not subject the contract or any part of the
11 contract to tax under this section. For the purposes of this subsection:

12 1. Tangible personal property that is incorporated or fabricated into
13 a project described in this subsection may be subject to the amount
14 prescribed in section 42-5008.01.

15 2. Each contract is independent of any other contract, except that any
16 change order that directly relates to the scope of work of the original
17 contract shall be treated the same as the original contract under this
18 chapter, regardless of the amount of modification activities included in the
19 change order. If a change order does not directly relate to the scope of
20 work of the original contract, the change order shall be treated as a new
21 contract, with the tax treatment of any subsequent change order to follow the
22 tax treatment of the contract to which the scope of work of the subsequent
23 change order directly relates.

24 P. Notwithstanding subsection O of this section, a contract that
25 primarily involves surface or subsurface improvements to land and that is
26 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
27 taxable under this section, even if the contract also includes vertical
28 improvements. Agencies that are subject to procurement processes under those
29 provisions shall include in the request for proposals a notice to bidders
30 when those projects are subject to this section. This subsection does not
31 apply to contracts with:

32 1. Community facilities districts, fire districts, county television
33 improvement districts, community park maintenance districts, cotton pest
34 control districts, hospital districts, pest abatement districts, health
35 service districts, agricultural improvement districts, county free library
36 districts, county jail districts, county stadium districts, special health
37 care districts, public health services districts, theme park districts,
38 regional attraction districts or revitalization districts.

39 2. Any special taxing district not specified in paragraph 1 of this
40 subsection if the district does not substantially engage in the modification,
41 maintenance, repair, replacement or alteration of surface or subsurface
42 improvements to land.

43 Q. Notwithstanding subsection R, paragraph 10 of this section, a
44 person owning real property who enters into a contract for sale of the real
45 property, who is responsible to the new owner of the property for

1 modifications made to the property in the period subsequent to the transfer
2 of title and who receives a consideration for the modifications is considered
3 a prime contractor solely for purposes of taxing the gross proceeds of sale
4 or gross income received for the modifications made subsequent to the
5 transfer of title. The original owner's gross proceeds of sale or gross
6 income received for the modifications shall be determined according to the
7 following methodology:

8 1. If any part of the contract for sale of the property specifies
9 amounts to be paid to the original owner for the modifications to be made in
10 the period subsequent to the transfer of title, the amounts are included in
11 the original owner's gross proceeds of sale or gross income under this
12 section. Proceeds from the sale of the property that are received after
13 transfer of title and that are unrelated to the modifications made subsequent
14 to the transfer of title are not considered gross proceeds of sale or gross
15 income from the modifications.

16 2. If the original owner enters into an agreement separate from the
17 contract for sale of the real property providing for amounts to be paid to
18 the original owner for the modifications to be made in the period subsequent
19 to the transfer of title to the property, the amounts are included in the
20 original owner's gross proceeds of sale or gross income received for the
21 modifications made subsequent to the transfer of title.

22 3. If the original owner is responsible to the new owner for
23 modifications made to the property in the period subsequent to the transfer
24 of title and derives any gross proceeds of sale or gross income from the
25 project subsequent to the transfer of title other than a delayed disbursement
26 from escrow unrelated to the modifications, it is presumed that the amounts
27 are received for the modifications made subsequent to the transfer of title
28 unless the contrary is established by the owner through its books, records
29 and papers kept in the regular course of business.

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

32 R. For the purposes of this section:

33 1. "Alteration" means an activity or action that causes a direct
34 physical change to existing property. For the purposes of this paragraph:

35 (a) For existing property that is properly classified as class two
36 property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2,
37 subdivision (c) and that is used for residential purposes, class three
38 property under section 42-12003 or class four property under 42-12004, this
39 paragraph does not apply if the contract amount is more than twenty-five
40 percent of the most recent full cash value established under chapter 13,
41 article 2 of this title as of the date of any bid for the work or the date of
42 the contract, whichever value is higher.

43 (b) For all existing property other than existing property described
44 in subdivision (a) of this paragraph, this paragraph does not apply if any of
45 the following is true:

- 1 (i) The contract amount is more than seven hundred fifty thousand
2 dollars.
- 3 (ii) The scope of work directly relates to more than forty percent of
4 the existing square footage of the existing property.
- 5 (iii) The scope of work involves expanding the square footage of more
6 than ten percent of the existing property.
- 7 (c) Project elements may not be artificially separated from a contract
8 to cause a project to qualify as an alteration. The department has the
9 burden of proof that project elements have been artificially separated from a
10 contract.
- 11 (d) If a project for which the owner and the person performing the
12 work reasonably believed, at the inception of the contract, would be treated
13 as an alteration under this paragraph and, on completion of the project, the
14 project exceeded the applicable threshold described in either subdivision (a)
15 or (b) of this paragraph by no more than twenty-five percent of the
16 applicable threshold for any reason, the work performed under the contract
17 qualifies as an alteration.
- 18 (e) A change order that directly relates to the scope of work of the
19 original contract shall be treated as part of the original contract, and the
20 contract amount shall include any amount attributable to a change order that
21 directly relates to the scope of work of the original contract.
- 22 (f) Alteration does not include maintenance, repair or replacement.
- 23 2. "Contracting" means engaging in business as a contractor.
- 24 3. "Contractor" is synonymous with the term "builder" and means any
25 person or organization that undertakes to or offers to undertake to, or
26 purports to have the capacity to undertake to, or submits a bid to, or does
27 personally or by or through others, modify any building, highway, road,
28 railroad, excavation, manufactured building or other structure, project,
29 development or improvement, or to do any part of such a project, including
30 the erection of scaffolding or other structure or works in connection with
31 such a project, and includes subcontractors and specialty contractors. For
32 all purposes of taxation or deduction, this definition shall govern without
33 regard to whether or not such contractor is acting in fulfillment of a
34 contract.
- 35 4. "Manufactured building" means a manufactured home, mobile home or
36 factory-built building, as defined in section 41-2142.
- 37 5. "Manufactured building dealer" means a dealer who either:
- 38 (a) Is licensed pursuant to title 41, chapter 16 and who sells
39 manufactured buildings to the final consumer.
- 40 (b) Supervises, performs or coordinates the excavation and completion
41 of site improvements or the setup or moving of a manufactured building
42 including the contracting, if any, with any subcontractor or specialty
43 contractor for the completion of the contract.
- 44 6. "Modification" means construction, grading and leveling ground,
45 wreckage or demolition. Modification does not include:

1 (a) Any project described in subsection O of this section.

2 (b) Any wreckage or demolition of existing property, or any other
3 activity that is a necessary component of a project described in subsection O
4 of this section.

5 (c) Any mobilization or demobilization related to a project described
6 in subsection O of this section, such as the erection or removal of temporary
7 facilities to be used by those persons working on the project.

8 7. "Modify" means to make a modification or cause a modification to be
9 made.

10 8. "Owner" means the person that holds title to the real property or
11 improvements to real property that is the subject of the work, as well as an
12 agent of the title holder and any person with the authority to perform or
13 authorize work on the real property or improvements, including a tenant and a
14 property manager. For the purposes of subsection O of this section, a person
15 who is hired by a general contractor that is hired by an owner, or a
16 subcontractor of a general contractor that is hired by an owner, is
17 considered to be hired by the owner.

18 9. "Prime contracting" means engaging in business as a prime
19 contractor.

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

31 11. "Replacement" means the removal FROM SERVICE of one component or
32 system of existing property or tangible personal property installed in
33 existing property, including machinery or equipment, and the installation of
34 a new component or system or new tangible personal property, including
35 machinery or equipment, that provides ~~the same~~ SIMILAR or upgraded design or
36 functionality, regardless of the contract amount AND REGARDLESS OF WHETHER
37 THE EXISTING COMPONENT OR SYSTEM OR EXISTING TANGIBLE PERSONAL PROPERTY IS
38 PHYSICALLY REMOVED FROM THE EXISTING PROPERTY.

39 12. "Sale of a used manufactured building" does not include a lease of
40 a used manufactured building.

41 Sec. 6. Section 42-6004, Arizona Revised Statutes, as amended by Laws
42 2015, chapter 4, section 13, is amended to read:

43 42-6004. Exemption from municipal tax

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

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

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

6 (b) "Affiliated persons" means members of the individual's family or
7 persons who have ownership or control of a business entity.

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

11 (d) "Members of the individual's family" means the individual's spouse
12 and brothers and sisters, whether by whole or half blood, including adopted
13 persons, ancestors and lineal descendants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 16. The gross proceeds of sales or gross income derived from a contract
28 with the owner of real property or improvements to real property for the
29 maintenance, repair, replacement or alteration of existing property, except
30 as specified in this paragraph. The gross proceeds of sales or gross income
31 derived from a de minimis amount of modification activity does not subject
32 the contract or any part of the contract to tax. For the purposes of this
33 paragraph:

34 (a) Each contract is independent of another contract, except that any
35 change order that directly relates to the scope of work of the original
36 contract shall be treated the same as the original contract under this
37 chapter, regardless of the amount of modification activities included in the
38 change order. If a change order does not directly relate to the scope of
39 work of the original contract, the change order shall be treated as a new
40 contract, with the tax treatment of any subsequent change order to follow the
41 tax treatment of the contract to which the scope of work of the subsequent
42 change order directly relates.

43 (b) Any term not defined in this paragraph that is defined in section
44 42-5075 has the same meaning prescribed in section 42-5075.

1 (c) This paragraph does not apply to a contract that primarily
2 involves surface or subsurface improvements to land and that is subject to
3 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
4 contract also includes vertical improvements. If a city or town imposes a
5 tax on contracts that are subject to procurement processes under those
6 provisions, the city or town shall include in the request for proposals a
7 notice to bidders when those projects are subject to the tax. This
8 subdivision does not apply to contracts with:

9 (i) Community facilities districts, fire districts, county television
10 improvement districts, community park maintenance districts, cotton pest
11 control districts, hospital districts, pest abatement districts, health
12 service districts, agricultural improvement districts, county free library
13 districts, county jail districts, county stadium districts, special health
14 care districts, public health services districts, theme park districts,
15 regional attraction districts or revitalization districts.

16 (ii) Any special taxing district not specified in item (i) of this
17 subdivision if the district does not substantially engage in the
18 modification, maintenance, repair, replacement or alteration of surface or
19 subsurface improvements to land.

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

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

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

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

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

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

1 21. Tangible personal property incorporated or fabricated into a
2 project described in paragraph 16 of this subsection, that is located within
3 the exterior boundaries of an Indian reservation for which the owner, as
4 defined in section 42-5075, of the project is an Indian tribe or an
5 affiliated Indian. For the purposes of this paragraph:

6 (a) "Affiliated Indian" means an individual native American Indian WHO
7 IS duly registered on the tribal rolls of the Indian tribe for whose benefit
8 the Indian reservation was established.

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

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

17 22. THE CHARGES FOR THE LEASING OR RENTING OF SPACE TO MAKE ATTACHMENTS
18 TO UTILITY POLES AS FOLLOWS:

19 (a) BY A PERSON THAT IS ENGAGED IN THE BUSINESS OF PROVIDING OR
20 FURNISHING ELECTRICAL SERVICES OR TELECOMMUNICATION SERVICES OR THAT IS A
21 CABLE OPERATOR.

22 (b) TO A PERSON THAT IS ENGAGED IN THE BUSINESS OF PROVIDING OR
23 FURNISHING ELECTRICAL SERVICES OR TELECOMMUNICATION SERVICES OR THAT IS A
24 CABLE OPERATOR.

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

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

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

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

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

43 4. Incarcerating or detaining in a privately operated prison, jail or
44 detention facility prisoners who are under the jurisdiction of the United

1 States, this state or any other state or a political subdivision of this
2 state or of any other state.

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

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

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

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

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

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

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

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

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

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

38 G. FOR THE PURPOSES OF THIS SECTION:

39 1. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED BY SECTION 9-505.

40 2. "ELECTRICAL SERVICES" MEANS TRANSMITTING OR DISTRIBUTING
41 ELECTRICITY, ELECTRIC LIGHTS, CURRENT OR POWER OVER LINES, WIRES OR CABLES.

42 3. "TELECOMMUNICATION SERVICES" MEANS TRANSMITTING OR RELAYING SOUND,
43 VISUAL IMAGE, DATA, INFORMATION, IMAGES OR MATERIAL OVER LINES, WIRES OR
44 CABLES BY RADIO SIGNAL, LIGHT BEAM, TELEPHONE, TELEGRAPH OR ANY OTHER
45 ELECTROMAGNETIC MEANS.

1 4. "UTILITY POLE" MEANS ANY WOODEN, METAL OR OTHER POLE USED FOR
2 UTILITY PURPOSES AND THE POLE'S APPURTENANCES THAT ARE ATTACHED OR AUTHORIZED
3 FOR ATTACHMENT BY THE PERSON CONTROLLING THE POLE.

4 Sec. 7. Retroactivity

5 Section 42-5075, Arizona Revised Statutes, as amended by this act, is
6 effective retroactively to from and after December 31, 2014.