

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

HOUSE BILL 2358

AN ACT

AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 10; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 12; RELATING TO TRANSACTION PRIVILEGE AND USE 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, as amended by
3 Laws 2015, chapter 4, section 10, is amended to 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 multiple disabilities from
29 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 (h) Any person representing or working on behalf of another person
2 described in subdivisions (a) through (g) of this paragraph if the tangible
3 personal property is incorporated or fabricated into a project described in
4 section 42-5075, subsection 0.

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

7 27. Tangible personal property sold to:

8 (a) A person that is subject to tax under this article by reason of
9 being engaged in business classified under section 42-5075 or to a
10 subcontractor working under the control of a person engaged in business
11 classified under section 42-5075, if the property so sold is any of the
12 following:

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

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

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

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

24 28. The sale of a motor vehicle to:

25 (a) A nonresident of this state if the purchaser's state of residence
26 does not allow a corresponding use tax exemption to the tax imposed by
27 article 1 of this chapter and if the nonresident has secured a special ninety
28 day nonresident registration permit for the vehicle as prescribed by sections
29 28-2154 and 28-2154.01.

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

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

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

44 31. Sales of commodities, as defined by title 7 United States Code
45 section 2, that are consigned for resale in a warehouse in this state in or

1 from which the commodity is deliverable on a contract for future delivery
2 subject to the rules of a commodity market regulated by the United States
3 commodity futures trading commission.

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

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

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

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

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

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

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

1 operation and includes job printing, engraving, embossing, copying and
2 bookbinding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 49. Sales of alternative fuel vehicles if the vehicle was manufactured
19 as a diesel fuel vehicle and converted to operate on alternative fuel and
20 equipment that is installed in a conventional diesel fuel motor vehicle to
21 convert the vehicle to operate on an alternative fuel, as defined in section
22 1-215.

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

26 51. Sales of tangible personal property to be incorporated or installed
27 as part of environmental response or remediation activities under section
28 42-5075, subsection B, paragraph 6.

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

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

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

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

42 (b) "Curriculum design or enhancement" means planning, implementing or
43 reporting on courses of study, lessons, assignments or other learning
44 activities.

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

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

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

16 58. 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 59. Orthodontic devices dispensed by a dental professional who is
28 licensed under title 32, chapter 11 to a patient as part of the practice of
29 dentistry.

30 60. Sales of tangible personal property incorporated or fabricated into
31 a project described in section 42-5075, subsection 0, that is located within
32 the exterior boundaries of an Indian reservation for which the owner, as
33 defined in section 42-5075, of the project is an Indian tribe or an
34 affiliated Indian. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

36 7. Aircraft, navigational and communication instruments and other
37 accessories and related equipment sold, ~~to~~ LEASED OR OTHERWISE TRANSFERRED:

38 (a) TO a person holding, OR EXEMPTED BY FEDERAL LAW FROM OBTAINING, a
39 federal certificate of public convenience and necessity. ~~, a supplemental~~
40 ~~air carrier certificate under federal aviation regulations (14 Code of~~
41 ~~Federal Regulations part 121) or~~

42 (b) TO A PERSON CERTIFICATED OR LICENSED UNDER FEDERAL AVIATION
43 REGULATIONS AS A SCHEDULED OR UNSCHEDULED CARRIER OF PERSONS FOR HIRE FOR USE
44 AS OR IN CONJUNCTION WITH OR BECOMING A PART OF AN AIRCRAFT TO BE USED TO

1 TRANSPORT PERSONS OR PROPERTY FOR HIRE IN INTRASTATE, INTERSTATE OR FOREIGN
2 COMMERCE.

3 (c) TO A PERSON HOLDING a foreign air carrier permit for air
4 transportation for use as or in conjunction with or becoming a part of
5 aircraft to be used to transport persons, property or United States mail in
6 intrastate, interstate or foreign commerce.

7 (d) TO A PERSON ACQUIRING THE AIRCRAFT FOR THE PURPOSE OF SELLING,
8 LEASING OR OTHERWISE TRANSFERRING OPERATIONAL CONTROL, WITHIN THE MEANING OF
9 FEDERAL AVIATION ADMINISTRATION OPERATIONS SPECIFICATION A008, OR ITS
10 SUCCESSOR, OF THE AIRCRAFT TO ONE OR MORE PERSONS DESCRIBED IN SUBDIVISION
11 (a), (b) OR (c) OF THIS PARAGRAPH FOR THE PURPOSE OF CARRYING PERSONS OR
12 PROPERTY FOR HIRE.

13 ~~(b)~~ (e) TO any foreign government.

14 ~~(e)~~ (f) TO persons who are not residents of this state and who will
15 not use such property in this state other than in removing such property from
16 this state. This subdivision also applies to corporations that are not
17 incorporated in this state, regardless of maintaining a place of business in
18 this state, if the principal corporate office is located outside this state
19 and the property will not be used in this state other than in removing the
20 property from this state.

21 (g) WITH THE OBJECTIVE OF PLACING THE AIRCRAFT, NAVIGATIONAL AND
22 COMMUNICATION INSTRUMENTS AND OTHER ACCESSORIES AND RELATED EQUIPMENT UNDER
23 THE OPERATIONAL CONTROL, WITHIN THE MEANING OF FEDERAL AVIATION
24 ADMINISTRATION OPERATIONS SPECIFICATION A008, OR ITS SUCCESSOR, OF A PERSON
25 DESCRIBED IN SUBDIVISION (a), (b), (c) OR (d) OF THIS PARAGRAPH FOR THE
26 PURPOSE OF PLACING THE AIRCRAFT, INSTRUMENTS, ACCESSORIES OR EQUIPMENT IN
27 SERVICE FOR THE PURPOSE OF CARRYING PERSONS OR PROPERTY FOR HIRE IN
28 INTRASTATE, INTERSTATE OR FOREIGN COMMERCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 For the purposes of subdivision (b) of this paragraph, "test period" means
43 the three hundred sixty-five day period beginning on the later of the date on
44 which the tangible personal property is purchased or the date on which the

1 direct broadcast satellite television or data transmission service first
2 transmits information to its customers.

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

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

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

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

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

33 19. Machinery and equipment that are sold to a person engaged in the
34 commercial production of livestock, livestock products or agricultural,
35 horticultural, viticultural or floricultural crops or products in this state,
36 including a person representing or working on behalf of such a person in a
37 manner described in section 42-5075, subsection 0, if the machinery and
38 equipment are used directly and primarily to prevent, monitor, control or
39 reduce air, water or land pollution.

40 20. Machinery or equipment that enables a television station to
41 originate and broadcast or to receive and broadcast digital television
42 signals and that was purchased to facilitate compliance with the
43 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
44 Code section 336) and the federal communications commission order issued

1 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
2 not exempt any of the following:

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

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

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

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

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

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

22 2. Janitorial equipment and hand tools.

23 3. Office equipment, furniture and supplies.

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

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

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

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

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

36 D. In addition to the deductions from the tax base prescribed by
37 subsection A of this section, there shall be deducted from the tax base the
38 gross proceeds of sales or gross income derived from sales of machinery,
39 equipment, materials and other tangible personal property used directly and
40 predominantly to construct a qualified environmental technology
41 manufacturing, producing or processing facility as described in section
42 41-1514.02. This subsection applies for ten full consecutive calendar or
43 fiscal years after the start of initial construction.

44 E. In computing the tax base, gross proceeds of sales or gross income
45 from retail sales of heavy trucks and trailers does not include any amount

1 attributable to federal excise taxes imposed by 26 United States Code section
2 4051.

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

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

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

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

- 27 1. Transporting classification.
- 28 2. Utilities classification.
- 29 3. Telecommunications classification.
- 30 4. Pipeline classification.
- 31 5. Private car line classification.
- 32 6. Publication classification.
- 33 7. Job printing classification.
- 34 8. Prime contracting classification.
- 35 9. Restaurant classification.

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

- 38 1. Sales made directly to the United States government or its
39 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 40 2. Sales made directly to a manufacturer, modifier, assembler or
41 repairer if such sales are of any ingredient or component part of products
42 sold directly to the United States government or its departments or agencies
43 by the manufacturer, modifier, assembler or repairer.
- 44 3. Overhead materials or other tangible personal property that is used
45 in performing a contract between the United States government and a

1 manufacturer, modifier, assembler or repairer, including property used in
2 performing a subcontract with a government contractor who is a manufacturer,
3 modifier, assembler or repairer, to which title passes to the government
4 under the terms of the contract or subcontract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 1. The transfer of title or possession of the coal is for the purpose
14 of refining the coal.

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

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

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

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

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

44 V. In computing the tax base for the sale of a motor vehicle to a
45 nonresident of this state, if the purchaser's state of residence allows a

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

11 W. For the purposes of this section:

12 1. "AGRICULTURAL AIRCRAFT" MEANS AN AIRCRAFT BUILT FOR AGRICULTURAL
13 USE FOR THE AERIAL APPLICATION OF PESTICIDES OR FERTILIZER OR FOR AERIAL
14 SEEDING.

15 ~~1.~~ 2. "Aircraft" includes:

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

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

22 ~~2.~~ 3. "Other accessories and related equipment" includes aircraft
23 accessories and equipment such as ground service equipment that physically
24 contact aircraft at some point during the overall carrier operation.

25 ~~3.~~ 4. "Selling at retail" means a sale for any purpose other than for
26 resale in the regular course of business in the form of tangible personal
27 property, but transfer of possession, lease and rental as used in the
28 definition of sale mean only such transactions as are found on investigation
29 to be in lieu of sales as defined without the words lease or rental.

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

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

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

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

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

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

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

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

14 Sec. 2. Section 42-5159, Arizona Revised Statutes, as amended by Laws
15 2015, chapter 4, section 12, is amended to read:

16 42-5159. Exemptions

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

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

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

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

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

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

44 6. Tangible personal property brought into this state by an individual
45 who was a nonresident at the time the property was purchased for storage, use

1 or consumption by the individual if the first actual use or consumption of
2 the property was outside this state, unless the property is used in
3 conducting a business in this state.

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

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

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

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

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

25 12. Materials that are purchased by or for publicly funded libraries
26 including school district libraries, charter school libraries, community
27 college libraries, state university libraries or federal, state, county or
28 municipal libraries for use by the public as follows:

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

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

31 13. Tangible personal property purchased by:

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

35 (b) A hospital operated by this state or a political subdivision of
36 this state.

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

42 (d) A qualifying health care organization, as defined in section
43 42-5001, if the tangible personal property is used by the organization solely
44 to provide health and medical related educational and charitable services.

1 (e) A qualifying health care organization as defined in section
2 42-5001 if the organization is dedicated to providing educational,
3 therapeutic, rehabilitative and family medical education training for blind
4 and visually impaired children and children with multiple disabilities from
5 the time of birth to age twenty-one.

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

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

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

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

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

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

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

31 (j) A qualifying community health center as defined in section
32 42-5001.

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

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

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

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

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

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

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

15 15. Tangible personal property sold by:

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

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

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

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

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

36 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (b) Public educational institutions.

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

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

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

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

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

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

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

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

42 (a) "Overhead materials" means tangible personal property, the gross
43 proceeds of sales or gross income derived from which would otherwise be
44 included in the retail classification, that is used or consumed in the
45 performance of a contract, the cost of which is charged to an overhead

1 expense account and allocated to various contracts based on generally
2 accepted accounting principles and consistent with government contract
3 accounting standards.

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

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

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

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

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

34 44. Alternative fuel vehicles if the vehicle was manufactured as a
35 diesel fuel vehicle and converted to operate on alternative fuel and
36 equipment that is installed in a conventional diesel fuel motor vehicle to
37 convert the vehicle to operate on an alternative fuel, as defined in section
38 1-215.

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

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

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

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

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

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

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

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

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

25 (b) "Curriculum design or enhancement" means planning, implementing or
26 reporting on courses of study, lessons, assignments or other learning
27 activities.

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

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

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

43 54. Computer data center equipment purchased by the owner, operator or
44 qualified colocation tenant of the computer data center or an authorized
45 agent of the owner, operator or qualified colocation tenant during the

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

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

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

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

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

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

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

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

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

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

44 2. Machinery, or equipment, used directly in the process of extracting
45 ores or minerals from the earth for commercial purposes, including equipment

1 required to prepare the materials for extraction and handling, loading or
2 transporting such extracted material to the surface. "Mining" includes
3 underground, surface and open pit operations for extracting ores and
4 minerals.

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

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

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

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

24 7. Aircraft, navigational and communication instruments and other
25 accessories and related equipment sold, ~~to~~ LEASED OR OTHERWISE TRANSFERRED:

26 (a) TO A PERSON HOLDING, OR EXEMPTED BY FEDERAL LAW FROM OBTAINING, a
27 federal certificate of public convenience and necessity. ~~, a supplemental air~~
28 ~~carrier certificate under federal aviation regulations (14 Code of Federal~~
29 ~~Regulations part 121) or~~

30 (b) TO A PERSON CERTIFICATED OR LICENSED UNDER FEDERAL AVIATION
31 REGULATIONS AS A SCHEDULED OR UNSCHEDULED CARRIER OF PERSONS FOR HIRE FOR USE
32 AS OR IN CONJUNCTION WITH OR BECOMING A PART OF AN AIRCRAFT TO BE USED TO
33 TRANSPORT PERSONS OR PROPERTY FOR HIRE IN INTRASTATE, INTERSTATE OR FOREIGN
34 COMMERCE.

35 (c) TO A PERSON HOLDING a foreign air carrier permit for air
36 transportation for use as or in conjunction with or becoming a part of
37 aircraft to be used to transport persons, property or United States mail in
38 intrastate, interstate or foreign commerce.

39 (d) TO A PERSON ACQUIRING THE AIRCRAFT FOR THE PURPOSE OF SELLING,
40 LEASING OR OTHERWISE TRANSFERRING OPERATIONAL CONTROL, WITHIN THE MEANING OF
41 FEDERAL AVIATION ADMINISTRATION OPERATIONS SPECIFICATION A008, OR ITS
42 SUCCESSOR, OF THE AIRCRAFT TO ONE OR MORE PERSONS DESCRIBED IN SUBDIVISION
43 (a), (b) OR (c) OF THIS PARAGRAPH FOR THE PURPOSE OF CARRYING PERSONS OR
44 PROPERTY FOR HIRE.

45 ~~(b)~~ (e) TO any foreign government. ~~, or sold~~

1 (f) To persons who are not residents of this state and who will not
2 use such property in this state other than in removing such property from
3 this state.

4 (g) WITH THE OBJECTIVE OF PLACING THE AIRCRAFT, NAVIGATIONAL AND
5 COMMUNICATION INSTRUMENTS AND OTHER ACCESSORIES AND RELATED EQUIPMENT UNDER
6 THE OPERATIONAL CONTROL, WITHIN THE MEANING OF FEDERAL AVIATION
7 ADMINISTRATION OPERATIONS SPECIFICATION A008, OR ITS SUCCESSOR, OF A PERSON
8 DESCRIBED IN SUBDIVISION (a), (b), (c) OR (d) OF THIS PARAGRAPH FOR THE
9 PURPOSE OF PLACING THE AIRCRAFT, INSTRUMENTS, ACCESSORIES OR EQUIPMENT IN
10 SERVICE FOR THE PURPOSE OF CARRYING PERSONS OR PROPERTY FOR HIRE IN
11 INTRASTATE, INTERSTATE OR FOREIGN COMMERCE.

12 8. Machinery, tools, equipment and related supplies used or consumed
13 directly in repairing, remodeling or maintaining aircraft, aircraft engines
14 or aircraft component parts by or on behalf of a certificated or licensed
15 carrier of persons or property.

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

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

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

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

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

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

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

42 14. Machinery or equipment used in research and development. For the
43 purposes of this paragraph, "research and development" means basic and
44 applied research in the sciences and engineering, and designing, developing
45 or testing prototypes, processes or new products, including research and

1 development of computer software that is embedded in or an integral part of
2 the prototype or new product or that is required for machinery or equipment
3 otherwise exempt under this section to function effectively. Research and
4 development do not include manufacturing quality control, routine consumer
5 product testing, market research, sales promotion, sales service, research in
6 social sciences or psychology, computer software research that is not
7 included in the definition of research and development, or other
8 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 2. Janitorial equipment and hand tools.
- 2 3. Office equipment, furniture and supplies.
- 3 4. Tangible personal property used in selling or distributing
- 4 activities, other than the telecommunications transmissions described in
- 5 subsection B, paragraph 15 of this section.
- 6 5. Motor vehicles required to be licensed by this state, except buses
- 7 or other urban mass transit vehicles specifically exempted pursuant to
- 8 subsection B, paragraph 11 of this section, without regard to the use of such
- 9 motor vehicles.
- 10 6. Shops, buildings, docks, depots and all other materials of whatever
- 11 kind or character not specifically included as exempt.
- 12 7. Motors and pumps used in drip irrigation systems.
- 13 8. Machinery and equipment or tangible personal property used by a
- 14 contractor in the performance of a contract.
- 15 D. The following shall be deducted in computing the purchase price of
- 16 electricity by a retail electric customer from a utility business:
- 17 1. Revenues received from sales of ancillary services, electric
- 18 distribution services, electric generation services, electric transmission
- 19 services and other services related to providing electricity to a retail
- 20 electric customer who is located outside this state for use outside this
- 21 state if the electricity is delivered to a point of sale outside this state.
- 22 2. Revenues received from providing electricity, including ancillary
- 23 services, electric distribution services, electric generation services,
- 24 electric transmission services and other services related to providing
- 25 electricity with respect to which the transaction privilege tax imposed under
- 26 section 42-5063 has been paid.
- 27 E. The tax levied by this article does not apply to the purchase of
- 28 solar energy devices from a retailer that is registered with the department
- 29 as a solar energy retailer or a solar energy contractor.
- 30 F. The following shall be deducted in computing the purchase price of
- 31 electricity by a retail electric customer from a utility business:
- 32 1. Fees charged by a municipally owned utility to persons constructing
- 33 residential, commercial or industrial developments or connecting residential,
- 34 commercial or industrial developments to a municipal utility system or
- 35 systems if the fees are segregated and used only for capital expansion,
- 36 system enlargement or debt service of the utility system or systems.
- 37 2. Reimbursement or contribution compensation to any person or persons
- 38 owning a utility system for property and equipment installed to provide
- 39 utility access to, on or across the land of an actual utility consumer if the
- 40 property and equipment become the property of the utility. This deduction
- 41 shall not exceed the value of such property and equipment.
- 42 G. The tax levied by this article does not apply to the purchase price
- 43 of electricity or natural gas by a business that is principally engaged in
- 44 manufacturing or smelting operations and that uses at least fifty-one percent
- 45 of the electricity or natural gas in the manufacturing or smelting

1 operations. This subsection does not apply to gas transportation services.
2 For the purposes of this subsection:

3 1. "Gas transportation services" means the services of transporting
4 natural gas to a natural gas customer or to a natural gas distribution
5 facility if the natural gas was purchased from a supplier other than the
6 utility.

7 2. "Manufacturing" means the performance as a business of an
8 integrated series of operations that places tangible personal property in a
9 form, composition or character different from that in which it was acquired
10 and transforms it into a different product with a distinctive name, character
11 or use. Manufacturing does not include processing, fabricating, job
12 printing, mining, generating electricity or operating a restaurant.

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

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

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

18 1. "AGRICULTURAL AIRCRAFT" MEANS AN AIRCRAFT BUILT FOR AGRICULTURAL
19 USE FOR THE AERIAL APPLICATION OF PESTICIDES OR FERTILIZER OR FOR AERIAL
20 SEEDING.

21 ~~1.~~ 2. "Aircraft" includes:

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

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

28 ~~2.~~ 3. "Other accessories and related equipment" includes aircraft
29 accessories and equipment such as ground service equipment that physically
30 contact aircraft at some point during the overall carrier operation.

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

35 Sec. 3. Agricultural aircraft; retroactivity; refunds;
36 nonseverability

37 A. The following provisions, relating to a transaction privilege tax
38 deduction and a use tax exemption for new agricultural aircraft that are used
39 for commercial production of agricultural, horticultural, viticultural and
40 floricultural crops and products, apply retroactively to taxable periods
41 beginning from and after April 17, 1985:

42 1. Section 42-5061, subsection B, paragraph 13, Arizona Revised
43 Statutes, as amended by this act.

44 2. Section 42-5061, subsection W, paragraph 1, Arizona Revised
45 Statutes, as added by this act.

1 3. Section 42-5159, subsection B, paragraph 13, Arizona Revised
2 Statutes, as amended by this act.

3 4. Section 42-5159, subsection H, paragraph 1, Arizona Revised
4 Statutes, as added by this act.

5 B. Any claim for refund of transaction privilege or use tax based on
6 the retroactive application of section 42-5061, subsection B, paragraph 13,
7 or section 42-5159, subsection B, paragraph 13, Arizona Revised Statutes, as
8 amended by this act, shall be submitted to the department of revenue on or
9 before December 31, 2015, pursuant to section 42-1118, Arizona Revised
10 Statutes. A failure to file a claim on or before December 31, 2015
11 constitutes a waiver of the claim for refund under this section.

12 C. The burden is on the taxpayer to establish by competent evidence
13 the amount of tax paid for all taxable periods and the amount, if any,
14 attributable to new agricultural aircraft that are used for commercial
15 production of agricultural, horticultural, viticultural and floricultural
16 crops and products in this state, and qualifying for a deduction under the
17 amendment to section 42-5061, Arizona Revised Statutes, or an exemption under
18 the amendment to section 42-5159, Arizona Revised Statutes, as provided by
19 this act. The department of revenue shall:

- 20 1. Review all timely filed claims.
21 2. Determine, on audit if necessary, the correct amount of each claim.
22 3. Notify the taxpayer of its determination. The notice is final
23 unless a taxpayer appeals in the manner provided in section 42-1119, Arizona
24 Revised Statutes.

25 D. Notwithstanding section 42-1119, Arizona Revised Statutes, the
26 department of revenue may not make a refund until after determination of the
27 amount of all refund claims filed pursuant to this section. If a taxpayer
28 appeals the department's determination, the department, pursuant to the rules
29 protecting confidentiality under title 42, chapter 2, article 1, Arizona
30 Revised Statutes, may notify other taxpayers who have filed claims as to the
31 nature of any delay and, if possible, estimate the possible extent of the
32 delay.

33 E. The aggregate amount of the refund under this section may not
34 exceed ten thousand dollars. If the aggregate amount of claims under this
35 section that are ultimately determined to be correct exceeds ten thousand
36 dollars, the department shall reduce each claim proportionately so that the
37 total refund amount equals ten thousand dollars.

38 F. Interest may not be allowed or compounded on any refundable amount
39 if paid before July 1, 2016, but if the amount cannot be determined or paid
40 until after June 30, 2016, interest accrues after that date under section
41 42-1123, Arizona Revised Statutes.

42 G. If any part of this section is finally adjudicated to be invalid,
43 this entire section is void. The provisions of this section are intended to
44 be nonseverable.

1 Sec. 4. Aircraft; retroactivity; refunds

2 A. Section 42-5061, subsection B, paragraph 7 and section 42-5159,
3 subsection B, paragraph 7, Arizona Revised Statutes, as amended by this act,
4 apply retroactively to taxable periods beginning from and after May 31, 1998.

5 B. Any claim for refund of transaction privilege or use tax based on
6 the retroactive application of section 42-5061, subsection B, paragraph 7 or
7 section 42-5159, subsection B, paragraph 7, Arizona Revised Statutes, as
8 amended by this act, shall be submitted to the department of revenue on or
9 before December 31, 2015, pursuant to section 42-1118, Arizona Revised
10 Statutes. A failure to file a claim on or before December 31, 2015
11 constitutes a waiver of the claim for refund under this section.

12 C. The burden is on the taxpayer to establish by competent evidence
13 the amount of tax paid for all taxable periods and the amount, if any,
14 qualifying for a deduction under the amendment to section 42-5061, Arizona
15 Revised Statutes, or an exemption under the amendment to section 42-5159,
16 Arizona Revised Statutes, as provided by this act. The department of revenue
17 shall:

18 1. Review all timely filed claims.

19 2. Determine, on audit if necessary, the correct amount of each claim.

20 3. Notify the taxpayer of its determination. The notice is final
21 unless a taxpayer appeals in the manner provided in section 42-1251, Arizona
22 Revised Statutes.

23 D. If a refundable amount is not determined or paid until after June
24 30, 2016, interest accrues after that date under section 42-1123, Arizona
25 Revised Statutes.