

REFERENCE TITLE: TPT; Indian tribe; motor vehicles

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

## **HB 2160**

Introduced by  
Representatives Hale, Benally, Steele, Wheeler, Senator Begay:  
Representatives Alston, Bowers, Gabaldón, Gonzales, Larkin, Meyer, Otondo,  
Rios, Saldate, Sherwood, Shope

AN ACT

AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION  
PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 42-5061, Arizona Revised Statutes, is amended to  
3 read:  
4 42-5061. Retail classification; definitions  
5 A. The retail classification is comprised of the business of selling  
6 tangible personal property at retail. The tax base for the retail  
7 classification is the gross proceeds of sales or gross income derived from  
8 the business. The tax imposed on the retail classification does not apply to  
9 the gross proceeds of sales or gross income from:  
10 1. Professional or personal service occupations or businesses that  
11 involve sales or transfers of tangible personal property only as  
12 inconsequential elements.  
13 2. Services rendered in addition to selling tangible personal property  
14 at retail.  
15 3. Sales of warranty or service contracts. The storage, use or  
16 consumption of tangible personal property provided under the conditions of  
17 such contracts is subject to tax under section 42-5156.  
18 4. Sales of tangible personal property by any nonprofit organization  
19 organized and operated exclusively for charitable purposes and recognized by  
20 the United States internal revenue service under section 501(c)(3) of the  
21 internal revenue code.  
22 5. Sales to persons engaged in business classified under the  
23 restaurant classification of articles used by human beings for food, drink or  
24 condiment, whether simple, mixed or compounded.  
25 6. Business activity that is properly included in any other business  
26 classification that is taxable under this article.  
27 7. The sale of stocks and bonds.  
28 8. Drugs and medical oxygen, including delivery hose, mask or tent,  
29 regulator and tank, on the prescription of a member of the medical, dental or  
30 veterinarian profession who is licensed by law to administer such substances.  
31 9. Prosthetic appliances as defined in section 23-501 prescribed or  
32 recommended by a health professional who is licensed pursuant to title 32,  
33 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.  
34 10. Insulin, insulin syringes and glucose test strips.  
35 11. Prescription eyeglasses or contact lenses.  
36 12. Hearing aids as defined in section 36-1901.  
37 13. Durable medical equipment that has a centers for medicare and  
38 medicaid services common procedure code, is designated reimbursable by  
39 medicare, is prescribed by a person who is licensed under title 32, chapter  
40 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
41 customarily used to serve a medical purpose, is generally not useful to a  
42 person in the absence of illness or injury and is appropriate for use in the  
43 home.

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

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

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

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

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

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

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

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

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

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

44           (ii) Prepaid calling cards or prepaid authorization numbers for  
45 telecommunications services made taxable by subsection Q of this section.

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

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

8 22. Motor vehicle fuel and use fuel that are subject to a tax imposed  
9 under title 28, chapter 16, article 1, sales of use fuel to a holder of a  
10 valid single trip use fuel tax permit issued under section 28-5739, sales of  
11 aviation fuel that are subject to the tax imposed under section 28-8344 and  
12 sales of jet fuel that are subject to the tax imposed under article 8 of this  
13 chapter.

14 23. Tangible personal property sold to a person engaged in the business  
15 of leasing or renting such property under the personal property rental  
16 classification if such property is to be leased or rented by such person.

17 24. Tangible personal property sold in interstate or foreign commerce  
18 if prohibited from being so taxed by the Constitution of the United States or  
19 the constitution of this state.

20 25. Tangible personal property sold to:

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

22 (b) A qualifying health care organization as defined in section  
23 42-5001 if the tangible personal property is used by the organization solely  
24 to provide health and medical related educational and charitable services.

25 (c) A qualifying health care organization as defined in section  
26 42-5001 if the organization is dedicated to providing educational,  
27 therapeutic, rehabilitative and family medical education training for blind  
28 and visually impaired children and children with ~~multidisabilities~~ MULTIPLE  
29 DISABILITIES from the time of birth to age twenty-one.

30 (d) A qualifying community health center as defined in section  
31 42-5001.

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

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

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

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

3           27. Tangible personal property sold to a person that is subject to tax  
4 under this article by reason of being engaged in business classified under  
5 the prime contracting classification under section 42-5075 or to a  
6 subcontractor working under the control of a prime contractor that is subject  
7 to tax under article 1 of this chapter, if the property so sold is any of the  
8 following:

9           (a) Incorporated or fabricated by the person into any real property,  
10 structure, project, development or improvement as part of the business.

11           (b) Used in environmental response or remediation activities under  
12 section 42-5075, subsection B, paragraph 6.

13           28. The sale of a motor vehicle to:

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

19           (b) An enrolled member of an Indian tribe who resides on the Indian  
20 reservation established for that tribe **OR FOR THE TRIBE OF ANY OF THE**  
21 **PURCHASERS IF THE SALE IS TO MULTIPLE PURCHASERS WHO ARE ENROLLED MEMBERS OF**  
22 **AN INDIAN TRIBE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) Electronic or digital media materials, beginning July 17, 1994.  
2 48. Tangible personal property sold to a commercial airline and  
3 consisting of food, beverages and condiments and accessories used for serving  
4 the food and beverages, if those items are to be provided without additional  
5 charge to passengers for consumption in flight. For the purposes of this  
6 paragraph, "commercial airline" means a person holding a federal certificate  
7 of public convenience and necessity or foreign air carrier permit for air  
8 transportation to transport persons, property or United States mail in  
9 intrastate, interstate or foreign commerce.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12           7. Aircraft, navigational and communication instruments and other  
13 accessories and related equipment sold to:

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

20           (b) Any foreign government.

21           (c) Persons who are not residents of this state and who will not use  
22 such property in this state other than in removing such property from this  
23 state. This subdivision also applies to corporations that are not  
24 incorporated in this state, regardless of maintaining a place of business in  
25 this state, if the principal corporate office is located outside this state  
26 and the property will not be used in this state other than in removing the  
27 property from this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 2. Janitorial equipment and hand tools.

19 3. Office equipment, furniture and supplies.

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

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

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

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

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

32 D. In addition to the deductions from the tax base prescribed by  
33 subsection A of this section, there shall be deducted from the tax base the  
34 gross proceeds of sales or gross income derived from sales of machinery,  
35 equipment, materials and other tangible personal property used directly and  
36 predominantly to construct a qualified environmental technology  
37 manufacturing, producing or processing facility as described in section  
38 41-1514.02. This subsection applies for ten full consecutive calendar or  
39 fiscal years after the start of initial construction.

40 E. In computing the tax base, gross proceeds of sales or gross income  
41 from retail sales of heavy trucks and trailers does not include any amount  
42 attributable to federal excise taxes imposed by 26 United States Code section  
43 4051.

44 F. In computing the tax base, gross proceeds of sales or gross income  
45 from the sale of use fuel, as defined in section 28-5601, does not include

1 any amount attributable to federal excise taxes imposed by 26 United States  
2 Code section 4091.

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

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

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

- 23 1. Transporting classification.
- 24 2. Utilities classification.
- 25 3. Telecommunications classification.
- 26 4. Pipeline classification.
- 27 5. Private car line classification.
- 28 6. Publication classification.
- 29 7. Job printing classification.
- 30 8. Prime contracting classification.
- 31 9. Restaurant classification.

32 J. The gross proceeds of sales or gross income derived from the  
33 following shall be deducted from the tax base for the retail classification:

- 34 1. Sales made directly to the United States government or its  
35 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 36 2. Sales made directly to a manufacturer, modifier, assembler or  
37 repairer if such sales are of any ingredient or component part of products  
38 sold directly to the United States government or its departments or agencies  
39 by the manufacturer, modifier, assembler or repairer.

40 3. Overhead materials or other tangible personal property that is used  
41 in performing a contract between the United States government and a  
42 manufacturer, modifier, assembler or repairer, including property used in  
43 performing a subcontract with a government contractor who is a manufacturer,  
44 modifier, assembler or repairer, to which title passes to the government  
45 under the terms of the contract or subcontract.

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

6           K. There shall be deducted from the tax base fifty ~~per cent~~ PERCENT of  
7 the gross proceeds or gross income from any sale of tangible personal  
8 property made directly to the United States government or its departments or  
9 agencies that is not deducted under subsection J of this section.

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

15          M. In computing the tax base, gross proceeds of sales or gross income  
16 does not include:

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

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

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

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

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

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

41          R. For the purposes of this section, the diversion of gas from a  
42 pipeline by a person engaged in the business of:

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

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

4           S. For the purposes of this section, the transfer of title or  
5 possession of coal from an owner or operator of a power plant to a person in  
6 the business of refining coal is not a sale of coal if both of the following  
7 apply:

8           1. The transfer of title or possession of the coal is for the purpose  
9 of refining the coal.

10          2. The title or possession of the coal is transferred back to the  
11 owner or operator of the power plant after completion of the coal refining  
12 process. For the purposes of this paragraph, "coal refining process"  
13 means the application of a coal additive system that aids in the reduction of  
14 power plant emissions during the combustion of coal and the treatment of flue  
15 gas.

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

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

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

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

39          V. In computing the tax base for the sale of a motor vehicle to a  
40 nonresident of this state, if the purchaser's state of residence allows a  
41 corresponding use tax exemption to the tax imposed by article 1 of this  
42 chapter and the rate of the tax in the purchaser's state of residence is  
43 lower than the rate prescribed in article 1 of this chapter or if the  
44 purchaser's state of residence does not impose an excise tax, and the  
45 nonresident has secured a special ninety day nonresident registration permit

1 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall  
2 be deducted from the tax base a portion of the gross proceeds or gross income  
3 from the sale so that the amount of transaction privilege tax that is paid in  
4 this state is equal to the excise tax that is imposed by the purchaser's  
5 state of residence on the nonexempt sale or use of the motor vehicle.

6 W. For the purposes of this section:

7 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

41 6. "Subcontract" means an agreement between a contractor and any  
42 person who is not an employee of the contractor for furnishing of supplies or  
43 services that, in whole or in part, are necessary to the performance of one  
44 or more government contracts, or under which any portion of the contractor's  
45 obligation under one or more government contracts is performed, undertaken or

1 assumed and that includes provisions causing title to overhead materials or  
2 other tangible personal property used in the performance of the subcontract  
3 to pass to the government or that includes provisions incorporating such  
4 title passing clauses in a government contract into the subcontract. For the  
5 purposes of this paragraph, "contractor" has its ordinary and common meaning  
6 ~~and does not have the meaning prescribed by section 42-5001.~~