

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1133

AN ACT

AMENDING SECTIONS 42-1101.01 AND 42-1118, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-1118.01; AMENDING SECTIONS 42-1119, 42-1123, 42-1251, 42-1253, 42-1254, 42-2003, 42-2064 AND 42-5008, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 10; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6009; AMENDING SECTION 44-1263, ARIZONA REVISED STATUTES; RELATING TO TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-1101.01, Arizona Revised Statutes, is amended to
3 read:

4 42-1101.01. Definitions

5 In this article, unless the context otherwise requires:

6 1. "CUSTOMER" MEANS A PERSON THAT PURCHASES GOODS OR SERVICES FROM ANY
7 VENDOR.

8 ~~1-~~ 2. "Electronic return preparer" means a person who for
9 compensation prepares an electronic return, statement or other document or
10 prepares a substantial portion of an electronic return, statement or other
11 document or transforms a paper version of a completed return, statement or
12 other document to an electronic version of the same return, statement or
13 other document for filing with the department. Electronic return preparer
14 does not include a person who for compensation provides only computational
15 and informational software used to prepare and file taxes.

16 ~~2-~~ 3. "Electronic return transmitter" means a person who receives the
17 electronic return, statement or other document from a taxpayer or electronic
18 return preparer for ultimate transmittal to the department.

19 ~~3-~~ 4. "Return preparer":

20 (a) Means any person that prepares a return, statement or other
21 document or substantial portion of a return, statement or other document for
22 compensation, regardless of the media used to prepare the return.

23 (b) Does not include a person because the person:

24 (i) Furnishes typing, reproducing or other mechanical assistance.

25 (ii) Prepares a return, statement or other document for an employer
26 and is regularly and continuously employed by the employer.

27 (iii) Prepares as a fiduciary a return, statement or other document
28 for any person.

29 (iv) Prepares a claim for refund or a return, statement or other
30 document for a taxpayer in response to any notice of deficiency issued to the
31 taxpayer or in response to any waiver of restriction after the commencement
32 of an audit of the taxpayer.

33 (v) Furnishes computational and informational software used by the
34 taxpayer to prepare the taxpayer's return, statement or other document.

35 (vi) Only prepares payment documents for payment made to the
36 department pursuant to section 42-1129.

37 ~~4-~~ 5. "Return, statement or other document" means any return, claim
38 for refund, statement or other document that is required or authorized to be
39 filed with the department pursuant to this title or title 43, including
40 returns for any political subdivision of this state for which the department
41 collects taxes.

42 6. "VENDOR" MEANS ANY TAXPAYER THAT EITHER IS LIABLE FOR FILING AND
43 REMITTING TRANSACTION PRIVILEGE TAX TO THE DEPARTMENT UNDER ANY TAX
44 CLASSIFICATION PURSUANT TO CHAPTER 5, ARTICLE 2 OF THIS TITLE OR IS

1 REGISTERED WITH THE DEPARTMENT TO REMIT USE TAX TO THE DEPARTMENT ON BEHALF
2 OF ITS PURCHASERS.

3 Sec. 2. Section 42-1118, Arizona Revised Statutes, is amended to read:

4 42-1118. Refunds, credits, offsets and abatements

5 A. If the department determines that any amount of tax, penalty or
6 interest has been paid in excess of the amount actually due, the department
7 shall credit the excess amount against any tax administered pursuant to this
8 article, including any penalty, interest or other amounts owed by the
9 taxpayer to the department. If it is determined that the amount cannot be
10 credited against a tax or installment of taxes due from the taxpayer, the
11 department may:

12 1. Refund the entire amount of tax, interest and penalty, in a lump
13 sum or in not more than five annual installments, to the taxpayer from whom
14 it was collected.

15 2. Issue to the taxpayer a credit voucher for the entire amount of
16 tax, interest and penalty collected, to be carried forward and applied
17 against future tax liabilities until exhausted.

18 3. Refund part, and issue a credit voucher for the balance, of the
19 tax, interest and penalties as provided in paragraphs 1 and 2 of this
20 subsection.

21 B. IN THE CASE OF A TRANSACTION PRIVILEGE TAX, A VENDOR MAY CLAIM A
22 REFUND UNDER THIS CHAPTER EXCEPT AS PROVIDED IN SECTION 42-1118.01 OR
23 SUBSECTION K OF THIS SECTION.

24 ~~B.~~ C. If the total amount withheld from income under section 43-401
25 exceeds the amount of the tax on the employee's entire taxable income as
26 computed under title 43, the department shall refund the amount of the excess
27 deducted without requiring a filing of a refund claim as provided in this
28 section. The failure of the department to make the refund does not limit the
29 right of the taxpayer to file a claim for a refund pursuant to this section
30 if the claim is not barred under section 42-1106. The department shall not
31 refund amounts less than one dollar unless specifically requested by the
32 taxpayer at the time the return or claim for refund is filed.

33 ~~C.~~ D. Any overpayment that may result from withholdings or estimates
34 pursuant to section 43-401, 43-581 or 43-582 shall not be credited or
35 refunded unless an Arizona income tax return has been filed for the tax year
36 for which the withholdings or estimates were made.

37 ~~D.~~ E. The department shall give a vendor who has a duty to collect
38 use tax pursuant to chapter 5, article 4 of this title and who has not
39 collected that tax full credit or offset for any use tax, interest and
40 penalty paid to the department by the purchaser when issuing a determination
41 of a deficiency pursuant to section 42-1108. This credit or offset shall be
42 computed from the date of the use tax payment by the purchaser. If the
43 purchaser has been audited by the department for use tax for the period of
44 the purchase, the purchaser is considered to have paid the use tax to the
45 department. For other purchases, the vendor may submit an affirmation by a

1 purchaser on a form prescribed by the department that use tax was paid on the
2 purchase. A fully completed certificate, taken in good faith by the vendor,
3 constitutes proof that the vendor is entitled to this credit or offset. The
4 department may require a purchaser who has submitted the certificate to
5 establish the accuracy and completeness of the information contained in the
6 certificate. If the purchaser cannot establish the accuracy and completeness
7 of the information, the purchaser is liable for a penalty equal to the amount
8 of tax and interest that would have been paid by the seller and for the
9 additional penalties pursuant to section 42-1125. Payment of the penalty
10 relieves the purchaser of any responsibility for paying the use tax. The
11 department may require this proof and may assess the purchaser within the
12 later of the period of limitations set forth in section 42-1104 or one year
13 from the date the notice of proposed deficiency is issued to the vendor if
14 the purchaser does not establish the accuracy of the information contained in
15 the certificate.

16 ~~F.~~ F. Each claim for refund shall be filed with the department in
17 writing and shall identify the claimant by name, address and tax
18 identification number. Each claim shall provide the amount of refund
19 requested, the specific tax period involved and the specific grounds on which
20 the claim is founded. Refunds are subject to setoff for debts pursuant to
21 section 42-1122.

22 ~~F.~~ G. A motor vehicle manufacturer that repurchases a vehicle
23 pursuant to section 44-1263 or for reasons of consumer satisfaction may apply
24 for a refund of the taxes paid under chapter 5 of this title if that
25 manufacturer has refunded the amount of tax to the consumer. A refund is
26 allowed under this subsection only if the manufacturer provides satisfactory
27 proof to the department that tax amounts attributed to the sale of the
28 vehicle were collected from the consumer and that the manufacturer refunded
29 an amount of tax to the consumer. Any refund provided under this subsection
30 is in lieu of any refund on the vehicle that the dealer may otherwise be
31 entitled to receive. A manufacturer must apply for a refund under this
32 subsection within four years after repurchasing the vehicle. For the
33 purposes of this subsection:

- 34 1. "Consumer" has the same meaning prescribed in section 44-1261.
- 35 2. "Motor vehicle manufacturer" means a corporation engaged in the
36 business of producing passenger cars, trucks and multipurpose passenger
37 vehicles as described in 49 Code of Federal Regulations section 571.3.
- 38 3. "Satisfactory proof" includes copies of checks and a purchase or
39 lease agreement that lists the vehicle identification number and that
40 itemizes the amount that was collected as tax from the consumer.

41 ~~G.~~ H. The department shall not imprint the full social security
42 number or other taxpayer identifier used pursuant to section 42-1105 on any
43 taxpayer refund check, voucher or other credit documentation issued to the
44 taxpayer under this section.

1 (f) A STATEMENT EXECUTED BY THE VENDOR AFFIRMING, UNDER PENALTY OF
2 PERJURY, THAT THE VENDOR HAS NOT REQUESTED OR RECEIVED A REFUND OR CREDIT AND
3 WILL NOT CLAIM A REFUND OR CREDIT FOR THE TAX REMITTED ON THE TRANSACTIONS
4 COVERED BY THE ASSIGNMENT. IF THE VENDOR IS A LEGAL ENTITY, THE STATEMENT
5 SHALL BE EXECUTED BY A FULL-TIME OFFICER, PARTNER, MEMBER OR MANAGER OF A
6 LIMITED LIABILITY COMPANY OR AN EMPLOYEE OF THE VENDOR WHO IS AUTHORIZED TO
7 EXECUTE THE FORM ON BEHALF OF THE VENDOR.

8 2. IF THE VENDOR FAILS OR REFUSES TO PROPERLY ASSIGN ITS RIGHT TO A
9 CLAIM AS PROVIDED IN PARAGRAPH 1 OF THIS SUBSECTION WITHIN SIXTY DAYS AFTER
10 THE DATE OF THE CUSTOMER'S WRITTEN REQUEST TO THE VENDOR OR IF THE VENDOR IS
11 NO LONGER IN BUSINESS, THE CUSTOMER MAY PROVIDE THE DEPARTMENT WITH A
12 STATEMENT ON A FORM PRESCRIBED BY THE DEPARTMENT EXPLAINING THE EFFORTS MADE
13 TO OBTAIN AN ASSIGNMENT FROM THE VENDOR. THE STATEMENT SHALL CONTAIN ALL OF
14 THE FOLLOWING:

15 (a) THE VENDOR'S TRANSACTION PRIVILEGE TAX LICENSE NUMBER OR USE TAX
16 REGISTRATION NUMBER, IF KNOWN BY THE CUSTOMER.

17 (b) A DESCRIPTION OF TRANSACTIONS SOUGHT TO BE COVERED BY THE
18 ASSIGNMENT AND EITHER THE TOTAL AMOUNT OF TRANSACTION PRIVILEGE TAX DUE FOR
19 THE TRANSACTIONS OR THE TOTAL AMOUNT OF USE TAX COLLECTED BY THE VENDOR FOR
20 THE TRANSACTIONS.

21 (c) THE TAX PERIODS FOR WHICH THE VENDOR SHOULD HAVE REPORTED AND
22 REMITTED THE TAX TO THE DEPARTMENT.

23 C. IF A CLAIM IS FILED WITH THE DEPARTMENT PURSUANT TO SUBSECTION B,
24 PARAGRAPH 2 OF THIS SECTION, THE DEPARTMENT SHALL ATTEMPT TO NOTIFY THE
25 VENDOR OF THE CLAIM AT THE VENDOR'S LAST KNOWN ADDRESS. THE DEPARTMENT SHALL
26 CONTINUE PROCESSING THE CLAIM ON RECEIVING WRITTEN ACKNOWLEDGMENT FROM THE
27 VENDOR AFFIRMING THE ACCURACY OF THE INFORMATION REGARDING THE TRANSACTIONS
28 PROVIDED BY THE CUSTOMER. ON PAYING OR CREDITING MONIES TO THE CUSTOMER
29 PURSUANT TO THE CLAIM, THE DEPARTMENT SHALL AMEND THE VENDOR'S RETURNS OR
30 ACCOUNT TO REFLECT THE AMOUNT PAID OR CREDITED TO THE CUSTOMER. IF THE
31 VENDOR OBJECTS TO THE CLAIM BY THE CUSTOMER OR FAILS TO RESPOND WITHIN THIRTY
32 DAYS AFTER THE DATE OF THE NOTICE, THE DEPARTMENT MAY CONTINUE TO PROCESS THE
33 CLAIM, AND ON PAYING OR CREDITING MONIES TO THE CUSTOMER PURSUANT TO THE
34 CLAIM, THE DEPARTMENT SHALL AMEND THE VENDOR'S RETURNS OR ACCOUNT TO REFLECT
35 THE AMOUNT PAID OR CREDITED TO THE CUSTOMER AND NOTIFY THE VENDOR OF THE
36 ADJUSTMENT. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE DEPARTMENT AND THE
37 VENDOR MAY COMMUNICATE REGARDING THE CUSTOMER'S CLAIM.

38 D. A CLAIM SUBMITTED BY A CUSTOMER UNDER THIS SECTION IS SUBJECT TO
39 ANY OFFSET, DEFENSE OR OTHER CLAIM THAT THE DEPARTMENT WOULD OTHERWISE HAVE
40 AGAINST EITHER THE CUSTOMER OR THE VENDOR.

41 E. THE DEPARTMENT MAY NOT REQUIRE THE VENDOR OR THE CUSTOMER TO SUBMIT
42 AMENDED RETURNS FOR A CLAIM SUBMITTED UNDER THIS SECTION.

43 F. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE DEPARTMENT MAY
44 DISALLOW A CLAIM FILED BY A CUSTOMER FOR AN AMOUNT UNDER THIS SECTION IF THE
45 DEPARTMENT ALREADY PAID OR CREDITED A REFUND OF TRANSACTION PRIVILEGE OR USE

1 TAX ARISING FROM THE SAME TRANSACTION OR TRANSACTIONS PURSUANT TO SECTION
2 42-1118.

3 Sec. 4. Section 42-1119, Arizona Revised Statutes, is amended to read:
4 42-1119. Denial of refund

5 A. If the department disallows any claim for refund, it shall notify
6 the taxpayer accordingly. The department's action on the claim is final
7 unless the taxpayer appeals to the department in writing within the time and
8 in the manner prescribed by section 42-1123. If the department disallows
9 interest on any claim for refund, it shall notify the taxpayer accordingly
10 and the claim shall be treated as a claim for refund.

11 B. IF THE DEPARTMENT DISALLOWS ANY CLAIM UNDER SECTION 42-1118.01, THE
12 DEPARTMENT SHALL NOTIFY THE CUSTOMER AND THE VENDOR. THE DEPARTMENT'S ACTION
13 ON THE CLAIM IS FINAL UNLESS THE CUSTOMER APPEALS TO THE DEPARTMENT IN
14 WRITING WITHIN THE TIME AND IN THE MANNER PRESCRIBED BY SECTION 42-1251. IF
15 THE DEPARTMENT DISALLOWS INTEREST ON ANY CLAIM UNDER SECTION 42-1123, THE
16 DEPARTMENT SHALL NOTIFY THE CUSTOMER AND THE CLAIM SHALL BE TREATED AS A
17 CLAIM UNDER SECTION 42-1118.01.

18 ~~B-~~ C. If the department fails to mail notice of action on any claim
19 for refund of tax or interest within six months after the claim is filed, the
20 taxpayer OR A CUSTOMER WITH RIGHTS TO A CLAIM UNDER SECTION 42-1118.01, prior
21 to mailing of notice of action on the refund claim, may consider the claim
22 disallowed. The taxpayer OR THE CUSTOMER may appeal to the department for a
23 hearing pursuant to section 42-1251.

24 Sec. 5. Section 42-1123, Arizona Revised Statutes, is amended to read:
25 42-1123. Interest

26 A. If it is provided by law that interest applies as determined
27 pursuant to this section, the department shall apply interest, compounded
28 annually, in the same manner and at the same times as prescribed by section
29 6621 of the United States internal revenue code, except that the rate of
30 interest for both overpayments and underpayments for all taxpayers is the
31 federal short-term rate, determined pursuant to section 6621(b) of the
32 internal revenue code, plus three percentage points.

33 B. On January 1 of each year the department shall add any interest
34 outstanding as of that date to the principal amount of the tax. For purposes
35 of this section, the amount added to the principal is thereafter considered a
36 part of the principal amount of the tax and accrues interest pursuant to this
37 section.

38 C. If the tax, whether determined by the department or the taxpayer,
39 or any portion of the tax is not paid on or before the date prescribed for
40 its payment, the department shall collect, as a part of the tax, interest on
41 the unpaid amount at the rate determined pursuant to this section from the
42 date prescribed for its payment until it is paid.

43 D. Interest on the amount assessed as a deficiency shall be assessed
44 and paid at the same time as the deficiency at the rate determined pursuant
45 to this section from the date prescribed for the payment of the tax to the

1 date the deficiency is assessed. If any portion of the deficiency is paid
2 before the date it is assessed, interest shall accrue on that portion only to
3 the date paid.

4 E. If the time for filing a return is extended, the department shall
5 collect, as part of such tax, interest on any unpaid balance at the rate
6 determined pursuant to this section from the date on which the payment should
7 have been made if no extension had been granted until the date the tax is
8 paid.

9 F. Except in the case of a jeopardy assessment, collection of which
10 has been stayed by the posting of a bond, if a deficiency or any interest is
11 not paid in full within ten days from the date of notice and demand from the
12 department, the department shall collect as a part of the tax interest on the
13 unpaid tax or interest at the rate determined pursuant to this section from
14 the date of the notice and demand until it is paid.

15 G. If an original return filed with the department shows that the
16 taxpayer is entitled to a refund, interest is not allowed on the amount to be
17 refunded if the refund is paid within sixty days of the last day for filing
18 the return or sixty days from the filing of the return, whichever is
19 later. If the department does not pay the amount of the refund due within
20 sixty days after the date established in this subsection, the department
21 shall pay the interest on the amount at the rate prescribed in this section
22 from the sixty-first day to the issued date of the refund warrant. The
23 department's annual budget shall separately state the amount necessary to
24 satisfy the requirements of this subsection.

25 H. In the case of an amended return, claim for refund or refund
26 determined through audit, interest shall be allowed and paid, with respect to
27 any tax, from the date prescribed for the payment of that tax to the issue
28 date of the refund warrant, but in the case of an original return of tax
29 ~~which~~ THAT is filed after the last date prescribed for filing the return and
30 paying such tax, determined with regard to extensions, no interest may be
31 allowed or paid for any day before the date on which the return is filed or
32 the tax paid, whichever is later. A payment not made incident to a bona fide
33 and orderly discharge of an actual liability or one reasonably assumed to be
34 imposed by law is not an overpayment for the purposes of this subsection and
35 interest is not payable on the payment.

36 I. IN THE CASE OF A CUSTOMER CLAIM UNDER SECTION 42-1118.01, INTEREST
37 SHALL BE ALLOWED AND PAID WITH RESPECT TO ANY AMOUNT FROM THE DATE PRESCRIBED
38 FOR THE PAYMENT OF THAT AMOUNT TO THE DATE OF THE CREDIT OR PAYMENT OF THE
39 CLAIM TO THE CUSTOMER. A PAYMENT NOT MADE INCIDENT TO A BONA FIDE AND
40 ORDERLY DISCHARGE OF AN ACTUAL LIABILITY OR ONE REASONABLY ASSUMED TO BE
41 IMPOSED BY LAW IS NOT AN OVERPAYMENT FOR THE PURPOSES OF THIS SUBSECTION, AND
42 INTEREST IS NOT PAYABLE ON THE PAYMENT.

43 ~~I.~~ J. If a credit or refund of any part of an overpayment would be
44 barred under section 42-1106, subsection A, except for the provisions of
45 section 42-1104, subsection B, paragraph 4, interest shall not be allowed or

1 paid with respect to such part of the overpayment for any period beginning
2 after the expiration of the period of limitation provided in section 42-1106,
3 subsection A for filing a claim for credit or refund of such part of the
4 overpayment and ending at the expiration of six months after the date on
5 which the claim was filed or, if no claim was filed and the overpayment was
6 found by the department, ending at the time the appeal was filed with the
7 board.

8 ~~J~~ K. In any judgment of any court rendered for any overpayment,
9 interest shall be allowed at the rate determined pursuant to this section on
10 the amount of the overpayment from the date of the payment or collection to
11 the date of allowance of credit on account of such judgment or to a date
12 determined by the department preceding the date of the refund warrant by not
13 more than thirty days.

14 Sec. 6. Section 42-1251, Arizona Revised Statutes, is amended to read:
15 42-1251. Appeal to the department; hearing

16 A. Except in the case of individual income taxes, a person from whom
17 an amount is determined to be due under article 3 of this chapter may apply
18 to the department by a petition in writing within forty-five days after the
19 notice of a proposed assessment made pursuant to section 42-1109, subsection
20 B or the notice required by section 42-1108, subsection B is received, or
21 within such additional time as the department may allow, for a hearing,
22 correction or redetermination of the action taken by the department. In the
23 case of individual income taxes, the period is ninety days from the date the
24 notice is mailed. The petition shall set forth the reasons why the hearing,
25 correction or redetermination should be granted and the amount in which any
26 tax, interest and penalties should be reduced. If only a portion of the
27 deficiency assessment is protested, all unprotested amounts of tax, interest
28 and penalties must be paid at the time the protest is filed. The department
29 shall consider the petition and grant a hearing, if requested. To represent
30 the ~~taxpayer~~ PERSON at the hearing or to appear on the ~~taxpayer's~~ PERSON'S
31 behalf is deemed not to be the practice of law.

32 B. If the ~~taxpayer~~ PERSON does not file a petition for hearing,
33 correction or redetermination within the period provided by this section, the
34 amount determined to be due becomes final at the expiration of the period.
35 The ~~taxpayer~~ PERSON is deemed to have waived and abandoned the right to
36 question the amount determined to be due, unless the ~~taxpayer~~ PERSON pays the
37 total deficiency assessment, including interest and penalties. The ~~taxpayer~~
38 PERSON may then file a claim for refund pursuant to section 42-1118 within
39 six months of payment of the deficiency assessment or within the time limits
40 prescribed by section 42-1106, whichever period expires later.

41 C. All orders or decisions made on the filing of a petition for a
42 hearing, correction or redetermination become final thirty days after notice
43 has been received by the petitioner, unless the petitioner appeals the order
44 or decision to the state board of tax appeals.

1 Sec. 7. Section 42-1253, Arizona Revised Statutes, is amended to read:
2 42-1253. Appeal to state board of tax appeals: definition

3 A. Except as provided in section 42-1254, subsection C, a person
4 aggrieved by a final decision or order of the department under section
5 42-1251, article 3 of this chapter or section 42-2065, 42-2068, 42-2069,
6 42-2074, 42-2201 or 42-2202 may appeal to the state board of tax appeals by
7 filing a notice of appeal in writing within thirty days after the decision or
8 order from which the appeal is taken has become final.

9 B. The board shall take testimony and examine documentary evidence as
10 necessary to determine the appeal, all pursuant to administrative rules to
11 govern such appeals.

12 C. On determining the appeal the board shall issue a decision
13 consistent with its determination. The board's decision is final on the
14 expiration of thirty days from the date when notice of its action is received
15 by the ~~taxpayer~~ PERSON, unless either the department or the ~~taxpayer~~ PERSON
16 brings an action in tax court as provided in section 42-1254.

17 D. If the amount in any single dispute before the board is less than
18 twenty-five thousand dollars, a ~~taxpayer~~ PERSON may be represented in that
19 dispute before the board by:

20 1. A certified public accountant.

21 2. A person who is enrolled to practice before the United States
22 internal revenue service and is recognized as an enrolled agent.

23 3. Any other ~~person~~ INDIVIDUAL who is authorized by the ~~taxpayer~~
24 PERSON under a properly executed power of attorney and who was previously or
25 is currently retained by the ~~taxpayer~~ PERSON for purposes other than
26 representation in a hearing before the board.

27 E. If a practitioner who represents a ~~taxpayer~~ PERSON before the board
28 pursuant to subsection D of this section fails to comply with an order or
29 rule of the board, the board may impose sanctions including one or both of
30 the following:

31 1. Order that the stipulation of the facts proposed by the department
32 of revenue be accepted.

33 2. Suspend the practitioner from further practice before the board
34 either for a specific period of time or until the board removes the
35 suspension.

36 F. For the purposes of this section, "practitioner" means a person,
37 other than a party, who files documents with or appears before the board in
38 connection with a matter before the board.

39 Sec. 8. Section 42-1254, Arizona Revised Statutes, is amended to read:
40 42-1254. Appeal to tax court

41 A. The department or a ~~taxpayer~~ PERSON aggrieved by a decision of the
42 state board of tax appeals may bring an action in tax court.

43 B. If the department is aggrieved by a decision of the board and the
44 amount in dispute is less than five thousand dollars, the department may not
45 bring an action in tax court unless the department determines that the

1 decision of the board involves an issue of substantial significance to the
2 state. A ~~taxpayer~~ PERSON aggrieved by a determination of the department that
3 an issue is of substantial significance to the state may file a motion with
4 the tax court to dismiss the action brought by the department on the grounds
5 that the determination constitutes an abuse of discretion.

6 C. Except in the case of individual income tax cases in which the
7 amount in dispute is less than five thousand dollars, a person who is
8 aggrieved by a final decision or order of the department under section
9 42-1251 or article 3 of this chapter ~~may~~, in lieu of appealing to the state
10 board of tax appeals under section 42-1253, MAY bring an action in tax court
11 by filing a notice of appeal in writing within thirty days after the decision
12 or order from which the appeal is taken has become final.

13 D. Any appeal that is taken to tax court pursuant to this section is
14 subject to the following provisions:

15 1. No injunction, writ of mandamus or other legal or equitable process
16 may issue in an action in any court in this state against an officer of this
17 state to prevent or enjoin the collection of any tax, penalty or interest.

18 2. The action shall not begin more than thirty days after the order or
19 decision of the board or department becomes final. Failure to bring the
20 action within thirty days after the order or decision of the board or
21 department becomes final constitutes a waiver of the protest and a waiver of
22 all claims against this state arising from or based on the illegality in the
23 tax, penalties and interest at issue, except that within the time limits set
24 forth in section 42-1106, a ~~taxpayer~~ PERSON who fails to bring an action
25 within thirty days may pay the tax under protest stating the grounds of
26 objection to the legality of the tax and then file a claim for refund of the
27 taxes paid. The refund claim shall then be governed by section 42-1119 and
28 this section.

29 3. The tax court shall hear and determine the appeal as a trial de
30 novo.

31 4. Either party to such action may appeal to the court of appeals or
32 supreme court as provided by law.

33 5. If a final judgment is rendered in favor of the ~~taxpayer~~ PERSON in
34 the action, the amount or such portion of the judgment as may be necessary
35 shall first be credited to any taxes, penalties and interest due from the
36 plaintiff ~~taxpayer~~ PERSON, and the amount of the balance remaining due the
37 ~~taxpayer~~ PERSON shall be certified by the department of revenue to the
38 department of administration, with a certified copy of the final judgment and
39 a claim for refund authenticated by the department of revenue. On receipt,
40 the department of administration shall draw a warrant payable to the ~~taxpayer~~
41 PERSON in an amount equal to the amount of the tax found by the judgment to
42 be illegal, less the amount of any taxes, penalties and interest due from the
43 ~~taxpayer~~ PERSON. The department of administration shall draw a separate
44 warrant payable to the ~~taxpayer~~ PERSON in an amount equal to the interest and

1 other costs recovered against the department of revenue by the judgment,
2 which shall be paid from the appropriate tax account.

3 Sec. 9. Section 42-2003, Arizona Revised Statutes, is amended to read:
4 42-2003. Authorized disclosure of confidential information

5 A. Confidential information relating to:

6 1. A taxpayer may be disclosed to the taxpayer, its successor in
7 interest or a designee of the taxpayer who is authorized in writing by the
8 taxpayer. A principal corporate officer of a parent corporation may execute
9 a written authorization for a controlled subsidiary.

10 2. A corporate taxpayer may be disclosed to any principal officer, any
11 person designated by a principal officer or any person designated in a
12 resolution by the corporate board of directors or other similar governing
13 body.

14 3. A partnership may be disclosed to any partner of the partnership.
15 This exception does not include disclosure of confidential information of a
16 particular partner unless otherwise authorized.

17 4. An estate may be disclosed to the personal representative of the
18 estate and to any heir, next of kin or beneficiary under the will of the
19 decedent if the department finds that the heir, next of kin or beneficiary
20 has a material interest which will be affected by the confidential
21 information.

22 5. A trust may be disclosed to the trustee or trustees, jointly or
23 separately, and to the grantor or any beneficiary of the trust if the
24 department finds that the grantor or beneficiary has a material interest that
25 will be affected by the confidential information.

26 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
27 to confidentiality either in writing or on the record in any administrative
28 or judicial proceeding.

29 7. The name and taxpayer identification numbers of persons issued
30 direct payment permits may be publicly disclosed.

31 8. THE VENDOR AS DEFINED IN SECTION 42-1101.01 OF A CUSTOMER AS
32 DEFINED IN SECTION 42-1101.01 WITH RIGHTS TO A CLAIM UNDER SECTION 42-1118.01
33 OR 42-1119 MAY BE DISCLOSED TO THE CUSTOMER IN ORDER FOR THE CUSTOMER TO
34 PURSUE A CLAIM IN LIEU OF A CLAIM FOR REFUND OF TRANSACTION PRIVILEGE TAX OR
35 USE TAX REPORTED AND REMITTED BY THE CUSTOMER'S VENDOR.

36 B. Confidential information may be disclosed to:

37 1. Any employee of the department whose official duties involve tax
38 administration.

39 2. The office of the attorney general solely for its use in
40 preparation for, or in an investigation that may result in, any proceeding
41 involving tax administration before the department or any other agency or
42 board of this state, or before any grand jury or any state or federal court.

43 3. The department of liquor licenses and control for its use in
44 determining whether a spirituous liquor licensee has paid all transaction
45 privilege taxes and affiliated excise taxes incurred as a result of the sale

1 of spirituous liquor, as defined in section 4-101, at the licensed
2 establishment and imposed on the licensed establishments by this state and
3 its political subdivisions.

4 4. Other state tax officials whose official duties require the
5 disclosure for proper tax administration purposes if the information is
6 sought in connection with an investigation or any other proceeding conducted
7 by the official. Any disclosure is limited to information of a taxpayer who
8 is being investigated or who is a party to a proceeding conducted by the
9 official.

10 5. The following agencies, officials and organizations, if they grant
11 substantially similar privileges to the department for the type of
12 information being sought, pursuant to statute and a written agreement between
13 the department and the foreign country, agency, state, Indian tribe or
14 organization:

15 (a) The United States internal revenue service, alcohol and tobacco
16 tax and trade bureau of the United States treasury, United States bureau of
17 alcohol, tobacco, firearms and explosives of the United States department of
18 justice, United States drug enforcement agency and federal bureau of
19 investigation.

20 (b) A state tax official of another state.

21 (c) An organization of states, federation of tax administrators or
22 multistate tax commission that operates an information exchange for tax
23 administration purposes.

24 (d) An agency, official or organization of a foreign country with
25 responsibilities that are comparable to those listed in subdivision (a), (b)
26 or (c) of this paragraph.

27 (e) An agency, official or organization of an Indian tribal government
28 with responsibilities comparable to the responsibilities of the agencies,
29 officials or organizations identified in subdivision (a), (b) or (c) of this
30 paragraph.

31 6. The auditor general, in connection with any audit of the department
32 subject to the restrictions in section 42-2002, subsection D.

33 7. Any person to the extent necessary for effective tax administration
34 in connection with:

35 (a) The processing, storage, transmission, destruction and
36 reproduction of the information.

37 (b) The programming, maintenance, repair, testing and procurement of
38 equipment for purposes of tax administration.

39 (c) The collection of the taxpayer's civil liability.

40 8. The office of administrative hearings relating to taxes
41 administered by the department pursuant to section 42-1101, but the
42 department shall not disclose any confidential information:

43 (a) Regarding income tax or withholding tax.

44 (b) On any tax issue relating to information associated with the
45 reporting of income tax or withholding tax.

1 9. The United States treasury inspector general for tax administration
2 for the purpose of reporting a violation of internal revenue code section
3 7213A (26 United States Code section 7213A), unauthorized inspection of
4 returns or return information.

5 10. The financial management service of the United States treasury
6 department for use in the treasury offset program.

7 11. The United States treasury department or its authorized agent for
8 use in the state income tax levy program and in the electronic federal tax
9 payment system.

10 12. The Arizona commerce authority for its use in:

11 (a) Qualifying renewable energy operations for the tax incentives
12 under sections 42-12006, 43-1083.01 and 43-1164.01.

13 (b) Qualifying businesses with a qualified facility for income tax
14 credits under sections 43-1083.03 and 43-1164.04.

15 (c) Fulfilling its annual reporting responsibility pursuant to section
16 41-1511, subsections U and V and section 41-1512, subsections U and V.

17 (d) Certifying computer data centers for tax relief under section
18 41-1519.

19 13. A prosecutor for purposes of section 32-1164, subsection C.

20 14. The state fire marshal for use in determining compliance with and
21 enforcing title 41, chapter 16, article 3.1.

22 15. The department of transportation for its use in administering
23 taxes, surcharges and penalties prescribed by title 28.

24 16. The Arizona health care cost containment system administration for
25 its use in administering nursing facility provider assessments.

26 C. Confidential information may be disclosed in any state or federal
27 judicial or administrative proceeding pertaining to tax administration
28 pursuant to the following conditions:

29 1. One or more of the following circumstances must apply:

30 (a) The taxpayer is a party to the proceeding.

31 (b) The proceeding arose out of, or in connection with, determining
32 the taxpayer's civil or criminal liability, or the collection of the
33 taxpayer's civil liability, with respect to any tax imposed under this title
34 or title 43.

35 (c) The treatment of an item reflected on the taxpayer's return is
36 directly related to the resolution of an issue in the proceeding.

37 (d) Return information directly relates to a transactional
38 relationship between a person who is a party to the proceeding and the
39 taxpayer and directly affects the resolution of an issue in the proceeding.

40 2. Confidential information may not be disclosed under this subsection
41 if the disclosure is prohibited by section 42-2002, subsection C or D.

42 D. Identity information may be disclosed for purposes of notifying
43 persons entitled to tax refunds if the department is unable to locate the
44 persons after reasonable effort.

1 E. The department, on the request of any person, shall provide the
2 names and addresses of bingo licensees as defined in section 5-401, verify
3 whether or not a person has a privilege license and number, a tobacco product
4 distributor's license and number or a withholding license and number or
5 disclose the information to be posted on the department's website or
6 otherwise publicly accessible pursuant to section 42-1124, subsection F and
7 section 42-3201, subsection A.

8 F. A department employee, in connection with the official duties
9 relating to any audit, collection activity or civil or criminal
10 investigation, may disclose return information to the extent that disclosure
11 is necessary to obtain information that is not otherwise reasonably
12 available. These official duties include the correct determination of and
13 liability for tax, the amount to be collected or the enforcement of other
14 state tax revenue laws.

15 G. If an organization is exempt from this state's income tax as
16 provided in section 43-1201 for any taxable year, the name and address of the
17 organization and the application filed by the organization on which the
18 department made its determination for exemption together with any papers
19 submitted in support of the application and any letter or document issued by
20 the department concerning the application are open to public inspection.

21 H. Confidential information relating to transaction privilege tax, use
22 tax, severance tax, jet fuel excise and use tax and any other tax collected
23 by the department on behalf of any jurisdiction may be disclosed to any
24 county, city or town tax official if the information relates to a taxpayer
25 who is or may be taxable by a county, city or town or who may be subject to
26 audit by the department pursuant to section 42-6002. Any taxpayer
27 information released by the department to the county, city or town:

28 1. May only be used for internal purposes, including audits.

29 2. May not be disclosed to the public in any manner that does not
30 comply with confidentiality standards established by the department. The
31 county, city or town shall agree in writing with the department that any
32 release of confidential information that violates the confidentiality
33 standards adopted by the department will result in the immediate suspension
34 of any rights of the county, city or town to receive taxpayer information
35 under this subsection.

36 I. The department may disclose statistical information gathered from
37 confidential information if it does not disclose confidential information
38 attributable to any one taxpayer. The department may disclose statistical
39 information gathered from confidential information, even if it discloses
40 confidential information attributable to a taxpayer, to:

41 1. The state treasurer in order to comply with the requirements of
42 section 42-5029, subsection A, paragraph 3.

43 2. The joint legislative income tax credit review committee and the
44 joint legislative budget committee staff in order to comply with the
45 requirements of section 43-221.

1 J. The department may disclose the aggregate amounts of any tax
2 credit, tax deduction or tax exemption enacted after January 1, 1994.
3 Information subject to disclosure under this subsection shall not be
4 disclosed if a taxpayer demonstrates to the department that such information
5 would give an unfair advantage to competitors.

6 K. Except as provided in section 42-2002, subsection C, confidential
7 information, described in section 42-2001, paragraph 1, subdivision (a), item
8 (ii), may be disclosed to law enforcement agencies for law enforcement
9 purposes.

10 L. The department may provide transaction privilege tax license
11 information to property tax officials in a county for the purpose of
12 identification and verification of the tax status of commercial property.

13 M. The department may provide transaction privilege tax, luxury tax,
14 use tax, property tax and severance tax information to the ombudsman-citizens
15 aide pursuant to title 41, chapter 8, article 5.

16 N. Except as provided in section 42-2002, subsection D, a court may
17 order the department to disclose confidential information pertaining to a
18 party to an action. An order shall be made only upon a showing of good cause
19 and that the party seeking the information has made demand upon the taxpayer
20 for the information.

21 O. This section does not prohibit the disclosure by the department of
22 any information or documents submitted to the department by a bingo licensee.
23 Before disclosing the information the department shall obtain the name and
24 address of the person requesting the information.

25 P. If the department is required or permitted to disclose confidential
26 information, it may charge the person or agency requesting the information
27 for the reasonable cost of its services.

28 Q. Except as provided in section 42-2002, subsection D, the department
29 of revenue shall release confidential information as requested by the
30 department of economic security pursuant to section 42-1122 or 46-291.
31 Information disclosed under this subsection is limited to the same type of
32 information that the United States internal revenue service is authorized to
33 disclose under section 6103(1)(6) of the internal revenue code.

34 R. Except as provided in section 42-2002, subsection D, the department
35 of revenue shall release confidential information as requested by the courts
36 and clerks of the court pursuant to section 42-1122.

37 S. To comply with the requirements of section 42-5031, the department
38 may disclose to the state treasurer, to the county stadium district board of
39 directors and to any city or town tax official that is part of the county
40 stadium district confidential information attributable to a taxpayer's
41 business activity conducted in the county stadium district.

42 T. The department shall release to the attorney general confidential
43 information as requested by the attorney general for purposes of determining
44 compliance with or enforcing any of the following:

1 1. Any public health control law relating to tobacco sales as provided
2 under title 36, chapter 6, article 14.

3 2. Any law relating to reduced cigarette ignition propensity standards
4 as provided under title 41, chapter 16, article 3.1.

5 3. Sections 44-7101 and 44-7111, the master settlement agreement
6 referred to in those sections and all agreements regarding disputes under the
7 master settlement agreement.

8 U. For proceedings before the department, the office of administrative
9 hearings, the board of tax appeals or any state or federal court involving
10 penalties that were assessed against a return preparer, an electronic return
11 preparer or a payroll service company pursuant to section 42-1103.02,
12 42-1125.01 or 43-419, confidential information may be disclosed only before
13 the judge or administrative law judge adjudicating the proceeding, the
14 parties to the proceeding and the parties' representatives in the proceeding
15 prior to its introduction into evidence in the proceeding. The confidential
16 information may be introduced as evidence in the proceeding only if the
17 taxpayer's name, the names of any dependents listed on the return, all social
18 security numbers, the taxpayer's address, the taxpayer's signature and any
19 attachments containing any of the foregoing information are redacted and if
20 either:

21 1. The treatment of an item reflected on such return is or may be
22 related to the resolution of an issue in the proceeding.

23 2. Such return or return information relates or may relate to a
24 transactional relationship between a person who is a party to the proceeding
25 and the taxpayer which directly affects the resolution of an issue in the
26 proceeding.

27 3. The method of payment of the taxpayer's withholding tax liability
28 or the method of filing the taxpayer's withholding tax return is an issue for
29 the period.

30 V. The department and attorney general may share the information
31 specified in subsection T of this section with any of the following:

32 1. Federal, state or local agencies for the purposes of enforcement of
33 corresponding laws of other states.

34 2. A court, arbitrator, data clearinghouse or similar entity for the
35 purpose of assessing compliance with or making calculations required by the
36 master settlement agreement or agreements regarding disputes under the master
37 settlement agreement, and with counsel for the parties or expert witnesses in
38 any such proceeding, if the information otherwise remains confidential.

39 W. The department may provide the name and address of qualifying
40 hospitals and qualifying health care organizations, as defined in section
41 42-5001, to a business classified and reporting transaction privilege tax
42 under the utilities classification.

43 X. The department may disclose to an official of any city, town or
44 county in a current agreement or considering a prospective agreement with the
45 department as described in section 42-5032.02, subsection F any information

1 relating to amounts subject to distribution required by section 42-5032.02.
2 Information disclosed by the department under this subsection:

- 3 1. May only be used by the city, town or county for internal purposes.
- 4 2. May not be disclosed to the public in any manner that does not
5 comply with confidentiality standards established by the department. The
6 city, town or county must agree with the department in writing that any
7 release of confidential information that violates the confidentiality
8 standards will result in the immediate suspension of any rights of the city,
9 town or county to receive information under this subsection.

10 Sec. 10. Section 42-2064, Arizona Revised Statutes, is amended to
11 read:

12 42-2064. Reimbursement of fees and other costs; definitions

13 A. A ~~taxpayer~~ PERSON who is a prevailing party may be reimbursed for
14 reasonable fees and other costs related to an administrative proceeding that
15 is brought by or against the department in connection with an assessment,
16 determination, collection or refund of any tax listed in section 42-1101 OR
17 IN CONNECTION WITH A CLAIM UNDER SECTION 42-1118.01. For THE purposes of
18 this subsection, a ~~taxpayer~~ PERSON is considered to be a prevailing party
19 only if both of the following are true:

- 20 1. The department's position was not substantially justified.
- 21 2. The ~~taxpayer~~ PERSON prevails as to the most significant issue or
22 set of issues.

23 B. Reimbursement under this section may be denied if any of the
24 following circumstances apply:

- 25 1. During the course of the proceeding the ~~taxpayer~~ PERSON unduly and
26 unreasonably protracted the final resolution of the matter.
- 27 2. The reason that the ~~taxpayer~~ PERSON prevailed is due to an
28 intervening change in the applicable law.

29 C. The ~~taxpayer~~ PERSON shall present an itemization of the reasonable
30 fees and other costs to the taxpayer problem resolution officer within thirty
31 days after the conclusion of the administrative proceedings. The taxpayer
32 problem resolution officer shall determine the validity of the fees and other
33 costs within thirty days after receiving the itemization. The taxpayer
34 problem resolution officer's decision is considered the department's final
35 decision or order and is subject to appeal to the state board under section
36 42-1253.

37 D. The department of revenue shall pay the fees and other costs
38 awarded as provided in this section from any monies appropriated for such
39 purpose. If the department of revenue does not pay the fees and other costs
40 within thirty days after demand by a person who has received an award
41 pursuant to this section, and if no further review or appeals of the award
42 are pending, the person may file a claim for the fees and other costs with
43 the department of administration, which shall pay the claim within thirty
44 days, in the same manner as an uninsured property loss under title 41,
45 chapter 3.1, article 1. If, at the time the department of revenue failed to

1 pay the award, it had appropriated monies either designated or assignable for
2 the purpose of paying such awards, the legislature shall reduce the
3 department of revenue's operating appropriation for the following year by the
4 amount of the award and appropriate the amount of the reduction to the
5 department of administration, risk management division, as reimbursement for
6 the loss.

7 E. Reimbursement to a ~~taxpayer~~ PERSON under this section shall not
8 exceed twenty thousand dollars or actual monies spent, whichever is less.
9 The reimbursable attorney or other representative fees shall not exceed one
10 hundred dollars per hour or actual monies spent, whichever is less, unless
11 the state board of tax appeals determines that an increase in the cost of
12 living or a special factor such as the limited availability of qualified
13 attorneys for the proceeding involved justifies a higher fee.

14 F. The department shall adopt administrative rules to implement this
15 section.

16 G. Notwithstanding any provision of title 12, chapter 3, article 5, a
17 ~~taxpayer~~ PERSON who is a prevailing party may only be reimbursed pursuant to
18 this section.

19 H. For THE purposes of this section:

20 1. "Administrative proceeding" means any review proceeding or appeal
21 pursuant to section 42-1251 that is conducted under the authority of section
22 42-1003 and an appeal to the state board of tax appeals pursuant to section
23 42-1253.

24 2. "Reasonable fees and other costs" means fees and other costs that
25 are based on prevailing market rates for the kind and quality of the
26 furnished services, but not exceeding the amounts actually spent for expert
27 witnesses, the cost of any study, analysis, report, test or project that is
28 found to be necessary to prepare the party's case and necessary fees for
29 attorneys or other representatives.

30 Sec. 11. Section 42-5008, Arizona Revised Statutes, is amended to
31 read:

32 42-5008. Levy of tax; purposes; distribution

33 A. There is levied and there shall be collected by the department, for
34 the purpose of raising public money, privilege taxes measured by the amount
35 or volume of business transacted by persons on account of their business
36 activities, and in the amounts to be determined by the application of rates
37 against values, gross proceeds of sales or gross income, as the case may be,
38 as prescribed by this article and article 2 of this chapter.

39 B. If any monies remain after the payments are made for state
40 purposes, as provided for by subsection A OF THIS SECTION, the remainder of
41 the monies shall be paid into the state school fund for educational purposes.

42 C. The tax levied by and collected pursuant to this article and
43 article 2 of this chapter is designated the "transaction privilege tax".

1 D. VENDORS AS DEFINED IN SECTION 42-1101.01 ARE RESPONSIBLE FOR
2 PAYMENT OF TRANSACTION PRIVILEGE TAX TO THE DEPARTMENT AND, EXCEPT AS
3 PROVIDED IN SECTIONS 42-1118.01 AND 42-1119, ONLY VENDORS MAY PURSUE A REFUND
4 OF TRANSACTION PRIVILEGE TAX PAID TO THE DEPARTMENT.

5 Sec. 12. Section 42-5061, Arizona Revised Statutes, as amended by Laws
6 2015, chapter 4, section 10, is amended to read:

7 42-5061. Retail classification; definitions

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

13 1. Professional or personal service occupations or businesses that
14 involve sales or transfers of tangible personal property only as
15 inconsequential elements.

16 2. Services rendered in addition to selling tangible personal property
17 at retail.

18 3. Sales of warranty or service contracts. The storage, use or
19 consumption of tangible personal property provided under the conditions of
20 such contracts is subject to tax under section 42-5156.

21 4. Sales of tangible personal property by any nonprofit organization
22 organized and operated exclusively for charitable purposes and recognized by
23 the United States internal revenue service under section 501(c)(3) of the
24 internal revenue code.

25 5. Sales to persons engaged in business classified under the
26 restaurant classification of articles used by human beings for food, drink or
27 condiment, whether simple, mixed or compounded.

28 6. Business activity that is properly included in any other business
29 classification that is taxable under this article.

30 7. The sale of stocks and bonds.

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

34 9. Prosthetic appliances as defined in section 23-501 prescribed or
35 recommended by a health professional who is licensed pursuant to title 32,
36 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

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

38 11. Prescription eyeglasses or contact lenses.

39 12. Hearing aids as defined in section 36-1901.

40 13. Durable medical equipment that has a centers for medicare and
41 medicaid services common procedure code, is designated reimbursable by
42 medicare, is prescribed by a person who is licensed under title 32, chapter
43 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
44 customarily used to serve a medical purpose, is generally not useful to a

1 person in the absence of illness or injury and is appropriate for use in the
2 home.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 25. Tangible personal property sold to:

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

25 (b) A qualifying health care organization as defined in section
26 42-5001 if the tangible personal property is used by the organization solely
27 to provide health and medical related educational and charitable services.

28 (c) A qualifying health care organization as defined in section
29 42-5001 if the organization is dedicated to providing educational,
30 therapeutic, rehabilitative and family medical education training for blind
31 and visually impaired children and children with multiple disabilities from
32 the time of birth to age twenty-one.

33 (d) A qualifying community health center as defined in section
34 42-5001.

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

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

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

3 (h) Any person representing or working on behalf of another person
4 described in subdivisions (a) through (g) of this paragraph if the tangible
5 personal property is incorporated or fabricated into a project described in
6 section 42-5075, subsection 0.

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

9 27. Tangible personal property sold to:

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

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

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

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

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

26 28. The sale of a motor vehicle to:

27 (a) A nonresident of this state if the purchaser's state of residence
28 does not allow a corresponding use tax exemption to the tax imposed by
29 article 1 of this chapter and if the nonresident has secured a special ninety
30 day nonresident registration permit for the vehicle as prescribed by sections
31 28-2154 and 28-2154.01.

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

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

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

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

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

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

16 34. Machinery, equipment, technology or related supplies that are only
17 useful to assist a person with a physical disability as defined in section
18 46-191 or a person who has a developmental disability as defined in section
19 36-551 or has a head injury as defined in section 41-3201 to be more
20 independent and functional.

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

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

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

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

1 deduction for such chemicals that is otherwise provided by this section. For
2 the purposes of this paragraph, "printing" means a commercial printing
3 operation and includes job printing, engraving, embossing, copying and
4 bookbinding.

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

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

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

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

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

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

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

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

42 45. Tangible personal property sold to a person engaged in business
43 and subject to tax under the transient lodging classification if the tangible
44 personal property is a personal hygiene item or articles used by human beings
45 for food, drink or condiment, except alcoholic beverages, that are furnished

1 without additional charge to and intended to be consumed by the transient
2 during the transient's occupancy.

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

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

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

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

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

20 49. Sales of alternative fuel vehicles if the vehicle was manufactured
21 as a diesel fuel vehicle and converted to operate on alternative fuel and
22 equipment that is installed in a conventional diesel fuel motor vehicle to
23 convert the vehicle to operate on an alternative fuel, as defined in section
24 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 61. SALES OF WORKS OF FINE ART, AS DEFINED IN SECTION 44-1771, TO
6 NONRESIDENTS OF THIS STATE FOR USE OUTSIDE THIS STATE IF THE VENDOR SHIPS OR
7 DELIVERS THE WORK OF FINE ART TO A DESTINATION OUTSIDE THIS STATE.

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

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

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

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

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

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

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

43 7. Aircraft, navigational and communication instruments and other
44 accessories and related equipment sold to:

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

7 (b) Any foreign government.

8 (c) Persons who are not residents of this state and who will not use
9 such property in this state other than in removing such property from this
10 state. This subdivision also applies to corporations that are not
11 incorporated in this state, regardless of maintaining a place of business in
12 this state, if the principal corporate office is located outside this state
13 and the property will not be used in this state other than in removing the
14 property from this state.

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

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

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

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

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

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

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

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

44 14. Machinery or equipment used in research and development. For the
45 purposes of this paragraph, "research and development" means basic and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 21. Qualifying equipment that is purchased from and after June 30,
39 2004 through June 30, 2024 by a qualified business under section 41-1516 for
40 harvesting or processing qualifying forest products removed from qualifying
41 projects as defined in section 41-1516. To qualify for this deduction, the
42 qualified business at the time of purchase must present its certification
43 approved by the department.

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

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

5 2. Janitorial equipment and hand tools.

6 3. Office equipment, furniture and supplies.

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

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

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

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

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

19 D. In addition to the deductions from the tax base prescribed by
20 subsection A of this section, there shall be deducted from the tax base the
21 gross proceeds of sales or gross income derived from sales of machinery,
22 equipment, materials and other tangible personal property used directly and
23 predominantly to construct a qualified environmental technology
24 manufacturing, producing or processing facility as described in section
25 41-1514.02. This subsection applies for ten full consecutive calendar or
26 fiscal years after the start of initial construction.

27 E. In computing the tax base, gross proceeds of sales or gross income
28 from retail sales of heavy trucks and trailers does not include any amount
29 attributable to federal excise taxes imposed by 26 United States Code section
30 4051.

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

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

41 H. If a person is engaged in the business of selling tangible personal
42 property at both wholesale and retail, the tax under this section applies
43 only to the gross proceeds of the sales made other than at wholesale if the
44 person's books are kept so as to show separately the gross proceeds of sales

1 of each class, and if the books are not so kept, the tax under this section
2 applies to the gross proceeds of every sale so made.

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

- 11 1. Transporting classification.
- 12 2. Utilities classification.
- 13 3. Telecommunications classification.
- 14 4. Pipeline classification.
- 15 5. Private car line classification.
- 16 6. Publication classification.
- 17 7. Job printing classification.
- 18 8. Prime contracting classification.
- 19 9. Restaurant classification.

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

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

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

28 3. Overhead materials or other tangible personal property that is used
29 in performing a contract between the United States government and a
30 manufacturer, modifier, assembler or repairer, including property used in
31 performing a subcontract with a government contractor who is a manufacturer,
32 modifier, assembler or repairer, to which title passes to the government
33 under the terms of the contract or subcontract.

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

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

43 L. The department shall require every person claiming a deduction
44 provided by subsection J or K of this section to file on forms prescribed by
45 the department at such times as the department directs a sworn statement

1 disclosing the name of the purchaser and the exact amount of sales on which
2 the exclusion or deduction is claimed.

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

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

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

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

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

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

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

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

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

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

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

41 1. The transfer of title or possession of the coal is for the purpose
42 of refining the coal.

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

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

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

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

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

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

1 Sec. 13. Title 42, chapter 6, article 1, Arizona Revised Statutes, is
2 amended by adding section 42-6009, to read:

3 42-6009. Municipal refund claims; valid claim; notice of
4 denial; limitations period; conditions or
5 requirements; interest; recovery of fees;
6 definitions

7 A. A CUSTOMER WHO PAID TO A VENDOR AN AMOUNT EQUAL TO A MUNICIPAL
8 TRANSACTION PRIVILEGE TAX THAT WAS PASSED ON BY THE VENDOR TO THE CUSTOMER OR
9 WHO PAID A USE TAX TO A VENDOR MAY FILE A CLAIM PURSUANT TO THIS SECTION IF
10 THE VENDOR ASSIGNS TO THE CUSTOMER ITS RIGHT TO CLAIM AN AMOUNT EQUAL TO ANY
11 TAX AND INTEREST THAT THE VENDOR COULD OTHERWISE CLAIM.

12 B. CLAIMS UNDER THIS SECTION SHALL BE MADE TO THE TAX COLLECTOR OF THE
13 CITY OR TOWN TO WHICH THE TAX WAS ORIGINALLY PAID.

14 C. ANY CLAIM BY A CUSTOMER UNDER THIS SECTION IS IN LIEU OF THE VENDOR
15 CLAIMING A REFUND FOR THE UNDERLYING TAX. IF A CLAIM IS PAID UNDER THIS
16 SECTION, ONLY THE CUSTOMER AND NOT THE VENDOR MAY BE HELD LIABLE FOR ANY
17 AMOUNT ERRONEOUSLY PAID OR CREDITED TO THE CUSTOMER. CUSTOMERS MAY FILE
18 CLAIMS UNDER THIS SECTION AS FOLLOWS:

19 1. THROUGH AN AFFIRMATIVE ASSIGNMENT OF RIGHTS BY THE VENDOR TO THE
20 CUSTOMER USING A FORM AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT. THE
21 FORM PRESCRIBED BY THE DEPARTMENT SHALL REQUIRE ALL OF THE FOLLOWING:

22 (a) THE VENDOR'S MUNICIPAL TRANSACTION PRIVILEGE TAX LICENSE NUMBER OR
23 USE TAX REGISTRATION NUMBER.

24 (b) A DESCRIPTION OF TRANSACTIONS COVERED BY THE ASSIGNMENT AND THE
25 TOTAL AMOUNT OF MUNICIPAL TRANSACTION PRIVILEGE OR USE TAX PAID BY THE VENDOR
26 FOR SUCH TRANSACTIONS.

27 (c) THE TAX PERIODS FOR WHICH THE VENDOR REPORTED AND REMITTED THE TAX
28 TO THE TAX COLLECTOR.

29 (d) THE VENDOR'S AUTHORIZATION FOR THE TAX COLLECTOR TO AMEND THE
30 VENDOR'S RETURNS OR ACCOUNT TO REFLECT THE AMOUNT PAID TO THE CUSTOMER
31 PURSUANT TO A CLAIM FILED UNDER THIS SECTION.

32 (e) A STATEMENT EXECUTED BY THE VENDOR AFFIRMING, UNDER PENALTY OF
33 PERJURY, THAT THE VENDOR HAS NOT REQUESTED OR RECEIVED A REFUND OR CREDIT AND
34 WILL NOT CLAIM A REFUND OR CREDIT FOR THE TAX REMITTED ON THE TRANSACTIONS
35 COVERED BY THE ASSIGNMENT. IF THE VENDOR IS A LEGAL ENTITY, THE STATEMENT
36 SHALL BE EXECUTED BY A FULL-TIME OFFICER, PARTNER, MEMBER OR MANAGER OF A
37 LIMITED LIABILITY COMPANY OR AN EMPLOYEE OF THE VENDOR WHO IS AUTHORIZED TO
38 EXECUTE THE FORM ON BEHALF OF THE VENDOR.

39 2. IF THE VENDOR FAILS OR REFUSES TO PROPERLY ASSIGN ITS RIGHT TO A
40 CLAIM UNDER THIS SECTION WITHIN SIXTY DAYS AFTER THE DATE OF THE CUSTOMER'S
41 WRITTEN REQUEST TO THE VENDOR OR IF A VENDOR IS NO LONGER IN BUSINESS, THE
42 CUSTOMER MAY PROVIDE THE TAX COLLECTOR WITH A STATEMENT ON A FORM PRESCRIBED
43 BY THE DEPARTMENT EXPLAINING THE EFFORTS MADE TO OBTAIN AN ASSIGNMENT FROM
44 THE VENDOR. THE STATEMENT SHALL CONTAIN ALL OF THE FOLLOWING:

1 (a) THE VENDOR'S MUNICIPAL TRANSACTION PRIVILEGE TAX LICENSE NUMBER OR
2 USE TAX REGISTRATION NUMBER, IF KNOWN BY THE CUSTOMER.

3 (b) A DESCRIPTION OF TRANSACTIONS SOUGHT TO BE COVERED BY THE
4 ASSIGNMENT AND EITHER THE TOTAL AMOUNT OF MUNICIPAL TRANSACTION PRIVILEGE TAX
5 DUE FOR THE TRANSACTIONS OR THE TOTAL AMOUNT OF USE TAX COLLECTED BY THE
6 VENDOR FOR THE TRANSACTIONS.

7 (c) THE TAX PERIODS FOR WHICH THE VENDOR SHOULD HAVE REPORTED AND
8 REMITTED THE TAX TO THE TAX COLLECTOR.

9 D. IF A CLAIM IS FILED WITH THE TAX COLLECTOR PURSUANT TO SUBSECTION
10 C, PARAGRAPH 2 OF THIS SECTION, THE TAX COLLECTOR SHALL ATTEMPT TO NOTIFY THE
11 VENDOR OF THE CLAIM AT THE VENDOR'S LAST KNOWN ADDRESS. THE TAX COLLECTOR
12 SHALL CONTINUE PROCESSING THE CLAIM ON RECEIVING WRITTEN ACKNOWLEDGMENT FROM
13 THE VENDOR AFFIRMING THE ACCURACY OF THE INFORMATION REGARDING THE
14 TRANSACTIONS PROVIDED BY THE CUSTOMER. ON PAYING OR CREDITING MONIES TO THE
15 CUSTOMER PURSUANT TO THE CLAIM, THE TAX COLLECTOR SHALL AMEND THE VENDOR'S
16 RETURNS OR ACCOUNT TO REFLECT THE AMOUNT PAID OR CREDITED TO THE CUSTOMER.
17 IF THE VENDOR OBJECTS TO THE CLAIM BY THE CUSTOMER OR FAILS TO RESPOND WITHIN
18 THIRTY DAYS AFTER THE DATE OF THE NOTICE, THE TAX COLLECTOR MAY CONTINUE TO
19 PROCESS THE CLAIM, AND ON PAYING OR CREDITING MONIES TO THE CUSTOMER PURSUANT
20 TO THE CLAIM, THE TAX COLLECTOR SHALL AMEND THE VENDOR'S RETURNS OR ACCOUNT
21 TO REFLECT THE AMOUNT PAID OR CREDITED TO THE CUSTOMER AND NOTIFY THE VENDOR
22 OF THE ADJUSTMENT. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE TAX
23 COLLECTOR AND THE VENDOR MAY COMMUNICATE REGARDING THE CUSTOMER'S CLAIM.

24 E. A CLAIM SUBMITTED BY A CUSTOMER UNDER THIS SECTION IS SUBJECT TO
25 ANY OFFSET, DEFENSE OR OTHER CLAIM THAT THE TAX COLLECTOR WOULD OTHERWISE
26 HAVE AGAINST EITHER THE CUSTOMER OR THE VENDOR.

27 F. THE TAX COLLECTOR MAY NOT REQUIRE THE VENDOR OR THE CUSTOMER TO
28 SUBMIT AMENDED RETURNS FOR A CLAIM SUBMITTED UNDER THIS SECTION.

29 G. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE TAX COLLECTOR MAY DENY
30 A CLAIM FILED BY A CUSTOMER FOR AN AMOUNT UNDER THIS SECTION IF THE TAX
31 COLLECTOR ALREADY PAID OR CREDITED A REFUND OF MUNICIPAL TRANSACTION
32 PRIVILEGE TAX ARISING FROM THE SAME TRANSACTION OR TRANSACTIONS.

33 H. IF A CLAIM IS VALID UNDER THIS SECTION, THE TAX COLLECTOR MAY NOT
34 REFUSE TO PROCESS THE CLAIM OR REQUIRE THE CUSTOMER TO REFILE THE CLAIM. IF
35 THE TAX COLLECTOR REFUSES TO PROCESS OR REQUIRES REILING OF A CLAIM THAT IS
36 VALID UNDER THIS SECTION:

37 1. FOR THE PURPOSES OF THE LIMITATIONS PERIOD, THE CLAIM IS DEEMED
38 RECEIVED ON THE DATE THE ORIGINAL FILING WAS RECEIVED BY THE TAX COLLECTOR
39 NOTWITHSTANDING THE TAX COLLECTOR'S REFUSAL TO PROCESS THE CLAIM OR
40 REQUIREMENT TO REFILE THE CLAIM.

41 2. THE CUSTOMER MAY TREAT THE TAX COLLECTOR'S REFUSAL TO PROCESS OR
42 REQUIREMENT TO REFILE THE CLAIM AS A DENIAL OF THE CLAIM AND THE CUSTOMER MAY
43 FILE A PETITION FOR HEARING REGARDING THE REFUSAL TO PROCESS OR REQUIREMENT
44 TO REFILE UNDER THE ADMINISTRATIVE REVIEW PROVISIONS OF THE MODEL CITY TAX
45 CODE OR STATE LAW, AS APPLICABLE. THE CUSTOMER MAY FILE A PETITION FOR

1 HEARING AT ANY TIME AFTER THE REFUSAL TO PROCESS OR REQUIREMENT TO REFILE THE
2 CLAIM.

3 I. EXCEPT AS PROVIDED IN SUBSECTION H, PARAGRAPH 2 OF THIS SECTION, A
4 DENIAL OF A CLAIM DOES NOT OCCUR UNTIL THE TAX COLLECTOR NOTIFIES THE
5 CUSTOMER IN WRITING THAT:

6 1. THE CLAIM HAS BEEN DENIED AND PROVIDES THE REASONING FOR THE
7 DENIAL.

8 2. THE NOTICE CONSTITUTES A DENIAL OF THE CLAIM THAT TRIGGERS THE
9 DEADLINE FOR FILING A PETITION FOR HEARING UNDER THE ADMINISTRATIVE REVIEW
10 PROVISIONS OF THE MODEL CITY TAX CODE OR STATE LAW, AS APPLICABLE.

11 J. THE TIME LIMITATION FOR FILING AN ADMINISTRATIVE APPEAL DOES NOT
12 BEGIN UNTIL THE TAX COLLECTOR ISSUES THE NOTIFICATIONS REQUIRED BY SUBSECTION
13 I OF THIS SECTION.

14 K. ANY REQUEST BY THE TAX COLLECTOR FOR ADDITIONAL INFORMATION TO
15 PROCESS THE CLAIM SHALL BE REASONABLY RELATED TO THE CLAIM. THE TAX
16 COLLECTOR MAY NOT REQUIRE A CUSTOMER MAKING A CLAIM UNDER THIS SECTION TO
17 PROVIDE ANY REPORT OR INFORMATION THAT IS NOT REQUIRED TO BE MAINTAINED IN
18 THE NORMAL COURSE OF BUSINESS UNDER THE RECORDKEEPING REQUIREMENTS OF THE
19 MODEL CITY TAX CODE. THE TAX COLLECTOR MAY NOT IMPOSE UNREASONABLE TIME
20 LIMITS FOR A CUSTOMER MAKING A CLAIM UNDER THIS SECTION TO RESPOND TO ANY
21 VALID REQUEST FOR A REPORT OR INFORMATION. THE TAX COLLECTOR SHALL GRANT A
22 CUSTOMER'S REASONABLE REQUEST FOR ONE OR MORE EXTENSIONS TO PROVIDE ANY
23 REQUESTED REPORT OR INFORMATION.

24 L. ANY DENIAL OF A REQUEST FOR CLAIM UNDER THIS SECTION SHALL STATE IN
25 WRITING THAT:

26 1. THE CLAIM HAS BEEN DENIED AND PROVIDE THE REASON FOR THE DENIAL.

27 2. THE NOTICE CONSTITUTES A DENIAL OF THE CLAIM THAT TRIGGERS THE
28 DEADLINE FOR FILING A PETITION FOR HEARING UNDER THE ADMINISTRATIVE REVIEW
29 PROVISIONS OF THE MODEL CITY TAX CODE OR STATE LAW, AS APPLICABLE.

30 M. TAX PAID ON AN ACTIVITY THAT IS NOT SUBJECT TO TAX OR THAT
31 QUALIFIES FOR AN EXEMPTION, DEDUCTION, EXCLUSION OR CREDIT IS NOT EXCESS
32 COLLECTED TAX.

33 N. INTEREST ON A CLAIM SHALL BE PAID TO THE CUSTOMER MAKING A CLAIM
34 UNDER THIS SECTION AT THE RATE AND IN THE MANNER PRESCRIBED BY SECTION
35 42-1123, SUBSECTION A. INTEREST ON A CLAIM SHALL BE COMPUTED FROM THE DATE
36 THE CLAIM IS FILED.

37 O. A CUSTOMER THAT IS ULTIMATELY DETERMINED TO BE ENTITLED TO A CLAIM
38 MAY BE AWARDED, BY ORDER OF A COURT, BOARD OR HEARING OFFICER, REASONABLE
39 FEES AND OTHER COSTS RELATING TO THE ADMINISTRATIVE PROCESSING OR
40 ADMINISTRATIVE APPEAL OF THE CLAIM, IF THE TAX COLLECTOR'S POSITION WAS NOT
41 SUBSTANTIALLY JUSTIFIED OR WAS BROUGHT FOR THE PURPOSE OF HARASSING THE
42 CUSTOMER, FRUSTRATING THE CLAIM PROCESS OR DELAYING THE CLAIM.

43 P. IF A DISCREPANCY OCCURS BETWEEN THIS SECTION AND ANY PROVISION OF
44 THE MODEL CITY TAX CODE, THIS SECTION APPLIES.

1 Q. FOR THE PURPOSES OF THIS SECTION:

2 1. "CUSTOMER" MEANS A PERSON THAT PURCHASES GOODS OR SERVICES FROM ANY
3 VENDOR.

4 2. "MODEL CITY TAX CODE" MEANS THE MODEL CITY TAX CODE AS DEFINED IN
5 SECTION 42-6051, AND ITS APPENDICES AND REGULATIONS, AS ADOPTED IN THE CITY
6 OR TOWN, AND INCLUDES THE SPECIFIC STATE LAW INCORPORATED IN THE MODEL CITY
7 TAX CODE AND THE INTERPRETATION OF STATE LAW.

8 3. "MUNICIPAL TRANSACTION PRIVILEGE TAX" MEANS A MUNICIPAL TRANSACTION
9 PRIVILEGE TAX, MUNICIPAL PRIVILEGE LICENSE TAX OR MUNICIPAL TRANSACTION
10 PRIVILEGE LICENSE TAX, MUNICIPAL USE TAX OR SIMILAR EXCISE TAX THAT IS
11 IMPOSED BY THE TAX COLLECTOR.

12 4. "REASONABLE FEES AND OTHER COSTS" MEANS FEES AND OTHER COSTS THAT
13 ARE BASED ON PREVAILING MARKET RATES FOR THE KIND AND QUALITY OF THE
14 FURNISHED SERVICES AND THAT DO NOT EXCEED THE AMOUNTS ACTUALLY PAID FOR
15 EXPERT WITNESSES, THE COST OF ANY STUDY, ANALYSIS, REPORT, TEST, PROJECT OR
16 COMPUTER PROGRAM FOUND TO BE NECESSARY TO PREPARE THE CLAIMANT'S CASE AND
17 NECESSARY FEES FOR ATTORNEYS OR OTHER REPRESENTATIVES.

18 5. "TAX COLLECTOR" MEANS THE MUNICIPAL TAX COLLECTOR OR THE DEPARTMENT
19 WHEN IT IS ACTING AS THE TAX COLLECTOR FOR THOSE CITIES AND TOWNS IN THE
20 STATE COLLECTION PROGRAM, AS APPLICABLE UNDER THE MODEL CITY TAX CODE AND ITS
21 APPENDICES.

22 6. "VENDOR" MEANS ANY TAXPAYER THAT EITHER IS LIABLE FOR FILING AND
23 REMITTING MUNICIPAL TRANSACTION PRIVILEGE TAX TO THE TAX COLLECTOR OR THAT IS
24 REGISTERED WITH THE TAX COLLECTOR TO REMIT USE TAX TO THE TAX COLLECTOR ON
25 BEHALF OF ITS PURCHASERS.

26 Sec. 14. Section 44-1263, Arizona Revised Statutes, is amended to
27 read:

28 44-1263. Inability to conform motor vehicle to express
29 warranty; replacement of vehicle or refund of
30 monies; affirmative defenses; tax refund

31 A. If the manufacturer, its agents or its authorized dealers are
32 unable to conform the motor vehicle to any applicable express warranty by
33 repairing or correcting any defect or condition ~~which~~ THAT substantially
34 impairs the use and value of the motor vehicle to the consumer after a
35 reasonable number of attempts, the manufacturer shall replace the motor
36 vehicle with a new motor vehicle or accept return of the motor vehicle from
37 the consumer and refund to the consumer the full purchase price, including
38 all collateral charges, less a reasonable allowance for the consumer's use of
39 the vehicle. The manufacturer shall make refunds to the consumer and
40 lienholder, if any, as their interests appear. A reasonable allowance for
41 use is that amount directly attributable to use by the consumer before ~~his~~
42 THE CONSUMER'S first written report of the nonconformity to the manufacturer,
43 agent or dealer and during any subsequent period when the vehicle is not out
44 of service by reason of repair.

1 B. It is an affirmative defense to any claim under this article that
2 either:
3 1. An alleged nonconformity does not substantially impair the use and
4 market value of the motor vehicle.
5 2. A nonconformity is the result of abuse, neglect or unauthorized
6 modifications or alterations of the motor vehicle.
7 C. In the case of taxes paid pursuant to title 42, chapter 5, if the
8 manufacturer:
9 1. Accepts return of a motor vehicle from a consumer without replacing
10 the motor vehicle, the manufacturer shall refund the amount of tax attributed
11 to the sale of the vehicle to that consumer.
12 2. Replaces a motor vehicle with a new motor vehicle of lesser value,
13 the manufacturer shall refund the difference between the original amount of
14 tax attributed to the sale of that vehicle and the amount of tax attributed
15 to the sale of the replacement vehicle, excluding the value of the motor
16 vehicle being replaced.
17 3. Replaces a motor vehicle with a new motor vehicle of greater value,
18 the manufacturer shall calculate the gross proceeds of sales pursuant to
19 section 42-5001, paragraph 6.
20 D. Pursuant to section 42-1118, subsection ~~F~~ G, the manufacturer may
21 apply to the department of revenue for a refund for the amount of tax that
22 the manufacturer properly refunds to the consumer.
23 Sec. 15. Retroactivity
24 Section 42-5061, subsection A, paragraph 61, Arizona Revised Statutes,
25 as added by this act, applies retroactively to taxable years beginning from
26 and after December 31, 2014.