

REFERENCE TITLE: motor fuel taxes; forest products

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

HB 2583

Introduced by
Representatives Campbell, Barton, Senator Begay: Representative Finchem

AN ACT

AMENDING SECTIONS 28-5605, 28-5606, 28-5614, 41-1516, 42-5061 AND 42-5159,
ARIZONA REVISED STATUTES; RELATING TO MOTOR FUEL TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-5605, Arizona Revised Statutes, is amended to
3 read:

4 28-5605. Use fuel tax collection; fuel dispenser labels; civil
5 penalty

6 A. A vendor shall not collect more than the use fuel tax imposed
7 pursuant to section 28-5606, subsection B, paragraph 1 from a person who
8 purchases use fuel for use in the propulsion of a light class motor vehicle
9 on a highway in this state or for use in the propulsion of a use class motor
10 vehicle that is exempt pursuant to section 28-5432 from the weight fee
11 prescribed in section 28-5433 on a highway in this state.

12 B. A VENDOR SHALL NOT COLLECT MORE THAN THE USE FUEL TAX IMPOSED
13 PURSUANT TO SECTION 28-5606, SUBSECTION B, PARAGRAPH 3 FROM A PERSON WHO
14 PURCHASES USE FUEL FOR USE IN THE PROPULSION OF A MOTOR VEHICLE, INCLUDING A
15 MOTOR VEHICLE OF A SUBCONTRACTOR OF A BUSINESS THAT QUALIFIES PURSUANT TO
16 SECTION 41-1516, SUBSECTION B, TRANSPORTING FOREST PRODUCTS IN COMPLIANCE
17 WITH SECTION 41-1516 ON A HIGHWAY IN THIS STATE.

18 ~~B.~~ C. Subject to the following, vendors shall label use fuel
19 dispensers pursuant to standards established by the department of weights and
20 measures:

21 1. Labels on use fuel dispensers shall notify the purchaser of the
22 state use fuel tax rate. The department of transportation shall provide the
23 use fuel dispenser labels to vendors.

24 2. If the vendor only sells use fuel to light class motor vehicles or
25 use class motor vehicles that are exempt pursuant to section 28-5432 from the
26 weight fee prescribed in section 28-5433, or both, the vendor shall post that
27 limitation and include the tax rate prescribed in section 28-5606, subsection
28 B, paragraph 1.

29 3. If light class motor vehicles and use class motor vehicles are
30 allowed to fuel at the same use fuel dispenser, the vendor shall include the
31 tax rate prescribed in section 28-5606, subsection B, paragraph 2 and post a
32 notice that the tax rate for light class motor vehicles and use class motor
33 vehicles that are exempt pursuant to section 28-5432 from the weight fee
34 prescribed in section 28-5433 is the tax rate prescribed in section 28-5606,
35 subsection B, paragraph 1.

36 4. If the vendor prohibits light class motor vehicles or use class
37 motor vehicles from dispensing fuel from a specific fuel dispenser, the
38 vendor shall post that prohibition.

39 5. In addition to posting a sign on a use fuel dispenser that
40 indicates that the price of the use fuel dispensed from that dispenser
41 includes the applicable federal and state taxes, a vendor that dispenses use
42 fuel from a cardlock facility shall require the purchaser of use fuel for
43 light class motor vehicles or use class motor vehicles that are exempt
44 pursuant to section 28-5432 from the weight fee prescribed in section
45 28-5433, or both, to complete a declaration of status in a form and a manner

1 approved by the director. For the purposes of this paragraph, "cardlock
2 facility" means a use fuel vendor that satisfies all of the following:

3 (a) Is licensed in this state.

4 (b) Sells only to preapproved purchasers of use fuel who have been
5 issued cards, keys or other controlled access to identify the exclusive
6 withdrawal of that particular purchaser.

7 (c) Does not have a representative on the premises to observe the
8 withdrawal of use fuel from the vendor's storage.

9 (d) Measures volumes of fuel dispensed by pump meters or other
10 accurate recording devices.

11 ~~C.~~ D. A vendor who violates subsection B of this section is subject
12 to a civil penalty of one hundred dollars for each day the violation
13 continues.

14 Sec. 2. Section 28-5606, Arizona Revised Statutes, is amended to read:
15 28-5606. Imposition of motor fuel taxes

16 A. In addition to all other taxes provided by law, a tax of eighteen
17 cents per gallon is imposed on motor vehicle fuel possessed, used or consumed
18 in this state.

19 B. To partially compensate this state for the use of its highways:

20 1. A use fuel tax is imposed on use fuel used in the propulsion of a
21 light class motor vehicle on a highway in this state at the same rate per
22 gallon as the motor vehicle fuel tax prescribed in subsection A of this
23 section, except that there is no use fuel tax on alternative fuels.

24 2. A use fuel tax is imposed on use fuel used in the propulsion of a
25 use class motor vehicle on a highway in this state at the rate of twenty-six
26 cents for each gallon, except that there is no use fuel tax on alternative
27 fuels and use class vehicles that are exempt pursuant to section 28-5432 from
28 the weight fee prescribed in section 28-5433 are subject to the use fuel tax
29 imposed by paragraph 1 of this subsection.

30 3. Through December 31, 2024, a use fuel tax is imposed on use fuel
31 used in the propulsion of a motor vehicle, INCLUDING A MOTOR VEHICLE OF A
32 SUBCONTRACTOR OF A BUSINESS THAT QUALIFIES PURSUANT TO SECTION 41-1516,
33 SUBSECTION B, transporting forest products in compliance with the
34 requirements of section 41-1516 on a highway in this state at the rate of
35 nine cents for each gallon, except that there is no use fuel tax on
36 alternative fuels.

37 C. The motor vehicle fuel and use fuel taxes imposed pursuant to this
38 section and the aviation fuel taxes imposed pursuant to section 28-8344 are
39 conclusively presumed to be direct taxes on the consumer or user but shall be
40 collected and remitted to the department by suppliers for the purpose of
41 convenience and facility only. Motor vehicle fuel, use fuel and aviation
42 fuel taxes that are collected and paid to the department by a supplier are
43 considered to be advance payments, shall be added to the price of motor
44 vehicle fuel, use fuel or aviation fuel and shall be recovered from the
45 consumer or user.

1 D. Motor vehicle fuel and use fuel taxes imposed pursuant to this
2 section on the use of motor vehicle fuel and use fuel and the aviation fuel
3 taxes imposed pursuant to section 28-8344 on the use of aviation fuel, other
4 than by bulk transfer, arise at the time the motor vehicle, use or aviation
5 fuel either:

6 1. Is imported into this state and is measured by invoiced gallons
7 received outside this state at a refinery, terminal or bulk plant for
8 delivery to a destination in this state.

9 2. Is removed, as measured by invoiced gallons, from the bulk transfer
10 terminal system or from a qualified terminal in this state.

11 3. Is removed, as measured by invoiced gallons, from the bulk transfer
12 terminal system or from a qualified terminal or refinery outside this state
13 for delivery to a destination in this state as represented on the shipping
14 papers if a supplier imports the motor vehicle, use or aviation fuel for the
15 account of the supplier or the supplier has made a tax precollection election
16 pursuant to section 28-5636.

17 E. If motor fuel is removed from the bulk transfer terminal system or
18 from a qualified terminal or is imported into this state, the original
19 removal, transfer or importation of the motor fuel is subject to the
20 collection of the tax. If this motor fuel is transported to another
21 qualified terminal or reenters the bulk transfer terminal system, the
22 subsequent sale of the motor fuel on which tax has been collected is not
23 subject to collection of an additional tax if proper documentation is
24 retained to support the transaction.

25 Sec. 3. Section 28-5614, Arizona Revised Statutes, is amended to read:
26 28-5614. Refunds: use fuel

27 A. If a vendor pays the use fuel tax rate for use class motor vehicles
28 on use fuel that is actually used in the propulsion of a light class motor
29 vehicle on a highway in this state or that is actually used in the propulsion
30 of a use class motor vehicle that is exempt pursuant to section 28-5432 from
31 the weight fee prescribed in section 28-5433 on a highway in this state and
32 for the purpose of convenience and facility only, the vendor may apply to the
33 department for a refund of the difference between the amount of the use class
34 motor vehicle use fuel tax paid and the amount of the light class motor
35 vehicle use fuel tax on the same number of gallons purchased.

36 ~~B. If a person who transports forest products on a highway in this~~
37 ~~state in compliance with the requirements of section 41-1516 pays the use~~
38 ~~fuel tax rate prescribed in section 28-5606, subsection B, paragraph 2 for a~~
39 ~~use class motor vehicle that is eligible for the use fuel tax rate prescribed~~
40 ~~in section 28-5606, subsection B, paragraph 3, the person may apply to the~~
41 ~~department for a refund of the difference between the amount of the use fuel~~
42 ~~tax paid and the use fuel tax rate prescribed for a motor vehicle~~
43 ~~transporting forest products.~~

44 ~~C.~~ B. The director may prescribe any forms the director deems
45 necessary to implement this section.

1 ~~D.~~ C. A vendor may file an application for a refund pursuant to this
2 section either:

3 1. On a monthly basis subject to the limitations prescribed in section
4 28-5612.

5 2. If the amount of the requested refund is at least seven hundred
6 fifty dollars, except that a vendor shall not file an application for a
7 refund pursuant to this paragraph more frequently than once each week.

8 ~~E.~~ D. The director shall:

9 1. Pay the refund from current use fuel tax receipts.

10 2. Deduct the refund from the monthly use fuel tax receipts before the
11 deposit pursuant to section 28-5730 is made.

12 Sec. 4. Section 41-1516, Arizona Revised Statutes, is amended to read:

13 41-1516. Healthy forest enterprise incentives; definitions

14 A. The Arizona commerce authority shall:

15 1. Implement a program to encourage counties, cities and towns to
16 provide local incentives to economic enterprises that promote forest health
17 in this state.

18 2. Identify and certify to the department of revenue the names of and
19 relevant information relating to qualified businesses for the purposes of
20 available state tax incentives for economic enterprises that promote forest
21 health in this state.

22 B. To qualify for state tax incentives pursuant to this section, a
23 business:

24 1. Must be primarily engaged in a qualifying project. The business
25 shall submit to the authority evidence that it is engaged in a qualifying
26 project as follows:

27 (a) The business operation must enhance or sustain forest health,
28 sustain or recover watershed or improve public safety.

29 (b) If the qualifying forest product is on federal land, the business
30 shall submit a letter from the federal agency administering the land, or
31 official records or documents produced in connection with the project,
32 stating that the business is primarily engaged in the business of harvesting
33 or processing qualifying forest products for commercial use as follows:

34 (i) At least seventy ~~per-cent~~ PERCENT of the harvested or processed
35 products, measured by weight, must be qualifying forest products.

36 (ii) At least seventy-five ~~per-cent~~ PERCENT of the qualifying forest
37 products, measured by weight, must be harvested from sources in this state.

38 (c) If the qualifying forest product is not on federal land, the
39 business shall submit a letter from the state forester stating that the
40 business is primarily engaged in the business of harvesting or processing
41 qualifying forest products for commercial use as follows:

42 (i) At least seventy ~~per-cent~~ PERCENT of the harvested or processed
43 products must be qualifying forest products.

44 (ii) At least seventy-five ~~per-cent~~ PERCENT of the harvested or
45 processed products must be from areas in this state.

1 (d) If the business is engaged in transporting qualifying forest
2 products, it must submit a letter from the state forester or United States
3 forest service, or official records or documents produced in connection with
4 the project, stating that all of the qualifying forest products it transports
5 are harvested from areas in this state. In addition, the business must
6 submit evidence to the authority that at least seventy-five ~~per-cent~~ PERCENT
7 of the mileage traveled by its units each year are for transporting
8 qualifying forest products from or to qualifying projects described in
9 subdivision (b) or (c) of this paragraph, unless a lower mileage is due to
10 forest closures or weather conditions that are beyond the control of the
11 business.

12 2. Must employ at least one permanent full-time employee.

13 3. Must agree to furnish to the authority information relating to the
14 amount of state tax benefits that the business receives each year.

15 4. Must enter into a memorandum of understanding with the authority
16 containing:

17 (a) Employment goals. Each year the business must report in writing
18 to the authority its performance in achieving the goals.

19 (b) A commitment to continue in business and use the qualifying
20 equipment primarily on qualifying projects in this state as described in
21 paragraph 1 of this subsection, other than for reasons beyond the control of
22 the business. The authority shall consult with the department of revenue in
23 designing the memorandum of understanding to incorporate the legal
24 qualifications for the available tax incentives and shall include the
25 requirement that any qualifying equipment that is purchased or leased free of
26 transaction privilege or use tax must continue to be used in this state for
27 the term of the memorandum of understanding or the duration of its
28 operational life, whichever is shorter.

29 (c) Provisions considered necessary by the authority to ensure the
30 competency and responsibility of businesses that qualify under this section,
31 including registration or other accreditation with trade and professional
32 organizations and compliance with best management and operational practices
33 used by governmental agencies in awarding forestry contracts.

34 (d) The authorization for the authority to terminate, adjust or
35 recapture all or part of the tax benefits provided to the business on
36 noncompliance with the law, noncompliance with the terms of the memorandum or
37 violation of the terms of any contracts with the federal or state government
38 relating to the qualifying project. The authority shall notify the
39 department of revenue of the conditions of noncompliance. The department of
40 revenue may also terminate the certification if it obtains information
41 indicating a failure to qualify and comply. The department of revenue may
42 require the business to file appropriate amended tax returns or to file
43 appropriate use tax returns reflecting the recapture of the direct or
44 indirect tax benefits.

1 5. Must submit a copy of the certification to the department of
2 revenue for approval before using the certification for purposes of any tax
3 incentive. The department of revenue shall review and approve the
4 certification in a timely manner if the business is in good standing with the
5 department and is not delinquent in the payment of any tax collected by the
6 department. A failure to approve or deny the certification within sixty days
7 after the date the business submits it to the department constitutes approval
8 of the certification.

9 C. For the purposes of section 42-5075, subsection B, paragraph 18,
10 the authority shall certify prime contractors that contract for the
11 construction of any building, or other structure, project, development or
12 improvement owned by a qualified business for purposes of a qualifying
13 project described in subsection B, paragraph 1 of this section.

14 D. To obtain and maintain certification under this section, a business
15 must:

16 1. Apply to the authority.

17 2. Submit and retain copies of all required information, including
18 information relating to the actual or projected number of employees in this
19 state.

20 3. Allow inspections and audits to verify the qualification and
21 accuracy of information submitted to the authority.

22 E. Certification under this section is valid for sixty calendar months
23 from the date of issuance. A business must apply for recertification at
24 least thirty days before the current certification expires. The application
25 for recertification shall be in a form prescribed by the authority and shall
26 confirm that the business is continuing in a qualifying project and is in
27 compliance with all requirements prescribed for certification.

28 F. Within sixty days after receiving a complete and correct
29 application and all required information as prescribed by this section, the
30 authority shall grant or deny certification and give written notice by
31 certified mail to the applicant. The applicant is certified as a qualified
32 business on the date the notice of certification is delivered to the
33 applicant. A failure to respond within sixty days after receiving a complete
34 and correct application constitutes approval of the application.

35 G. The certification shall state an effective date with respect to
36 each authorized tax incentive which, in each case, must be at the start of a
37 taxable year or taxable period.

38 H. On or before March 1 of each year, each qualifying business shall
39 make a report to the authority on all business activity in the preceding
40 calendar year. Business information contained in the reports is confidential
41 and shall not be disclosed to the public except as provided by this section
42 and except that a copy of the report shall be transmitted to the department
43 of revenue. The report shall be in a form prescribed by the authority and
44 include:

- 1 1. Information prescribed by the authority with respect to both
2 qualifying projects and other projects and business activity that do not
3 qualify for purposes of this section.
- 4 2. Employment information necessary to confirm eligibility for income
5 tax credits as prescribed by sections 43-1076 and 43-1162.
- 6 3. The quantity, measured by weight, of qualifying forest products
7 harvested, transported or processed.
- 8 I. On or before May 1 of each year, the authority shall report to the
9 joint legislative budget committee:
- 10 1. The quantity, measured by weight, of qualifying forest products
11 reported by harvesters, by transporters and by processors in the preceding
12 calendar year.
- 13 2. The number of new full-time employees hired in qualified employment
14 positions in this state in the preceding calendar year and reported for tax
15 credit purposes.
- 16 3. The total number of all full-time employees employed in qualified
17 employment positions in this state in the preceding calendar year and
18 reported for tax credit purposes.
- 19 J. For purposes of administering and ensuring compliance with this
20 section, agents of the authority may enter, and a qualified business shall
21 allow access to, a qualifying project site at reasonable times and on
22 reasonable notice to:
- 23 1. Inspect the facilities at the site.
- 24 2. Obtain factual data and records pertinent to and required by law to
25 be kept for purposes of tax incentives.
- 26 3. Otherwise ascertain compliance with law and the terms of the
27 memorandum of understanding.
- 28 K. The authority shall revoke the business' certification and notify
29 the department of revenue and county assessor if either:
- 30 1. Within thirty days after a formal request from the authority or the
31 department of revenue the business fails or refuses to provide the
32 information or access for inspections required by this section.
- 33 2. The business no longer meets the terms and conditions required for
34 qualification for the applicable tax incentives.
- 35 L. For the purposes of this section:
- 36 1. "Forest health" means the degree to which the integrity of the
37 forest is sustained, including reducing the risk of catastrophic wildfire and
38 destructive insect infestation, benefiting wildland habitats, watersheds and
39 communities.
- 40 2. "Harvesting" means all operations relating to felling or otherwise
41 removing trees and other forest plant growth and preparing them for transport
42 for subsequent processing.
- 43 3. "Processing" means:
- 44 (a) Any change in the physical structure of qualifying forest products
45 removed from a qualifying project into a marketable commercial product or

1 component of a product that has commercial value to a consumer or purchaser
2 and that is ready to be used with or without further altering its form.

3 (b) Burning qualifying forest products in the process of commercial
4 electrical generation or commercial thermal energy production for heating or
5 cooling, regardless of the physical structure of the forest product before
6 burning.

7 4. "Qualifying equipment" means equipment used directly in harvesting
8 or processing qualifying forest products removed from a qualifying project.
9 Qualifying equipment does not include self-propelled vehicles required to be
10 licensed by this state, but may include other licensed vehicles as provided
11 by this paragraph. Qualifying equipment includes:

12 (a) Forest thinning and residue removal equipment, including mulching
13 and masticating equipment, feller-bunchers, skidders, log loaders, portable
14 chippers and grinders, slash bundlers, delimiters, log trailers, chip trailers
15 and other trailers that are uniquely designed for handling forest products
16 and that are licensed for operation on public highways.

17 (b) Forest residue receiving and handling equipment, including truck
18 dumpers, log unloaders, scales, log decking facilities and equipment and chip
19 pile facilities.

20 (c) Sorting and processing equipment, including portable and
21 stationary log loaders, front end loaders, fork lifts and cranes, chippers
22 and grinders, screens, decks and debarkers, saws and sawmill equipment,
23 firewood processing, wood residue baling and bagging equipment, kilns,
24 planing and molding equipment and laminating and joining equipment.

25 (d) Forest waste and residue disposal and processing equipment,
26 including:

27 (i) Processing and sizing equipment, hogs, chippers, screens,
28 pelletizers and wood splitters.

29 (ii) Transporting and handling equipment, including loaders,
30 conveyors, blowers, receiving hoppers, truck dumpers and dozers.

31 (iii) Waste use equipment, including fuel feed, storage bins, boilers
32 and combustors.

33 (iv) Waste project use equipment, including generators, switchgear and
34 substations and on-site distribution systems.

35 (v) Generated waste disposal equipment, including ash silos and
36 wastewater treatment and disposal equipment.

37 (vi) Shop and maintenance equipment and major spares having a value of
38 more than five thousand dollars each.

39 5. "Qualifying forest products" means dead standing and fallen timber,
40 and forest thinnings associated with the harvest of small diameter timber,
41 slash, wood chips, peelings, brush and other woody vegetation, removed from
42 federal, state and other public forest land and from private forest land.

43 6. "Qualifying project":

44 (a) Means harvesting, transporting or processing qualifying forest
45 products as required for certification pursuant to this section.

1 (b) INCLUDES ROAD REHABILITATION AND UPGRADES ON FEDERAL, STATE AND
2 OTHER PUBLIC FOREST LAND.

3 Sec. 5. Section 42-5061, Arizona Revised Statutes, 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 ~~multidisabilities~~ MULTIPLE
29 DISABILITIES from the time of birth to age twenty-one.

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

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

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

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

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

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

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

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

13 28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (a) "Personal property liquidation transaction" means a sale of
44 personal property made by a personal property liquidator acting solely on
45 behalf of the owner of the personal property sold at the dwelling of the

1 owner or on the death of any owner, on behalf of the surviving spouse, if
2 any, any devisee or heir or the personal representative of the estate of the
3 deceased, if one has been appointed.

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

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

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

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

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

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

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

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

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

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

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

44 48. Tangible personal property sold to a commercial airline and
45 consisting of food, beverages and condiments and accessories used for serving

1 the food and beverages, if those items are to be provided without additional
2 charge to passengers for consumption in flight. For the purposes of this
3 paragraph, "commercial airline" means a person holding a federal certificate
4 of public convenience and necessity or foreign air carrier permit for air
5 transportation to transport persons, property or United States mail in
6 intrastate, interstate or foreign commerce.

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

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

15 51. Sales of tangible personal property to be incorporated or installed
16 as part of environmental response or remediation activities under section
17 42-5075, subsection B, paragraph 6.

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

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

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

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

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

34 55. Sales of motor vehicle fuel and use fuel to a qualified business,
35 **INCLUDING A SUBCONTRACTOR OF A QUALIFIED BUSINESS**, under section 41-1516 for
36 off-road use in harvesting, processing or transporting qualifying forest
37 products removed from qualifying projects as defined in section 41-1516.

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

42 57. Sales or other transfers of renewable energy credits or any other
43 unit created to track energy derived from renewable energy resources. For
44 the purposes of this paragraph, "renewable energy credit" means a unit
45 created administratively by the corporation commission or governing body of a

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

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

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

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

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

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

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

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

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

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

8 7. Aircraft, navigational and communication instruments and other
9 accessories and related equipment sold to:

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

16 (b) Any foreign government.

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

24 8. Machinery, tools, equipment and related supplies used or consumed
25 directly in repairing, remodeling or maintaining aircraft, aircraft engines
26 or aircraft component parts by or on behalf of a certificated or licensed
27 carrier of persons or property.

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

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

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

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

41 13. New machinery and equipment consisting of tractors, tractor-drawn
42 implements, self-powered implements, machinery and equipment necessary for
43 extracting milk, and machinery and equipment necessary for cooling milk and
44 livestock, and drip irrigation lines not already exempt under paragraph 6 of
45 this subsection and that are used for commercial production of agricultural,

1 horticultural, viticultural and floricultural crops and products in this
2 state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

41 16. Clean rooms that are used for manufacturing, processing,
42 fabrication or research and development, as defined in paragraph 14 of this
43 subsection, of semiconductor products. For the purposes of this paragraph,
44 "clean room" means all property that comprises or creates an environment
45 where humidity, temperature, particulate matter and contamination are

1 precisely controlled within specified parameters, without regard to whether
2 the property is actually contained within that environment or whether any of
3 the property is affixed to or incorporated into real property. Clean room:

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

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

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

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

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

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

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

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

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

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

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

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

13 2. Janitorial equipment and hand tools.

14 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

35 E. In computing the tax base, gross proceeds of sales or gross income
36 from retail sales of heavy trucks and trailers does not include any amount
37 attributable to federal excise taxes imposed by 26 United States Code section
38 4051.

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

43 G. If a person is engaged in an occupation or business to which
44 subsection A of this section applies, the person's books shall be kept so as
45 to show separately the gross proceeds of sales of tangible personal property

1 and the gross income from sales of services, and if not so kept the tax shall
2 be imposed on the total of the person's gross proceeds of sales of tangible
3 personal property and gross income from services.

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

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

- 18 1. Transporting classification.
- 19 2. Utilities classification.
- 20 3. Telecommunications classification.
- 21 4. Pipeline classification.
- 22 5. Private car line classification.
- 23 6. Publication classification.
- 24 7. Job printing classification.
- 25 8. Prime contracting classification.
- 26 9. Restaurant classification.

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

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

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

35 3. 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

44 S. For the purposes of this section, the transfer of title or
45 possession of coal from an owner or operator of a power plant to a person in

1 the business of refining coal is not a sale of coal if both of the following
2 apply:

3 1. The transfer of title or possession of the coal is for the purpose
4 of refining the coal.

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

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

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

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

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

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

1 W. For the purposes of this section:
2 1. "Aircraft" includes:
3 (a) An airplane flight simulator that is approved by the federal
4 aviation administration for use as a phase II or higher flight simulator
5 under appendix H, 14 Code of Federal Regulations part 121.
6 (b) Tangible personal property that is permanently affixed or attached
7 as a component part of an aircraft that is owned or operated by a
8 certificated or licensed carrier of persons or property.
9 2. "Other accessories and related equipment" includes aircraft
10 accessories and equipment such as ground service equipment that physically
11 contact aircraft at some point during the overall carrier operation.
12 3. "Selling at retail" means a sale for any purpose other than for
13 resale in the regular course of business in the form of tangible personal
14 property, but transfer of possession, lease and rental as used in the
15 definition of sale mean only such transactions as are found on investigation
16 to be in lieu of sales as defined without the words lease or rental.
17 X. For the purposes of subsection J of this section:
18 1. "Assembler" means a person who unites or combines products, wares
19 or articles of manufacture so as to produce a change in form or substance
20 without changing or altering the component parts.
21 2. "Manufacturer" means a person who is principally engaged in the
22 fabrication, production or manufacture of products, wares or articles for use
23 from raw or prepared materials, imparting to those materials new forms,
24 qualities, properties and combinations.
25 3. "Modifier" means a person who reworks, changes or adds to products,
26 wares or articles of manufacture.
27 4. "Overhead materials" means tangible personal property, the gross
28 proceeds of sales or gross income derived from that would otherwise be
29 included in the retail classification, and that are used or consumed in the
30 performance of a contract, the cost of which is charged to an overhead
31 expense account and allocated to various contracts based on generally
32 accepted accounting principles and consistent with government contract
33 accounting standards.
34 5. "Repairer" means a person who restores or renews products, wares or
35 articles of manufacture.
36 6. "Subcontract" means an agreement between a contractor and any
37 person who is not an employee of the contractor for furnishing of supplies or
38 services that, in whole or in part, are necessary to the performance of one
39 or more government contracts, or under which any portion of the contractor's
40 obligation under one or more government contracts is performed, undertaken or
41 assumed and that includes provisions causing title to overhead materials or
42 other tangible personal property used in the performance of the subcontract
43 to pass to the government or that includes provisions incorporating such
44 title passing clauses in a government contract into the subcontract. For the

1 purposes of this paragraph, "contractor" has its ordinary and common meaning
2 ~~and does not have the meaning prescribed by section 42-5001.~~

3 Sec. 6. Section 42-5159, Arizona Revised Statutes, is amended to read:
4 42-5159. Exemptions

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

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

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

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

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

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

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

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

43 8. Livestock, poultry, supplies, feed, salts, vitamins and other
44 additives for use or consumption in the businesses of farming, ranching and
45 feeding livestock or poultry, not including fertilizers, herbicides and

1 insecticides. For the purposes of this paragraph, "poultry" includes
2 ratites.

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

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

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

13 12. Materials that are purchased by or for publicly funded libraries
14 including school district libraries, charter school libraries, community
15 college libraries, state university libraries or federal, state, county or
16 municipal libraries for use by the public as follows:

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

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

19 13. Tangible personal property purchased by:

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

23 (b) A hospital operated by this state or a political subdivision of
24 this state.

25 (c) A licensed nursing care institution or a licensed residential care
26 institution or a residential care facility operated in conjunction with a
27 licensed nursing care institution or a licensed kidney dialysis center, which
28 provides medical services, nursing services or health related services and is
29 not used or held for profit.

30 (d) A qualifying health care organization, as defined in section
31 42-5001, if the tangible personal property is used by the organization solely
32 to provide health and medical related educational and charitable services.

33 (e) A qualifying health care organization as defined in section
34 42-5001 if the organization is dedicated to providing educational,
35 therapeutic, rehabilitative and family medical education training for blind
36 and visually impaired children and children with ~~multidisabilities~~ MULTIPLE
37 DISABILITIES from the time of birth to age twenty-one.

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

43 (g) A person that is subject to tax under article 1 of this chapter by
44 reason of being engaged in business classified under the prime contracting
45 classification under section 42-5075, or a subcontractor working under the

1 control of a prime contractor, if the tangible personal property is any of
2 the following:

3 (i) Incorporated or fabricated by the contractor into a structure,
4 project, development or improvement in fulfillment of a contract.

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

7 (h) A nonprofit charitable organization that has qualified under
8 section 501(c)(3) of the internal revenue code if the property is purchased
9 from the parent or an affiliate organization that is located outside this
10 state.

11 (i) A qualifying community health center as defined in section
12 42-5001.

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

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

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

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

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

36 15. Tangible personal property sold by:

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

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

- 1 (c) A nonprofit organization that is exempt from taxation under
2 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
3 internal revenue code if the organization sponsors or operates a rodeo
4 featuring primarily farm and ranch animals and no part of the organization's
5 net earnings inures to the benefit of any private shareholder or individual.
- 6 16. Drugs and medical oxygen, including delivery hose, mask or tent,
7 regulator and tank, on the prescription of a member of the medical, dental or
8 veterinarian profession who is licensed by law to administer such substances.
- 9 17. Prosthetic appliances, as defined in section 23-501, prescribed or
10 recommended by a person who is licensed, registered or otherwise
11 professionally credentialed as a physician, dentist, podiatrist,
12 chiropractor, naturopath, homeopath, nurse or optometrist.
- 13 18. Prescription eyeglasses and contact lenses.
- 14 19. Insulin, insulin syringes and glucose test strips.
- 15 20. Hearing aids as defined in section 36-1901.
- 16 21. Durable medical equipment that has a centers for medicare and
17 medicaid services common procedure code, is designated reimbursable by
18 medicare, is prescribed by a person who is licensed under title 32, chapter
19 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
20 used to serve a medical purpose, is generally not useful to a person in the
21 absence of illness or injury and is appropriate for use in the home.
- 22 22. Food, as provided in and subject to the conditions of article 3 of
23 this chapter and section 42-5074.
- 24 23. Items purchased with United States department of agriculture food
25 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
26 958) or food instruments issued under section 17 of the child nutrition act
27 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
28 section 1786).
- 29 24. Food and drink provided without monetary charge by a taxpayer that
30 is subject to section 42-5074 to its employees for their own consumption on
31 the premises during the employees' hours of employment.
- 32 25. Tangible personal property that is used or consumed in a business
33 subject to section 42-5074 for human food, drink or condiment, whether
34 simple, mixed or compounded.
- 35 26. Food, drink or condiment and accessory tangible personal property
36 that are acquired for use by or provided to a school district or charter
37 school if they are to be either served or prepared and served to persons for
38 consumption on the premises of a public school in the school district or on
39 the premises of the charter school during school hours.
- 40 27. Lottery tickets or shares purchased pursuant to title 5, chapter
41 5.1, article 1.
- 42 28. Textbooks, sold by a bookstore, that are required by any state
43 university or community college.
- 44 29. Magazines, other periodicals or other publications produced by this
45 state to encourage tourist travel.

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

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

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

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

19 (b) Public educational institutions.

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

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

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

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

43 36. Food, drink and condiment purchased for consumption within the
44 premises of any prison, jail or other institution under the jurisdiction of

1 the state department of corrections, the department of public safety, the
2 department of juvenile corrections or a county sheriff.

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

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

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

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

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

33 40. Through December 31, 1994, tangible personal property sold pursuant
34 to a personal property liquidation transaction, as defined in section
35 42-5061. From and after December 31, 1994, tangible personal property sold
36 pursuant to a personal property liquidation transaction, as defined in
37 section 42-5061, if the gross proceeds of the sales were included in the
38 measure of the tax imposed by article 1 of this chapter or if the personal
39 property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 51. Motor vehicle fuel and use fuel to a qualified business, **INCLUDING**
2 **A SUBCONTRACTOR OF A QUALIFIED BUSINESS**, under section 41-1516 for off-road
3 use in harvesting, processing or transporting qualifying forest products
4 removed from qualifying projects as defined in section 41-1516.

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

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

16 54. 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 55. Coal acquired from an owner or operator of a power plant by a
28 person who is responsible for refining coal if both of the following apply:

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

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

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

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

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

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

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

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

35 8. Machinery, tools, equipment and related supplies used or consumed
36 directly in repairing, remodeling or maintaining aircraft, aircraft engines
37 or aircraft component parts by or on behalf of a certificated or licensed
38 carrier of persons or property.

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

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

44 11. Buses or other urban mass transit vehicles that are used directly
45 to transport persons or property for hire or pursuant to a governmentally

1 adopted and controlled urban mass transportation program and that are sold to
2 bus companies holding a federal certificate of convenience and necessity or
3 operated by any city, town or other governmental entity or by any person
4 contracting with such governmental entity as part of a governmentally adopted
5 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

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

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

43 (ii) Over two-thirds of the transmissions, measured in megabytes,
44 transmitted by or on behalf of those direct broadcast television or data

1 transmission services during the test period were transmitted by the facility
2 to or on behalf of those services.

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

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

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

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

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

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

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

43 20. Machinery or equipment that enables a television station to
44 originate and broadcast or to receive and broadcast digital television
45 signals and that was purchased to facilitate compliance with the

1 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
2 Code section 336) and the federal communications commission order issued
3 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
4 not exempt any of the following:

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

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

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

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

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

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

24 2. Janitorial equipment and hand tools.

25 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

21 G. The tax levied by this article does not apply to the purchase price
22 of electricity or natural gas by a business that is principally engaged in
23 manufacturing or smelting operations and that uses at least fifty-one ~~per~~
24 ~~cent~~ PERCENT of the electricity or natural gas in the manufacturing or
25 smelting operations. This subsection does not apply to gas transportation
26 services. For the purposes of this subsection:

27 1. "Gas transportation services" means the services of transporting
28 natural gas to a natural gas customer or to a natural gas distribution
29 facility if the natural gas was purchased from a supplier other than the
30 utility.

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

37 3. "Principally engaged" means at least fifty-one ~~per-cent~~ PERCENT of
38 the business is a manufacturing or smelting operation.

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

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

42 1. "Aircraft" includes:

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

1 (b) Tangible personal property that is permanently affixed or attached
2 as a component part of an aircraft that is owned or operated by a
3 certificated or licensed carrier of persons or property.
4 2. "Other accessories and related equipment" includes aircraft
5 accessories and equipment such as ground service equipment that physically
6 contact aircraft at some point during the overall carrier operation.
7 I. For the purposes of subsection D of this section, "ancillary
8 services", "electric distribution service", "electric generation service",
9 "electric transmission service" and "other services" have the same meanings
10 prescribed in section 42-5063.