

REFERENCE TITLE: 2015 tax correction act

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

# SB 1216

Introduced by  
Senator Lesko

## AN ACT

AMENDING SECTIONS 1-218, 28-2154.01, 32-1122, 35-501 AND 42-1005, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 263, SECTION 8; REPEALING SECTION 42-5009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 245, SECTION 3; AMENDING SECTIONS 42-5014, 42-5061, 42-5071, 42-5072, 42-5075, 42-5159, 42-12057, 42-13304 AND 43-1147, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 1-218, Arizona Revised Statutes, is amended to  
3 read:

4 1-218. Filing by mail; date of filing

5 A. Any report, claim, tax return, statement, payment, deposit or other  
6 material dealing in any way or manner with taxation, other than petitions or  
7 notices of appeal, that is required or authorized to be filed with or made to  
8 this state or any agency or political subdivision of this state and that is  
9 deposited, properly addressed and postage prepaid, in an official depository  
10 of the United States mail shall be deemed filed and received by the addressee  
11 on the date shown by the postmark or other official mark of the United States  
12 mail stamped thereon, or, if the sender disputes the dates contained on such  
13 mark or no such mark appears or is legible, on the mailing date as  
14 established by competent evidence introduced by the sender.

15 B. Any filing that is described in subsection A of this section and  
16 that is not received by the addressee shall be deemed filed and received on  
17 the date of mailing if the sender establishes the date of mailing as provided  
18 in subsection A of this section and files with the addressee a duplicate  
19 filing within ten days after written notification of nonreceipt of such  
20 filing is given to the sender by the addressee.

21 C. If any filing described in subsection A of this section is sent by  
22 United States certified or registered mail or certificate of mailing, the  
23 date of such registration, certification or certificate, as established by a  
24 record authenticated by proper officials of the United States mail, shall be  
25 deemed the date of filing.

26 D. If the due date of any filing described in subsection A of this  
27 section falls upon a Saturday, Sunday or legal holiday, the filing shall be  
28 considered timely if performed on the next business day.

29 E. Any filing described in subsection A of this section that does not  
30 contain a postmark or other official mark of the United States mail stamped  
31 thereon shall be considered timely if ~~performed by the taxpayer~~ RECEIVED  
32 within five business days after the due date of the filing.

33 F. For the purposes of tax administration, references in this section  
34 to:

35 1. "United States mail" are considered to include any designated  
36 delivery service provided by a trade or business if the service has been  
37 designated by the United States secretary of the treasury pursuant to section  
38 7502(f) of the United States internal revenue code of 1986.

39 2. "Postmark" are considered to include any date recorded or marked by  
40 any designated delivery service and described in section 7502(f)(2)(C) of the  
41 internal revenue code.

42 3. "Registered" and "certified" are considered to include any  
43 equivalent service maintained by a designated delivery service.



1 F. A dealer or authorized third party shall allow the director of the  
2 department of transportation or the director of the department of revenue  
3 full and free access to the records during regular business hours.

4 G. The electronic record is written notice of the removal of the  
5 vehicle from this state for use in the purchaser's state of residence and  
6 relieves the dealer or authorized third party of liability in accordance with  
7 the requirements of section 42-5009.

8 H. If a purchaser registers the vehicle in this state within three  
9 hundred sixty-five days after the issuance of the special ninety day  
10 nonresident registration permit, the purchaser is liable in an amount equal  
11 to any tax, penalty and interest that the motor vehicle dealer or authorized  
12 third party would have been required to pay under title 42, chapter 5 and  
13 under articles IV and VI of the model city tax code as defined in  
14 section 42-6051. At the time of issuing the special ninety day nonresident  
15 registration permit, a motor vehicle dealer or authorized third party shall  
16 inform the purchaser in writing of the purchaser's liability described in  
17 this section. Subsequent registration or use of the vehicle in this state  
18 does not create a cause of action against a dealer or authorized third party  
19 that complies with section 28-2154, subsection A, this section and section  
20 42-5009, subsection H.

21 I. The department of transportation and the department of revenue  
22 shall jointly develop and prescribe forms for the motor vehicle dealer, the  
23 authorized third party and the purchaser to complete for the proper  
24 administration and enforcement of this section.

25 J. Compliance with this section and section 28-2154 allows delivery of  
26 the vehicle to a nonresident purchaser in this state and retains the  
27 applicable deductions pursuant to section 42-5061, subsection A, paragraph  
28 28, subdivision (a) and subsection ~~H~~ T.

29 Sec. 3. Section 32-1122, Arizona Revised Statutes, is amended to read:  
30 32-1122. Qualifications for license

31 A. A contractor's license shall be issued only by act of the registrar  
32 of contractors. The registrar shall:

- 33 1. Classify and qualify applicants for a license.
- 34 2. If necessary, change the license classification of a licensee in  
35 the case of a title reclassification, with or without a bond rider for the  
36 purpose of continuing liability on the bond.
- 37 3. Conduct investigations the registrar deems necessary.
- 38 4. Establish written examinations if deemed necessary to protect the  
39 health and safety of the public.

40 B. To obtain or renew a license under this chapter, the applicant  
41 shall:

- 42 1. Submit to the registrar of contractors a verified application on  
43 forms that are prescribed by the registrar of contractors and that contain  
44 the following information and shall advise the registrar of any change in the  
45 information within thirty days:

1 (a) A designation of the classification of license that is sought by  
2 the applicant.

3 (b) If the applicant is an individual, the applicant's name and  
4 address.

5 (c) If the applicant is a partnership, the names and addresses of all  
6 partners with a designation of any limited partners.

7 (d) If the applicant is a corporation, an association or any other  
8 organization, the names and addresses of the president, vice-president, if  
9 any, secretary and treasurer or the names and addresses of the functional  
10 equivalent of these officers, the directors and the owners of twenty-five ~~per~~  
11 ~~cent~~ PERCENT or more of the stock or beneficial interest.

12 (e) The name and address of the qualifying party.

13 (f) If the applicant is a corporation, evidence that the corporation  
14 is in good standing with the corporation commission.

15 (g) The address or location of the applicant's place of business and  
16 the mailing address if it is different from the applicant's place of  
17 business.

18 ~~(h) The applicant's current privilege license number issued pursuant~~  
19 ~~to section 42-5005.~~

20 ~~(i)~~ (h) Proof that the applicant has complied with the statutes or  
21 rules governing workers' compensation insurance.

22 2. Submit the appropriate bond and fee required under this chapter.

23 C. To obtain a contractor's license under this chapter other than a  
24 residential contractor's license, the applicant shall submit a detailed  
25 statement of current financial condition containing information required by  
26 the registrar of contractors on a form furnished by or acceptable to the  
27 registrar of contractors. Notwithstanding any other law, a swimming pool  
28 contractor shall also submit a detailed statement of current financial  
29 condition as required by this subsection.

30 D. To obtain or renew a license under this chapter, each person shall  
31 be of good character and reputation. Lack of good character and reputation  
32 may be established by showing that a person has engaged in contracting  
33 without a license or committed any act that, if committed or done by any  
34 licensed contractor, would be grounds for suspension or revocation of a  
35 contractor's license or by showing that the person was named on a  
36 contractor's license that was suspended or revoked in another state.

37 E. To obtain a license under this chapter, a person shall not have had  
38 a license refused or revoked, within one year before the person's  
39 application, or shall not have engaged in the contracting business, nor shall  
40 the person have submitted a bid without first having been licensed within one  
41 year before the person's application, nor shall a person act as a contractor  
42 between the filing of the application and actual issuance of the license.  
43 The registrar may find any of those actions or circumstances to be excusable  
44 if there was reasonable doubt as to the need for licensure or the actions of  
45 the applicant did not result in an unremedied hardship or danger or loss to

1 the public. A person who has been convicted of contracting without a license  
2 is not eligible to obtain a license under this chapter for one year after the  
3 date of the last conviction.

4 F. Before a license is issued, the qualifying party shall:

5 1. Have had a minimum of four years' practical or management trade  
6 experience, at least two of which must have been within the last ten years,  
7 dealing specifically with the type of construction, or its equivalent, for  
8 which the applicant is applying for a license. Technical training in an  
9 accredited college or university or in a manufacturer's accredited training  
10 program may be substituted for a portion of such experience, but in no case  
11 may credited technical training exceed two years of the required four years'  
12 experience. The registrar of contractors may reduce the four years'  
13 practical or management experience requirement if in the registrar's opinion  
14 it has been conclusively shown by custom and usage in the particular industry  
15 or craft involved that the four year requirement is excessive. The registrar  
16 may waive the work experience documentation and verification or the  
17 examination requirement if the records reflect that the qualifying party is  
18 currently or has previously been a qualifying party for a licensee in this  
19 state in the same classification within the preceding five years.

20 2. Successfully show, by written examination taken not more than two  
21 years before application, if required, qualification in the kind of work for  
22 which the applicant proposes to contract, the applicant's general knowledge  
23 of the building, safety, health and lien laws of the state, administrative  
24 principles of the contracting business and the rules adopted by the registrar  
25 of contractors pursuant to this chapter, demonstrate knowledge and  
26 understanding of construction plans and specifications applicable to the  
27 particular industry or craft and of the standards of construction work and  
28 techniques and practices in the particular industry or craft and demonstrate  
29 a general understanding of other related construction trades, in addition to  
30 any other matters as may be deemed appropriate by the registrar to determine  
31 that the qualifying party meets the requirements of this chapter. The  
32 registrar shall maintain multiple versions of examinations for each type of  
33 license that requires an examination.

34 G. No license shall be issued to a minor, to any partnership in which  
35 one of the partners is a minor or to any corporation in which a corporate  
36 officer is a minor.

37 H. Before receiving, renewing and holding a license pursuant to this  
38 chapter, the registrar may require a license applicant or licensee to submit  
39 to the registrar a full set of fingerprints and the fees required in section  
40 41-1750. The registrar shall submit the fingerprints and fees to the  
41 department of public safety for the purpose of obtaining a state and federal  
42 criminal records check pursuant to section 41-1750 and Public Law 92-544.  
43 The department of public safety may exchange this fingerprint data with the  
44 federal bureau of investigation.

1           Sec. 4. Section 35-501, Arizona Revised Statutes, is amended to read:  
2           35-501. Department of revenue records of bond issues; debt  
3                 level analysis and report

4           A. By June 30 of each year, the department of revenue shall ascertain  
5 and record in its office all issues of bonds, certificates of participation  
6 or other securities issued for a term in excess of one year by the state or a  
7 county, city, town, school district, irrigation district, other political  
8 subdivision or municipal property corporation within the state. The record  
9 shall show the date of issuance, amount, denomination, rates of interest,  
10 maturity, dates of the bonds, certificates of participation or securities and  
11 other information the department requires.

12           B. The reports relating to the issuance of bonds and securities  
13 required under subsection A **OF THIS SECTION** shall be filed with the  
14 department of revenue within sixty days of the issuance and shall contain the  
15 following information:

16           1. The par amount of the bonds or securities.  
17           2. The interest rate, by maturity of the bonds or securities.  
18           3. The repayment schedule, showing both principal and interest for the  
19 issue.

20           4. The sources of repayment.

21           5. The original issue price and any premium or discount, by maturity,  
22 for the issue.

23           6. A detailed listing of all issuance costs, regardless of source of  
24 payment, including underwriter's compensation, bond counsel fees, financial  
25 advisor fees, verification agent fees, placement agent fees, investment  
26 securities brokerage fees, registrar fees, trustee fees, credit enhancement  
27 fees, rating agency fees, printing costs, registration fees, transfer and  
28 recording fees and any other costs directly or indirectly earned or paid as a  
29 result of the issuance of the bonds or securities, as determined by the  
30 department.

31           7. The total amount of parity bonds or securities outstanding,  
32 including the issue, at the time of issuance.

33           8. The total amount of any bonds or securities, senior or subordinate  
34 to the issue outstanding at the time of issuance.

35           9. The amount of any constitutional or statutory limitation on the  
36 issuance of bonds or securities of the type issued.

37           10. The remaining amount of bonds or securities that may be issued  
38 within the limitation determined in paragraph 9 **OF THIS SUBSECTION**.

39           11. The amount of any constitutional or statutory voter authorization  
40 applicable to the issuance of bonds or securities of the type issued.

41           12. The remaining amount of bonds or securities that may be issued  
42 within the authorization determined in paragraph 9 **OF THIS SUBSECTION**.

43           13. Any other similar or related information the department may  
44 determine.

1 C. ~~By December~~ ON OR BEFORE JANUARY 15 of each year, the department of  
2 revenue shall provide to the governor, the president of the senate and the  
3 speaker of the house of representatives a report of the information collected  
4 pursuant to subsection A OF THIS SECTION. This report shall include an  
5 analysis of the outstanding indebtedness of each jurisdiction and the  
6 relationship of the outstanding indebtedness to the appropriate debt  
7 limitations in article IX, sections 5, 8 and 8.1, Constitution of Arizona.

8 D. If as a result of the analysis conducted pursuant to subsection C  
9 OF THIS SECTION the department of revenue determines that the outstanding  
10 indebtedness of a jurisdiction is in excess of the debt limitation prescribed  
11 by the Constitution or statutes of Arizona, the department of revenue shall  
12 notify the governing body or board of the jurisdiction, the governor, the  
13 president of the senate, the speaker of the house of representatives and, in  
14 the case of a school district, the superintendent of public instruction.

15 E. The director of the department of revenue shall notify the person  
16 or governing body responsible for complying with this section of a failure to  
17 comply in whole or in part with the requirements of this section. Any person  
18 or governing body so notified shall comply within thirty days. Any county,  
19 city, town, school district, irrigation district or other political  
20 subdivision of the state that fails to comply fully with the provisions of  
21 this article shall not issue any additional bonds or other securities.

22 Sec. 5. Section 42-1005, Arizona Revised Statutes, is amended to read:  
23 42-1005. Powers and duties of director

24 A. The director shall be directly responsible to the governor for the  
25 direction, control and operation of the department and shall:

26 1. Make such administrative rules as he deems necessary and proper to  
27 effectively administer the department and enforce this title and title 43.

28 2. On or before November 15 of each year, issue a written report to  
29 the governor and legislature concerning the department's activities during  
30 the year. In any election year a copy of this report shall be made available  
31 to the governor-elect and to the legislature-elect.

32 3. On or before December 15 of each year, issue a supplemental report  
33 which shall also contain proposed legislation recommended by the department  
34 for the improvement of the system of taxation in the state.

35 4. In addition to the report required by paragraph 2 of this  
36 subsection, on or before ~~November~~ DECEMBER 15 of each EVEN-NUMBERED year,  
37 issue a written report to the governor and legislature detailing the  
38 approximate costs in lost revenue for all state tax expenditures in effect at  
39 the time of the report. For the purpose of this paragraph, "tax expenditure"  
40 means any tax provision in state law which exempts, in whole or in part, any  
41 persons, income, goods, services or property from the impact of established  
42 taxes including deductions, subtractions, exclusions, exemptions, allowances  
43 and credits.



1 D. If a seller is entitled to a deduction by complying with subsection  
2 A of this section, the department may require the purchaser that caused the  
3 execution of the certificate to establish the accuracy and completeness of  
4 the information required to be contained in the certificate that would  
5 entitle the seller to the deduction. If the purchaser cannot establish the  
6 accuracy and completeness of the information, the purchaser is liable in an  
7 amount equal to any tax, penalty and interest that the seller would have been  
8 required to pay under this article if the seller had not complied with  
9 subsection A of this section. Payment of the amount under this subsection  
10 exempts the purchaser from liability for any tax imposed under article 4 of  
11 this chapter. The amount shall be treated as tax revenues collected from the  
12 seller in order to designate the distribution base for purposes of section  
13 42-5029.

14 E. If a seller is entitled to a deduction by complying with subsection  
15 B of this section, the department may require the purchaser to establish the  
16 accuracy and completeness of the information provided to the seller that  
17 entitled the seller to the deduction. If the purchaser cannot establish the  
18 accuracy and completeness of the information, the purchaser is liable in an  
19 amount equal to any tax, penalty and interest that the seller would have been  
20 required to pay under this article if the seller had not complied with  
21 subsection B of this section. Payment of the amount under this subsection  
22 exempts the purchaser from liability for any tax imposed under article 4 of  
23 this chapter. The amount shall be treated as tax revenues collected from the  
24 seller in order to designate the distribution base for purposes of section  
25 42-5029.

26 F. The department may prescribe a form for a certificate used to  
27 establish entitlement to the deductions described in section 42-5061,  
28 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3.  
29 Under rules the department may prescribe, the department may also require  
30 additional information for the seller to be entitled to the deduction. If a  
31 seller is entitled to the deductions described in section 42-5061, subsection  
32 A, paragraph 46 and section 42-5063, subsection B, paragraph 3, the  
33 department may require the purchaser who executed the certificate to  
34 establish the accuracy and completeness of the information contained in the  
35 certificate that would entitle the seller to the deduction. If the purchaser  
36 cannot establish the accuracy and completeness of the information, the  
37 purchaser is liable in an amount equal to any tax, penalty and interest that  
38 the seller would have been required to pay under this article. Payment of  
39 the amount under this subsection exempts the purchaser from liability for any  
40 tax imposed under article 4 of this chapter. The amount shall be treated as  
41 tax revenues collected from the seller in order to designate the distribution  
42 base for purposes of section 42-5029.

43 G. If a seller claims a deduction under section 42-5061, subsection A,  
44 paragraph 25 and establishes entitlement to the deduction with an exemption  
45 letter that the purchaser received from the department and the exemption

1 letter was based on a contingent event, the department may require the  
2 purchaser that received the exemption letter to establish the satisfaction of  
3 the contingent event within a reasonable time. If the purchaser cannot  
4 establish the satisfaction of the event, the purchaser is liable in an amount  
5 equal to any tax, penalty and interest that the seller would have been  
6 required to pay under this article if the seller had not been furnished the  
7 exemption letter. Payment of the amount under this subsection exempts the  
8 purchaser from liability for any tax imposed under article 4 of this chapter.  
9 The amount shall be treated as tax revenues collected from the seller in  
10 order to designate the distribution base for purposes of section 42-5029.  
11 For the purposes of this subsection, "reasonable time" means a time  
12 limitation that the department determines and that does not exceed the time  
13 limitations pursuant to section 42-1104.

14 H. The department shall prescribe forms for certificates used to  
15 establish the satisfaction of the criteria necessary to qualify the sale of a  
16 motor vehicle for the deductions described in section 42-5061, subsection A,  
17 paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and  
18 subsection ~~H~~ T. Except as provided in subsection J of this section, to  
19 establish entitlement to these deductions, a motor vehicle dealer shall  
20 retain:

21 1. A valid certificate as prescribed by this subsection completed by  
22 the purchaser and obtained prior to the issuance of the nonresident  
23 registration permit authorized by section 28-2154.

24 2. A copy of the nonresident registration permit authorized by section  
25 28-2154.

26 3. A legible copy of a current valid driver license issued to the  
27 purchaser by another state or foreign country that indicates an address  
28 outside of this state. For the sale of a motor vehicle to a nonresident  
29 entity, the entity's representative must have a current valid driver license  
30 issued by the same jurisdiction as that in which the entity is located.

31 4. For the purposes of the deduction provided by section 42-5061,  
32 subsection A, paragraph 14, a certificate documenting the delivery of the  
33 motor vehicle to an out-of-state location.

34 I. Notwithstanding subsection A, paragraph 2 of this section, if a  
35 motor vehicle dealer has established entitlement to a deduction by complying  
36 with subsection H of this section, the department may require the purchaser  
37 who executed the certificate to establish the accuracy and completeness of  
38 the information contained in the certificate that entitled the motor vehicle  
39 dealer to the deduction. If the purchaser cannot establish the accuracy and  
40 completeness of the information, the purchaser is liable in an amount equal  
41 to any tax, penalty and interest that the motor vehicle dealer would have  
42 been required to pay under this article and under articles IV and V of the  
43 model city tax code as defined in section 42-6051. Payment of the amount  
44 under this subsection exempts the purchaser from liability for any tax  
45 imposed under article 4 of this chapter and any tax imposed under article VI

1 of the model city tax code as defined in section 42-6051. The amount shall  
2 be treated as tax revenues collected from the motor vehicle dealer in order  
3 to designate the distribution base for purposes of section 42-5029.

4 J. To establish entitlement to the deduction described in section  
5 42-5061, subsection A, paragraph ~~45~~ 44, a public consignment auction dealer  
6 as defined in section 28-4301 shall submit the valid certificate prescribed  
7 by subsection H of this section to the department and retain a copy for its  
8 records.

9 K. Notwithstanding any other law, compliance with subsection H of this  
10 section by a motor vehicle dealer entitles the motor vehicle dealer to the  
11 exemption provided in section 42-6004, subsection A, paragraph 4.

12 L. The department shall prescribe a form for a certificate to be used  
13 by a contractor that is not otherwise subject to tax under section 42-5075,  
14 subsection 0 when purchasing tangible personal property to be incorporated or  
15 fabricated by the person into any real property, structure, project,  
16 development or improvement to provide documentation to a retailer that the  
17 sale of tangible personal property qualifies for the deduction under section  
18 42-5061, subsection A, paragraph 27. A prime contractor shall obtain the  
19 certificate from the department and shall provide a copy to any contractor  
20 working on the project that does not have a transaction privilege tax license  
21 by reason of not being subject to tax under section 42-5075, subsection 0.  
22 The prime contractor shall obtain a new certificate for each project to which  
23 this subsection applies. For the purposes of this subsection, the following  
24 apply:

25 1. The contractor may use the certificate issued pursuant to this  
26 subsection only with respect to tangible personal property that will be  
27 incorporated into a project for which the gross receipts are subject to tax  
28 under section 42-5075.

29 2. The department shall issue the certificate to the prime contractor  
30 on receiving sufficient documentation to establish that the prime contractor  
31 meets the requirements of this subsection.

32 3. If a contractor uses the certificate provided under this subsection  
33 to purchase tangible personal property to be used in a nontaxable contract,  
34 the contractor is liable in an amount equal to any tax, penalty and interest  
35 that the seller would have been required to pay under this article if the  
36 seller had not complied with subsection A of this section. Payment of the  
37 amount under this section exempts the contractor from liability for any tax  
38 imposed under article 4 of this chapter. The amount shall be treated as tax  
39 revenues collected from the seller in order to designate the distribution  
40 base for purposes of section 42-5029.

41 M. Notwithstanding any other law, compliance with subsection L of this  
42 section by a contractor entitles the contractor purchasing tangible personal  
43 property to be incorporated or fabricated by the person into any real  
44 property, structure, project, development or improvement to the exemption  
45 provided in section 465, subsection (k) of the model city tax code.



1 (d) FOR ALL OTHER TAXPAYERS THAT ARE REQUIRED TO FILE AND PAY  
2 ANNUALLY, IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE THE BUSINESS DAY  
3 PRECEDING THE LAST BUSINESS DAY OF JANUARY.

4 C. The department may require a taxpayer whose business is of a  
5 transient character to file the return and remit the taxes imposed by this  
6 article on a daily, a weekly or a transaction by transaction basis, and those  
7 returns and payments are due and payable on the date fixed by the department  
8 without a grace period otherwise allowed by this section. For the purposes  
9 of this subsection, "business of a transient character" means sales activity  
10 by a taxpayer not regularly engaged in selling within the state conducted  
11 from vehicles, portable stands, rented spaces, structures or booths, or  
12 concessions at fairs, carnivals, circuses, festivals or similar activities  
13 for not more than thirty consecutive days.

14 D. If the business entity under which a taxpayer reports and pays  
15 income tax under title 43 has an annual total tax liability under this  
16 article, article 6 of this chapter and chapter 6, article 3 of this title of  
17 one million dollars or more, based on the actual tax liability in the  
18 preceding calendar year, regardless of the number of offices at which the  
19 taxes imposed by this article, article 6 of this chapter or chapter 6,  
20 article 3 of this title are collected, or if the taxpayer can reasonably  
21 anticipate such liability in the current year, the taxpayer shall report on a  
22 form prescribed by the department and pay an estimated tax payment each June.  
23 Any other taxpayer may voluntarily elect to pay the estimated tax payment  
24 pursuant to this subsection. The payment shall be made on or before June 20  
25 and is delinquent ~~if not postmarked on or before that date or~~ if not received  
26 by the department on or before the business day preceding the last business  
27 day of June for those taxpayers electing to file by mail, or delinquent if  
28 not received by the department on the business day preceding the last  
29 business day of June for those taxpayers electing to file in person. The  
30 estimated tax paid shall be credited against the taxpayer's tax liability  
31 under this article, article 6 of this chapter and chapter 6, article 3 of  
32 this title for the month of June for the current calendar year. The  
33 estimated tax payment shall equal either:

34 1. One-half of the actual tax liability under this article plus  
35 one-half of any tax liability under article 6 of this chapter and chapter 6,  
36 article 3 of this title for May of the current calendar year.

37 2. The actual tax liability under this article plus any tax liability  
38 under article 6 of this chapter and chapter 6, article 3 of this title for  
39 the first fifteen days of June of the current calendar year.

40 E. The taxpayer shall prepare a return showing the amount of the tax  
41 for which the taxpayer is liable for the preceding month, and shall mail or  
42 deliver the return to the department in the same manner and time as  
43 prescribed for the payment of taxes in subsection A of this section. If the  
44 taxpayer fails to file the return in the manner and time as prescribed for  
45 the payment of taxes in subsection A of this section, the amount of the tax

1 required to be shown on the return is subject to the penalty imposed pursuant  
2 to section 42-1125, subsection A, without any reduction for taxes paid on or  
3 before the due date of the return. The return shall be verified by the oath  
4 of the taxpayer or an authorized agent or as prescribed by the department  
5 pursuant to section 42-1105, subsection B.

6 F. Any person who is taxable under this article and who makes cash and  
7 credit sales shall report such cash and credit sales separately and on making  
8 application may obtain from the department an extension of time for payment  
9 of taxes due on the credit sales. The extension shall be granted by the  
10 department under such rules as the department prescribes. When the extension  
11 is granted, the taxpayer shall thereafter include in each monthly report all  
12 collections made on such credit sales during the month next preceding and  
13 shall pay the taxes due at the time of filing such report.

14 G. The returns required under this article shall be made on forms  
15 prescribed by the department and shall capture data with sufficient  
16 specificity to meet the needs of all taxing jurisdictions.

17 H. Any person who is engaged in or conducting business in two or more  
18 locations or under two or more business names shall file the return required  
19 under this article by electronic means.

20 I. The department, for good cause, may extend the time for making any  
21 return required by this article and may grant such reasonable additional time  
22 within which to make the return as it deems proper, but the time for filing  
23 the return shall not be extended beyond the first day of the third month next  
24 succeeding the regular due date of the return.

25 J. The department, with the approval of the attorney general, may  
26 abate small tax balances if the administration costs exceed the amount of tax  
27 due.

28 K. For the purposes of subsection D of this section, "taxpayer" means  
29 the business entity under which the business reports and pays state income  
30 taxes regardless of the number of offices at which the taxes imposed by this  
31 article, article 6 of this chapter or chapter 6, article 3 of this title are  
32 collected.

33 Sec. 9. Section 42-5061, Arizona Revised Statutes, is amended to read:

34 42-5061. Retail classification; definitions

35 A. The retail classification is comprised of the business of selling  
36 tangible personal property at retail. The tax base for the retail  
37 classification is the gross proceeds of sales or gross income derived from  
38 the business. The tax imposed on the retail classification does not apply to  
39 the gross proceeds of sales or gross income from:

40 1. Professional or personal service occupations or businesses that  
41 involve sales or transfers of tangible personal property only as  
42 inconsequential elements.

43 2. Services rendered in addition to selling tangible personal property  
44 at retail.

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

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

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

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

13           7. The sale of stocks and bonds.

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

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

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

21           11. Prescription eyeglasses or contact lenses.

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

23           13. Durable medical equipment that has a centers for medicare and  
24 medicaid services common procedure code, is designated reimbursable by  
25 medicare, is prescribed by a person who is licensed under title 32, chapter  
26 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
27 customarily used to serve a medical purpose, is generally not useful to a  
28 person in the absence of illness or injury and is appropriate for use in the  
29 home.

30           14. Sales of motor vehicles to nonresidents of this state for use  
31 outside this state if the motor vehicle dealer ships or delivers the motor  
32 vehicle to a destination out of this state.

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

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

40           17. Textbooks by any bookstore that are required by any state  
41 university or community college.

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

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

6 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,  
7 article 1.

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

15 (a) "Cash equivalents" means items or intangibles, whether or not  
16 negotiable, that are sold to one or more persons, through which a value  
17 denominated in money is purchased in advance and may be redeemed in full or  
18 in part for tangible personal property, intangibles or services. Cash  
19 equivalents include gift cards, stored value cards, gift certificates,  
20 vouchers, traveler's checks, money orders or other instruments, orders or  
21 electronic mechanisms, such as an electronic code, personal identification  
22 number or digital payment mechanism, or any other prepaid intangible right to  
23 acquire tangible personal property, intangibles or services in the future,  
24 whether from the seller of the cash equivalent or from another person. Cash  
25 equivalents do not include either of the following:

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

28 (ii) Prepaid calling cards or prepaid authorization numbers for  
29 telecommunications services made taxable by subsection ~~Q~~ P of this section.

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

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

37 22. Motor vehicle fuel and use fuel that are subject to a tax imposed  
38 under title 28, chapter 16, article 1, sales of use fuel to a holder of a  
39 valid single trip use fuel tax permit issued under section 28-5739, sales of  
40 aviation fuel that are subject to the tax imposed under section 28-8344 and  
41 sales of jet fuel that are subject to the tax imposed under article 8 of this  
42 chapter.

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

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

4           25. Tangible personal property sold to:

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

6           (b) A qualifying health care organization as defined in section  
7 42-5001 if the tangible personal property is used by the organization solely  
8 to provide health and medical related educational and charitable services.

9           (c) A qualifying health care organization as defined in section  
10 42-5001 if the organization is dedicated to providing educational,  
11 therapeutic, rehabilitative and family medical education training for blind  
12 and visually impaired children and children with ~~multidisabilities~~ MULTIPLE  
13 DISABILITIES from the time of birth to age twenty-one.

14           (d) A qualifying community health center as defined in section  
15 42-5001.

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

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

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

29           26. Magazines or other periodicals or other publications by this state  
30 to encourage tourist travel.

31           27. Tangible personal property sold to a person that is subject to tax  
32 under this article by reason of being engaged in business classified under  
33 the prime contracting classification under section 42-5075 or to a  
34 subcontractor working under the control of a prime contractor that is subject  
35 to tax under article 1 of this chapter, if the property so sold is any of the  
36 following:

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

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

41           28. The sale of a motor vehicle to:

42           (a) A nonresident of this state if the purchaser's state of residence  
43 does not allow a corresponding use tax exemption to the tax imposed by  
44 article 1 of this chapter and if the nonresident has secured a special ninety

1 day nonresident registration permit for the vehicle as prescribed by sections  
2 28-2154 and 28-2154.01.

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

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

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

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

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

28 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
29 propagative material to persons who use those items to commercially produce  
30 agricultural, horticultural, viticultural or floricultural crops in this  
31 state.

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

37 35. Sales of natural gas or liquefied petroleum gas used to propel a  
38 motor vehicle.

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

42 37. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
43 sold to a qualified environmental technology manufacturer, producer or  
44 processor as defined in section 41-1514.02 and directly used or consumed in  
45 the generation or provision of on-site power or energy solely for

1 environmental technology manufacturing, producing or processing or  
2 environmental protection. This paragraph shall apply for twenty full  
3 consecutive calendar or fiscal years from the date the first paper  
4 manufacturing machine is placed in service. In the case of an environmental  
5 technology manufacturer, producer or processor who does not manufacture  
6 paper, the time period shall begin with the date the first manufacturing,  
7 processing or production equipment is placed in service.

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

21 39. Through December 31, 1994, personal property liquidation  
22 transactions, conducted by a personal property liquidator. From and after  
23 December 31, 1994, personal property liquidation transactions shall be  
24 taxable under this section provided that nothing in this subsection shall be  
25 construed to authorize the taxation of casual activities or transactions  
26 under this chapter. For the purposes of this paragraph:

27 (a) "Personal property liquidation transaction" means a sale of  
28 personal property made by a personal property liquidator acting solely on  
29 behalf of the owner of the personal property sold at the dwelling of the  
30 owner or on the death of any owner, on behalf of the surviving spouse, if  
31 any, any devisee or heir or the personal representative of the estate of the  
32 deceased, if one has been appointed.

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

35 40. Sales of food, drink and condiment for consumption within the  
36 premises of any prison, jail or other institution under the jurisdiction of  
37 the state department of corrections, the department of public safety, the  
38 department of juvenile corrections or a county sheriff.

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

43 42. Livestock and poultry feed, salts, vitamins and other additives for  
44 livestock or poultry consumption that are sold to persons who are engaged in  
45 producing livestock, poultry, or livestock or poultry products or who are

1 engaged in feeding livestock or poultry commercially. For the purposes of  
2 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

36 49. Sales of alternative fuel vehicles if the vehicle was manufactured  
37 as a diesel fuel vehicle and converted to operate on alternative fuel and  
38 equipment that is installed in a conventional diesel fuel motor vehicle to  
39 convert the vehicle to operate on an alternative fuel, as defined in section  
40 1-215.

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

1           51. Sales of tangible personal property to be incorporated or installed  
2 as part of environmental response or remediation activities under section  
3 42-5075, subsection B, paragraph 6.

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

9           ~~53. Through August 31, 2014, sales of Arizona centennial medallions by  
10 the historical advisory commission.~~

11           ~~54.~~ 53. Application services that are designed to assess or test  
12 student learning or to promote curriculum design or enhancement purchased by  
13 or for any school district, charter school, community college or state  
14 university. For the purposes of this paragraph:

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

17           (b) "Curriculum design or enhancement" means planning, implementing or  
18 reporting on courses of study, lessons, assignments or other learning  
19 activities.

20           ~~55.~~ 54. Sales of motor vehicle fuel and use fuel to a qualified  
21 business under section 41-1516 for off-road use in harvesting, processing or  
22 transporting qualifying forest products removed from qualifying projects as  
23 defined in section 41-1516.

24           ~~56.~~ 55. Sales of repair parts installed in equipment used directly by  
25 a qualified business under section 41-1516 in harvesting, processing or  
26 transporting qualifying forest products removed from qualifying projects as  
27 defined in section 41-1516.

28           ~~57.~~ 56. Sales or other transfers of renewable energy credits or any  
29 other unit created to track energy derived from renewable energy resources.  
30 For the purposes of this paragraph, "renewable energy credit" means a unit  
31 created administratively by the corporation commission or governing body of a  
32 public power utility to track kilowatt hours of electricity derived from a  
33 renewable energy resource or the kilowatt hour equivalent of conventional  
34 energy resources displaced by distributed renewable energy resources.

35           ~~58.~~ 57. Computer data center equipment purchased by the owner,  
36 operator or qualified colocation tenant of the computer data center or an  
37 authorized agent of the owner, operator or qualified colocation tenant during  
38 the qualification period for use in a computer data center that is certified  
39 by the Arizona commerce authority under section 41-1519. To qualify for this  
40 deduction, at the time of purchase, the owner, operator or qualified  
41 colocation tenant must present to the retailer its certificate that is issued  
42 pursuant to section 41-1519 and that establishes its qualification for the  
43 deduction. For the purposes of this paragraph, "computer data center",  
44 "computer data center equipment", "qualification period" and "qualified  
45 colocation tenant" have the same meanings prescribed in section 41-1519.

1           ~~59.~~ 58. Orthodontic devices dispensed by a dental professional who is  
2 licensed under title 32, chapter 11 to a patient as part of the practice of  
3 dentistry.

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

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

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

21           3. Tangible personal property sold to persons engaged in business  
22 classified under the telecommunications classification and consisting of  
23 central office switching equipment, switchboards, private branch exchange  
24 equipment, microwave radio equipment and carrier equipment including optical  
25 fiber, coaxial cable and other transmission media that are components of  
26 carrier systems.

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

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

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

38           7. Aircraft, navigational and communication instruments and other  
39 accessories and related equipment sold to:

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

1 (b) Any foreign government.

2 (c) Persons who are not residents of this state and who will not use  
3 such property in this state other than in removing such property from this  
4 state. This subdivision also applies to corporations that are not  
5 incorporated in this state, regardless of maintaining a place of business in  
6 this state, if the principal corporate office is located outside this state  
7 and the property will not be used in this state other than in removing the  
8 property from this state.

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

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

15 10. Machinery or equipment used directly to drill for oil or gas or  
16 used directly in the process of extracting oil or gas from the earth for  
17 commercial purposes.

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

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

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

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

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

38 14. Machinery or equipment used in research and development. For the  
39 purposes of this paragraph, "research and development" means basic and  
40 applied research in the sciences and engineering, and designing, developing  
41 or testing prototypes, processes or new products, including research and  
42 development of computer software that is embedded in or an integral part of  
43 the prototype or new product or that is required for machinery or equipment  
44 otherwise exempt under this section to function effectively. Research and  
45 development do not include manufacturing quality control, routine consumer

1 product testing, market research, sales promotion, sales service, research in  
2 social sciences or psychology, computer software research that is not  
3 included in the definition of research and development, or other  
4 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

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

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

11           19. Machinery and equipment that are sold to a person engaged in the  
12 commercial production of livestock, livestock products or agricultural,  
13 horticultural, viticultural or floricultural crops or products in this state  
14 and that are used directly and primarily to prevent, monitor, control or  
15 reduce air, water or land pollution.

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

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

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

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

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

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

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

42           2. Janitorial equipment and hand tools.

43           3. Office equipment, furniture and supplies.

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

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

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

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

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

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

21          E. In computing the tax base, gross proceeds of sales or gross income  
22 from retail sales of heavy trucks and trailers does not include any amount  
23 attributable to federal excise taxes imposed by 26 United States Code section  
24 4051.

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

29          ~~G.~~ F. If a person is engaged in an occupation or business to which  
30 subsection A of this section applies, the person's books shall be kept so as  
31 to show separately the gross proceeds of sales of tangible personal property  
32 and the gross income from sales of services, and if not so kept the tax shall  
33 be imposed on the total of the person's gross proceeds of sales of tangible  
34 personal property and gross income from services.

35          ~~H.~~ G. If a person is engaged in the business of selling tangible  
36 personal property at both wholesale and retail, the tax under this section  
37 applies only to the gross proceeds of the sales made other than at wholesale  
38 if the person's books are kept so as to show separately the gross proceeds of  
39 sales of each class, and if the books are not so kept, the tax under this  
40 section applies to the gross proceeds of every sale so made.

41          ~~I.~~ H. A person who engages in manufacturing, baling, crating, boxing,  
42 barreling, canning, bottling, sacking, preserving, processing or otherwise  
43 preparing for sale or commercial use any livestock, agricultural or  
44 horticultural product or any other product, article, substance or commodity  
45 and who sells the product of such business at retail in this state is deemed,

1 as to such sales, to be engaged in business classified under the retail  
2 classification. This subsection does not apply to businesses classified  
3 under the:

- 4 1. Transporting classification.
- 5 2. Utilities classification.
- 6 3. Telecommunications classification.
- 7 4. Pipeline classification.
- 8 5. Private car line classification.
- 9 6. Publication classification.
- 10 7. Job printing classification.
- 11 8. Prime contracting classification.
- 12 9. Restaurant classification.

13 ~~J~~ I. The gross proceeds of sales or gross income derived from the  
14 following shall be deducted from the tax base for the retail classification:

- 15 1. Sales made directly to the United States government or its  
16 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 17 2. Sales made directly to a manufacturer, modifier, assembler or  
18 repairer if such sales are of any ingredient or component part of products  
19 sold directly to the United States government or its departments or agencies  
20 by the manufacturer, modifier, assembler or repairer.
- 21 3. Overhead materials or other tangible personal property that is used  
22 in performing a contract between the United States government and a  
23 manufacturer, modifier, assembler or repairer, including property used in  
24 performing a subcontract with a government contractor who is a manufacturer,  
25 modifier, assembler or repairer, to which title passes to the government  
26 under the terms of the contract or subcontract.
- 27 4. Sales of overhead materials or other tangible personal property to  
28 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
29 sales or gross income derived from the property by the manufacturer,  
30 modifier, assembler or repairer will be exempt under paragraph 3 of this  
31 subsection.

32 ~~K~~ J. There shall be deducted from the tax base fifty ~~per-cent~~  
33 PERCENT of the gross proceeds or gross income from any sale of tangible  
34 personal property made directly to the United States government or its  
35 departments or agencies that is not deducted under subsection ~~J~~ I of this  
36 section.

37 ~~L~~ K. The department shall require every person claiming a deduction  
38 provided by subsection ~~J~~ I or ~~K~~ J of this section to file on forms  
39 prescribed by the department at such times as the department directs a sworn  
40 statement disclosing the name of the purchaser and the exact amount of sales  
41 on which the exclusion or deduction is claimed.

42 ~~M~~ L. In computing the tax base, gross proceeds of sales or gross  
43 income does not include:

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

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

2           ~~N.~~ M. There shall be deducted from the tax base the amount received  
3 from sales of solar energy devices. The retailer shall register with the  
4 department as a solar energy retailer. By registering, the retailer  
5 acknowledges that it will make its books and records relating to sales of  
6 solar energy devices available to the department for examination.

7           ~~O.~~ N. In computing the tax base in the case of the sale or transfer  
8 of wireless telecommunications equipment as an inducement to a customer to  
9 enter into or continue a contract for telecommunications services that are  
10 taxable under section 42-5064, gross proceeds of sales or gross income does  
11 not include any sales commissions or other compensation received by the  
12 retailer as a result of the customer entering into or continuing a contract  
13 for the telecommunications services.

14           ~~P.~~ O. For the purposes of this section, a sale of wireless  
15 telecommunications equipment to a person who holds the equipment for sale or  
16 transfer to a customer as an inducement to enter into or continue a contract  
17 for telecommunications services that are taxable under section 42-5064 is  
18 considered to be a sale for resale in the regular course of business.

19           ~~Q.~~ P. Retail sales of prepaid calling cards or prepaid authorization  
20 numbers for telecommunications services, including sales of reauthorization  
21 of a prepaid card or authorization number, are subject to tax under this  
22 section.

23           ~~R.~~ Q. For the purposes of this section, the diversion of gas from a  
24 pipeline by a person engaged in the business of:

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

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

31           ~~S.~~ R. For the purposes of this section, the transfer of title or  
32 possession of coal from an owner or operator of a power plant to a person in  
33 the business of refining coal is not a sale of coal if both of the following  
34 apply:

35           1. The transfer of title or possession of the coal is for the purpose  
36 of refining the coal.

37           2. The title or possession of the coal is transferred back to the  
38 owner or operator of the power plant after completion of the coal refining  
39 process. For the purposes of this paragraph, "coal refining process"  
40 means the application of a coal additive system that aids in the reduction of  
41 power plant emissions during the combustion of coal and the treatment of flue  
42 gas.

43           ~~T.~~ S. If a seller is entitled to a deduction pursuant to subsection  
44 B, paragraph 15, subdivision (b) of this section, the department may require  
45 the purchaser to establish that the requirements of subsection B, paragraph

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

13 ~~U.~~ T. For the purposes of section 42-5032.01, the department shall  
14 separately account for revenues collected under the retail classification  
15 from businesses selling tangible personal property at retail:

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

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

21 ~~V.~~ U. In computing the tax base for the sale of a motor vehicle to a  
22 nonresident of this state, if the purchaser's state of residence allows a  
23 corresponding use tax exemption to the tax imposed by article 1 of this  
24 chapter and the rate of the tax in the purchaser's state of residence is  
25 lower than the rate prescribed in article 1 of this chapter or if the  
26 purchaser's state of residence does not impose an excise tax, and the  
27 nonresident has secured a special ninety day nonresident registration permit  
28 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall  
29 be deducted from the tax base a portion of the gross proceeds or gross income  
30 from the sale so that the amount of transaction privilege tax that is paid in  
31 this state is equal to the excise tax that is imposed by the purchaser's  
32 state of residence on the nonexempt sale or use of the motor vehicle.

33 ~~W.~~ V. For the purposes of this section:

34 1. "Aircraft" includes:

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

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

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

44 3. "Selling at retail" means a sale for any purpose other than for  
45 resale in the regular course of business in the form of tangible personal

1 property, but transfer of possession, lease and rental as used in the  
2 definition of sale mean only such transactions as are found on investigation  
3 to be in lieu of sales as defined without the words lease or rental.

4 ~~W.~~ W. For the purposes of subsection ~~I~~ I of this section:

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

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

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

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

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

23 6. "Subcontract" means an agreement between a contractor and any  
24 person who is not an employee of the contractor for furnishing of supplies or  
25 services that, in whole or in part, are necessary to the performance of one  
26 or more government contracts, or under which any portion of the contractor's  
27 obligation under one or more government contracts is performed, undertaken or  
28 assumed and that includes provisions causing title to overhead materials or  
29 other tangible personal property used in the performance of the subcontract  
30 to pass to the government or that includes provisions incorporating such  
31 title passing clauses in a government contract into the subcontract. ~~For the~~  
32 ~~purposes of this paragraph, "contractor" has its ordinary and common meaning~~  
33 ~~and does not have the meaning prescribed by section 42-5001.~~

34 Sec. 10. Section 42-5071, Arizona Revised Statutes, is amended to  
35 read:

36 42-5071. Personal property rental classification

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

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

43 2. Activities engaged in by the Arizona exposition and state fair  
44 board or county fair commissions in connection with events sponsored by such  
45 entities.

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

8           4. Operating coin-operated washing, drying and dry cleaning machines  
9 or coin-operated car washing machines at establishments for the use of such  
10 machines.

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

16           6. Leasing or renting aircraft, flight simulators or similar training  
17 equipment to students or staff by nonprofit, accredited educational  
18 institutions that offer associate or baccalaureate degrees in aviation or  
19 aerospace related fields.

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

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

27           B. The tax base for the personal property rental classification is the  
28 gross proceeds of sales or gross income derived from the business, but the  
29 gross proceeds of sales or gross income derived from the following shall be  
30 deducted from the tax base:

31           1. Reimbursements by the lessee to the lessor of a motor vehicle for  
32 payments by the lessor of the applicable fees and taxes imposed by sections  
33 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,  
34 article 2 and article IX, section 11, Constitution of Arizona, to the extent  
35 such amounts are separately identified as such fees and taxes and are billed  
36 to the lessee.

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

40           (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 49  
41 or ~~54~~ 53.

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

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

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

4 (c) Section 42-5061, subsection ~~I~~ I, paragraph 1.

5 (d) Section 42-5061, subsection ~~M~~ M.

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

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

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

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

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

22 E. Until December 31, 1988, leasing or renting animals for  
23 recreational purposes is exempt from the tax imposed by this section.  
24 Beginning January 1, 1989, the gross proceeds or gross income from leasing or  
25 renting animals for recreational purposes is subject to taxation under this  
26 section. Tax liabilities, penalties and interest paid for taxable periods  
27 before January 1, 1989 shall not be refunded unless the taxpayer requesting  
28 the refund provides proof satisfactory to the department that the monies paid  
29 as taxes will be returned to the customer.

30 Sec. 11. Section 42-5072, Arizona Revised Statutes, is amended to  
31 read:

32 42-5072. Mining classification; definition

33 A. The mining classification is comprised of the business of mining,  
34 quarrying or producing for sale, profit or commercial use any  
35 nonmetalliferous mineral product that has been mined, quarried or otherwise  
36 extracted within the boundaries of this state described in article I, section  
37 1, Constitution of Arizona.

38 B. The tax base for the mining classification is the gross proceeds of  
39 sales or gross income derived from the business. The gross proceeds of sales  
40 or gross income derived from sales described under section 42-5061,  
41 subsection A, paragraph 27 and subsection ~~I~~ I, paragraph 2 shall be deducted  
42 from the tax base.

43 C. The tax base includes the value of the entire product mined,  
44 quarried or produced for sale, profit or commercial use in this state,  
45 regardless of the place of sale of the product or of the fact that deliveries

1 may be made to points without this state. If, however, the sale price of the  
2 product includes freight, the sale price shall be reduced by the actual  
3 freight paid by any person from the place of production to the place of  
4 delivery.

5 D. In the case of a person engaged in business classified under the  
6 mining classification all or part of whose income is derived from service or  
7 manufacturing charges instead of from sales of the products manufactured or  
8 handled, the tax base includes the gross income of the person derived from  
9 the service or manufacturing charge.

10 E. If a person engaging in business classified under the mining  
11 classification ships or transports all or part of a product out of this state  
12 without making sale of the product or ships his product outside of this state  
13 in an unfinished condition, the value of the product or article in the  
14 condition or form in which it existed when transported out of this state and  
15 before it enters interstate commerce is included in the tax base, and the  
16 department shall prescribe equitable and uniform rules for ascertaining that  
17 value. In determining the tax base, if the product or any part of the  
18 product has been processed in this state and the proceeds of such processing  
19 have been included in the tax base of the processor under this chapter, the  
20 person may deduct from the value of the product when transported out of this  
21 state the cost of such processing.

22 F. A person who conducts a business classified under the mining  
23 classification may be deemed also to be engaged in business classified under  
24 the retail classification to the extent the person's activities comprise  
25 business under the retail classification if the tax is paid at the rate  
26 imposed on the retail classification by section 42-5010. If the transaction  
27 is not subject to taxation under the retail classification, the transaction  
28 shall be included in the tax base under this section, except for the transfer  
29 of title or possession of coal back and forth between an owner or operator of  
30 a power plant and a person who is responsible for refining coal if both of  
31 the following apply:

32 1. The transfer of title or possession of the coal is for the purpose  
33 of refining the coal.

34 2. The title or possession of the coal is transferred back to the  
35 owner or operator of the power plant after completion of the coal refining  
36 process. For the purposes of this paragraph, "coal refining process" means  
37 the application of a coal additive system that aids the reduction of power  
38 plant emissions during the combustion of coal and the treatment of flue gas.

39 G. For the purposes of this section, "nonmetalliferous mineral  
40 product" means oil, natural gas, limestone, sand, gravel or any other  
41 nonmetalliferous mineral product, compound or combination of nonmetalliferous  
42 mineral products.

1           Sec. 12. Section 42-5075, Arizona Revised Statutes, is amended to  
2 read:

3           42-5075. Prime contracting classification; exemptions;  
4                                   definitions

5           A. The prime contracting classification is comprised of the business  
6 of prime contracting and dealership of manufactured buildings. Sales for  
7 resale to another ~~dealership of~~ manufactured ~~buildings~~ BUILDING DEALER are  
8 not subject to tax. Sales for resale do not include sales to a lessor of  
9 manufactured buildings. The sale of a used manufactured building is not  
10 taxable under this chapter. The proceeds from alteration and repairs to a  
11 used manufactured building are taxable under this section.

12           B. The tax base for the prime contracting classification is sixty-five  
13 ~~per-cent~~ PERCENT of the gross proceeds of sales or gross income derived from  
14 the business. The following amounts shall be deducted from the gross  
15 proceeds of sales or gross income before computing the tax base:

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

18           2. Sales and installation of groundwater measuring devices required  
19 under section 45-604 and groundwater monitoring wells required by law,  
20 including monitoring wells installed for acquiring information for a permit  
21 required by law.

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

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

38           5. The gross proceeds of sales or gross income derived from a contract  
39 to construct a qualified environmental technology manufacturing, producing or  
40 processing facility, as described in section 41-1514.02, and from subsequent  
41 construction and installation contracts that begin within ten years after the  
42 start of initial construction. To qualify for this deduction, before  
43 beginning work under the contract, the prime contractor must obtain a letter  
44 of qualification from the department of revenue. This paragraph shall apply

1 for ten full consecutive calendar or fiscal years after the start of initial  
2 construction.

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

13 (a) Actions to monitor, assess and evaluate such a release or a  
14 suspected release.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (i) Assembling the machinery, equipment or other tangible personal  
20 property.

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

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

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

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

33 (a) Section 42-5061, subsection A, paragraph 25, 29 or ~~58~~ 57.

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

35 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),  
36 (c), (d), (e), (f), (i), (j) or (l) or paragraph 54.

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

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

42 10. The gross proceeds of sales or gross income that is derived from a  
43 contract entered into with a person who is engaged in the commercial  
44 production of livestock, livestock products or agricultural, horticultural,  
45 viticultural or floricultural crops or products in this state for the

1 construction, ~~alteration, repair,~~ improvement, movement, wrecking or  
2 demolition ~~or addition to or subtraction from~~ OF any building, highway, road,  
3 excavation, manufactured building or other structure, project, development or  
4 improvement used directly and primarily to prevent, monitor, control or  
5 reduce air, water or land pollution.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 ~~20. The gross proceeds of sales or gross income derived from a contract  
21 with the owner of real property for the maintenance, repair or replacement of  
22 existing property if the contract does not include modification activities.  
23 For the purposes of this paragraph, each contract or project is independent  
24 of another contract. A contractor that has gross proceeds of sales or gross  
25 income derived from a contract that is not subject to tax under this  
26 paragraph is subject to tax on a contract that includes modification  
27 activities.~~

28 ~~21.~~ 20. The gross proceeds of sales or gross income derived from a  
29 contract entered into for the construction of a mixed waste processing  
30 facility that is located on a municipal solid waste landfill and that is  
31 constructed for the purpose of recycling solid waste or producing renewable  
32 energy from landfill waste. For the purposes of this paragraph:

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

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

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

4 (d) "Renewable energy" has the same meaning prescribed in section  
5 41-1511.

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

8 1. A prime contractor may establish entitlement to the deduction by  
9 both:

10 (a) Marking the invoice for the transaction to indicate that the gross  
11 proceeds of sales or gross income derived from the transaction was deducted  
12 from the base.

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

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

24 3. The department may prescribe a form for the certificate described  
25 in paragraph 1, subdivision (b) of this subsection. The department may also  
26 adopt rules that describe the transactions with respect to which a person is  
27 not entitled to rely solely on the information contained in the certificate  
28 provided in paragraph 1, subdivision (b) of this subsection but must instead  
29 obtain such additional information as required in order to be entitled to the  
30 deduction.

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

1 D. Subcontractors or others who perform services in respect to any  
2 improvement, building, highway, road, railroad, excavation, manufactured  
3 building or other structure, project, development or improvement are not  
4 subject to tax if they can demonstrate that the job was within the control of  
5 a prime contractor or contractors or a dealership of manufactured buildings  
6 and that the prime contractor or dealership is liable for the tax on the  
7 gross income, gross proceeds of sales or gross receipts attributable to the  
8 job and from which the subcontractors or others were paid.

9 E. Amounts received by a contractor for a project are excluded from  
10 the contractor's gross proceeds of sales or gross income derived from the  
11 business if the person who hired the contractor executes and provides a  
12 certificate to the contractor stating that the person providing the  
13 certificate is a prime contractor and is liable for the tax under article 1  
14 of this chapter. The department shall prescribe the form of the certificate.  
15 If the contractor has reason to believe that the information contained on the  
16 certificate is erroneous or incomplete, the department may disregard the  
17 certificate. If the person who provides the certificate is not liable for  
18 the tax as a prime contractor, that person is nevertheless deemed to be the  
19 prime contractor in lieu of the contractor and is subject to the tax under  
20 this section on the gross receipts or gross proceeds received by the  
21 contractor.

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

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

33 H. For the purposes of section 42-5032.02, from and after  
34 September 30, 2013, the department shall separately account for revenues  
35 reported and collected under the prime contracting classification from any  
36 prime contractor engaged in the construction of any buildings and associated  
37 improvements that are for the benefit of a manufacturing facility. For the  
38 purposes of this subsection, "associated improvements" and "manufacturing  
39 facility" have the same meanings prescribed in section 42-5032.02.

40 I. The gross proceeds of sales or gross income derived from a contract  
41 for lawn maintenance services are not subject to tax under this section if  
42 the contract does not include landscaping activities. Lawn maintenance  
43 service is a service pursuant to section 42-5061, subsection A, paragraph 1,  
44 and includes lawn mowing and edging, weeding, repairing sprinkler heads or  
45 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,

1 lawn de-thatching, seeding winter lawns, leaf and debris collection and  
2 removal, tree or shrub pruning or clipping, garden and gravel raking and  
3 applying pesticides, as defined in section 3-361, and fertilizer materials,  
4 as defined in section 3-262.

5 J. The gross proceeds of sales or gross income derived from  
6 landscaping activities are subject to tax under this section. Landscaping  
7 includes installing lawns, grading or leveling ground, installing gravel or  
8 boulders, planting trees and other plants, felling trees, removing or  
9 mulching tree stumps, removing other imbedded plants, building or modifying  
10 irrigation berms, repairing sprinkler or watering systems, installing  
11 railroad ties and installing underground sprinkler or watering systems.

12 K. The portion of gross proceeds of sales or gross income attributable  
13 to the actual direct costs of providing architectural or engineering services  
14 that are incorporated in a contract is not subject to tax under this section.  
15 For the purposes of this subsection, "direct costs" means the portion of the  
16 actual costs that are directly expended in providing architectural or  
17 engineering services.

18 L. Operating a landfill or a solid waste disposal facility is not  
19 subject to taxation under this section, including filling, compacting and  
20 creating vehicle access to and from cell sites within the landfill.  
21 Constructing roads to a landfill or solid waste disposal facility and  
22 constructing cells within a landfill or solid waste disposal facility may be  
23 deemed prime contracting under this section.

24 M. The following apply in determining the taxable situs of sales of  
25 manufactured buildings:

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

29 2. For sales in this state where the manufactured building dealer does  
30 not contract to deliver the building to a setup site or does not perform the  
31 setup, the taxable situs is the location of the dealership where the building  
32 is delivered to the buyer.

33 3. For sales in this state where the ~~dealership of~~ manufactured  
34 ~~buildings~~ BUILDING DEALER contracts to deliver the building to a setup site  
35 that is outside this state, the situs is outside this state and the  
36 transaction is excluded from tax.

37 N. The gross proceeds of sales or gross income attributable to a  
38 written contract for design phase services or professional services, executed  
39 before modification begins and with terms, conditions and pricing of all of  
40 these services separately stated in the contract from those for construction  
41 phase services, is not subject to tax under this section, regardless of  
42 whether the services are provided sequential to or concurrent with prime  
43 contracting activities that are subject to tax under this section. This  
44 subsection does not include the gross proceeds of sales or gross income

1 attributable to construction phase services. For the purposes of this  
2 subsection:

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

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

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

13 (c) Administration or supervision of any modification performed  
14 pursuant to change orders. For the purposes of this subdivision, "change  
15 order" means a written instrument issued after execution of a contract for  
16 modification work, providing for all of the following:

17 (i) The scope of a change in the modification work, contract for  
18 modification work or other contract documents.

19 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
20 price as set in the contract for modification work. For the purposes of this  
21 item, "guaranteed maximum price" means the amount guaranteed to be the  
22 maximum amount due to a prime contractor for the performance of all  
23 modification work for the project.

24 (iii) The extent of an adjustment, if any, to the contract time of  
25 performance set forth in the contract.

26 (d) Administration or supervision of any modification performed  
27 pursuant to change directives. For the purposes of this subdivision, "change  
28 directive" means a written order directing a change in modification work  
29 before agreement on an adjustment of the guaranteed maximum price or contract  
30 time.

31 (e) Inspection to determine the dates of substantial completion or  
32 final completion.

33 (f) Preparation of any manuals, warranties, as-built drawings, spares  
34 or other items the prime contractor must furnish pursuant to the contract for  
35 modification work. For the purposes of this subdivision, "as-built drawing"  
36 means a drawing that indicates field changes made to adapt to field  
37 conditions, field changes resulting from change orders or buried and  
38 concealed installation of piping, conduit and utility services.

39 (g) Preparation of status reports after modification work has begun  
40 detailing the progress of work performed, including preparation of any of the  
41 following:

42 (i) Master schedule updates.

43 (ii) Modification work cash flow projection updates.

44 (iii) Site reports made on a periodic basis.

1 (iv) Identification of discrepancies, conflicts or ambiguities in  
2 modification work documents that require resolution.

3 (v) Identification of any health and safety issues that have arisen in  
4 connection with the modification work.

5 (h) Preparation of daily logs of modification work, including  
6 documentation of personnel, weather conditions and on-site occurrences.

7 (i) Preparation of any submittals or shop drawings used by the prime  
8 contractor to illustrate details of the modification work performed.

9 (j) Administration or supervision of any other activities for which a  
10 prime contractor receives a certificate for payment or certificate for final  
11 payment based on the progress of modification work performed on the project.

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

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

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

21 (c) Preparing drawings and specifications for architectural program  
22 documents, schematic design documents, design development documents,  
23 modification work documents or documents that identify the scope of or  
24 materials for the project.

25 (d) Preparing an initial schedule for the project, excluding the  
26 preparation of updates to the master schedule after modification work has  
27 begun.

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

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

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

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

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

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

44 (vi) Any bond and insurance premiums.

45 (vii) Any applicable taxes.

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

3 (f) Reviewing and evaluating cost estimates and project documents to  
4 prepare recommendations on site use, site improvements, selection of  
5 materials, building systems and equipment, modification feasibility,  
6 availability of materials and labor, local modification activity as related  
7 to schedules and time requirements for modification work.

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

10 3. "Professional services" means architect services, assayer services,  
11 engineer services, geologist services, land surveying services or landscape  
12 architect services that are within the scope of those services as provided in  
13 title 32, chapter 1 and for which gross proceeds of sales or gross income has  
14 not otherwise been deducted under subsection K of this section.

15 0. The gross proceeds of sales or gross income derived from a contract  
16 with the owner of real property or the person owning the improvements to the  
17 real property for the maintenance, repair, replacement or alteration of  
18 existing property is not subject to tax under this section if the contract  
19 does not include modification activities, except as specified in this  
20 subsection. The gross proceeds of sales or gross income derived from a  
21 de minimis amount of modification activity that is essential to the  
22 completion of the maintenance, repair, replacement or alteration contract  
23 does not subject the entire contract to tax under this section. For the  
24 purposes of this subsection, each contract or project is independent of any  
25 other contract.

26 P. Notwithstanding subsection Q, paragraph 8 of this section, a person  
27 owning real property who enters into a contract for sale of the real  
28 property, who is responsible to the new owner of the property for  
29 modifications made to the property in the period subsequent to the transfer  
30 of title and who receives a consideration for the modifications is considered  
31 a prime contractor solely for purposes of taxing the gross proceeds of sale  
32 or gross income received for the modifications made subsequent to the  
33 transfer of title. The original owner's gross proceeds of sale or gross  
34 income received for the modifications shall be determined according to the  
35 following methodology:

36 1. If any part of the contract for sale of the property specifies  
37 amounts to be paid to the original owner for the modifications to be made in  
38 the period subsequent to the transfer of title, the amounts are included in  
39 the original owner's gross proceeds of sale or gross income under this  
40 section. Proceeds from the sale of the property that are received after  
41 transfer of title and that are unrelated to the modifications made subsequent  
42 to the transfer of title are not considered gross proceeds of sale or gross  
43 income from the modifications.

44 2. If the original owner enters into an agreement separate from the  
45 contract for sale of the real property providing for amounts to be paid to

1 the original owner for the modifications to be made in the period subsequent  
2 to the transfer of title to the property, the amounts are included in the  
3 original owner's gross proceeds of sale or gross income received for the  
4 modifications made subsequent to the transfer of title.

5 3. If the original owner is responsible to the new owner for  
6 modifications made to the property in the period subsequent to the transfer  
7 of title and derives any gross proceeds of sale or gross income from the  
8 project subsequent to the transfer of title other than a delayed disbursement  
9 from escrow unrelated to the modifications, it is presumed that the amounts  
10 are received for the modifications made subsequent to the transfer of title  
11 unless the contrary is established by the owner through its books, records  
12 and papers kept in the regular course of business.

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

15 Q. For the purposes of this section:

16 1. "Contracting" means engaging in business as a contractor.

17 2. "Contractor" is synonymous with the term "builder" and means any  
18 person or organization that undertakes to or offers to undertake to, or  
19 purports to have the capacity to undertake to, or submits a bid to, or does  
20 personally or by or through others, modify any building, highway, road,  
21 railroad, excavation, manufactured building or other structure, project,  
22 development or improvement, or to do any part of such a project, including  
23 the erection of scaffolding or other structure or works in connection with  
24 such a project, and includes subcontractors and specialty contractors. For  
25 all purposes of taxation or deduction, this definition shall govern without  
26 regard to whether or not such contractor is acting in fulfillment of a  
27 contract.

28 3. "Manufactured building" means a manufactured home, mobile home or  
29 factory-built building, as defined in section 41-2142.

30 4. "Manufactured building dealer" means a dealer who either:

31 (a) Is licensed pursuant to title 41, chapter 16 and who sells  
32 manufactured buildings to the final consumer.

33 (b) Supervises, performs or coordinates the excavation and completion  
34 of site improvements or the setup or moving of a manufactured building  
35 including the contracting, if any, with any subcontractor or specialty  
36 contractor for the completion of the contract.

37 5. "Modification" means construction, improvement, movement, wreckage  
38 or demolition.

39 6. "Modify" means to construct, improve, move, wreck or demolish.

40 7. "Prime contracting" means engaging in business as a prime  
41 contractor.

42 8. "Prime contractor" means a contractor who supervises, performs or  
43 coordinates the modification of any building, highway, road, railroad,  
44 excavation, manufactured building or other structure, project, development or  
45 improvement including the contracting, if any, with any subcontractors or

1 specialty contractors and who is responsible for the completion of the  
2 contract. Except as provided in subsections E and P of this section, a  
3 person who owns real property, who engages one or more contractors to modify  
4 that real property and who does not itself modify that real property is not a  
5 prime contractor within the meaning of this paragraph regardless of the  
6 existence of a contract for sale or the subsequent sale of that real  
7 property.

8 9. "Sale of a used manufactured building" does not include a lease of  
9 a used manufactured building.

10 Sec. 13. Section 42-5159, Arizona Revised Statutes, is amended to  
11 read:

12 42-5159. Exemptions

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

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

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

25 3. Tangible personal property, the storage, use or consumption of  
26 which the constitution or laws of the United States prohibit this state from  
27 taxing or to the extent that the rate or imposition of tax is  
28 unconstitutional under the laws of the United States.

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

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

40 6. Tangible personal property brought into this state by an individual  
41 who was a nonresident at the time the property was purchased for storage, use  
42 or consumption by the individual if the first actual use or consumption of  
43 the property was outside this state, unless the property is used in  
44 conducting a business in this state.

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

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

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

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

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

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

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

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

28           13. Tangible personal property purchased by:

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

32           (b) A hospital operated by this state or a political subdivision of  
33 this state.

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

39           (d) A qualifying health care organization, as defined in section  
40 42-5001, if the tangible personal property is used by the organization solely  
41 to provide health and medical related educational and charitable services.

42           (e) A qualifying health care organization as defined in section  
43 42-5001 if the organization is dedicated to providing educational,  
44 therapeutic, rehabilitative and family medical education training for blind

1 and visually impaired children and children with ~~multidisabilities~~ MULTIPLE  
2 DISABILITIES from the time of birth to age twenty-one.

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

8 (g) A person that is subject to tax under article 1 of this chapter by  
9 reason of being engaged in business classified under the prime contracting  
10 classification under section 42-5075, or a subcontractor working under the  
11 control of a prime contractor, if the tangible personal property is any of  
12 the following:

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

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

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

21 (i) A qualifying community health center as defined in section  
22 42-5001.

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

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

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

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

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

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

1 school if they are to be either served or prepared and served to persons for  
2 consumption on the premises of a public school in the school district or on  
3 the premises of the charter school during school hours.

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

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

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

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

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

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

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

28 (b) Public educational institutions.

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

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

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

39 35. Liquid, solid or gaseous chemicals used in manufacturing,  
40 processing, fabricating, mining, refining, metallurgical operations, research  
41 and development and, beginning on January 1, 1999, printing, if using or  
42 consuming the chemicals, alone or as part of an integrated system of  
43 chemicals, involves direct contact with the materials from which the product  
44 is produced for the purpose of causing or permitting a chemical or physical  
45 change to occur in the materials as part of the production process. This

1 paragraph does not include chemicals that are used or consumed in activities  
2 such as packaging, storage or transportation but does not affect any  
3 exemption for such chemicals that is otherwise provided by this section. For  
4 the purposes of this paragraph, "printing" means a commercial printing  
5 operation and includes job printing, engraving, embossing, copying and  
6 bookbinding.

7 36. Food, drink and condiment purchased for consumption within the  
8 premises of any prison, jail or other institution under the jurisdiction of  
9 the state department of corrections, the department of public safety, the  
10 department of juvenile corrections or a county sheriff.

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

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

18 39. Overhead materials or other tangible personal property that is used  
19 in performing a contract between the United States government and a  
20 manufacturer, modifier, assembler or repairer, including property used in  
21 performing a subcontract with a government contractor who is a manufacturer,  
22 modifier, assembler or repairer, to which title passes to the government  
23 under the terms of the contract or subcontract. For the purposes of this  
24 paragraph:

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

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

41 40. Through December 31, 1994, tangible personal property sold pursuant  
42 to a personal property liquidation transaction, as defined in section  
43 42-5061. From and after December 31, 1994, tangible personal property sold  
44 pursuant to a personal property liquidation transaction, as defined in  
45 section 42-5061, if the gross proceeds of the sales were included in the

1 measure of the tax imposed by article 1 of this chapter or if the personal  
2 property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

7           (b) "Curriculum design or enhancement" means planning, implementing or  
8 reporting on courses of study, lessons, assignments or other learning  
9 activities.

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

14          52. Repair parts installed in equipment used directly by a qualified  
15 business under section 41-1516 in harvesting, processing or transporting  
16 qualifying forest products removed from qualifying projects as defined in  
17 section 41-1516.

18          53. Renewable energy credits or any other unit created to track energy  
19 derived from renewable energy resources. For the purposes of this paragraph,  
20 "renewable energy credit" means a unit created administratively by the  
21 corporation commission or governing body of a public power entity to track  
22 kilowatt hours of electricity derived from a renewable energy resource or the  
23 kilowatt hour equivalent of conventional energy resources displaced by  
24 distributed renewable energy resources.

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

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

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

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

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

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

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

17           3. Tangible personal property sold to persons engaged in business  
18 classified under the telecommunications classification under section 42-5064  
19 and consisting of central office switching equipment, switchboards, private  
20 branch exchange equipment, microwave radio equipment and carrier equipment  
21 including optical fiber, coaxial cable and other transmission media that are  
22 components of carrier systems.

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

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

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

34           7. Aircraft, navigational and communication instruments and other  
35 accessories and related equipment sold to:

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

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

1           8. Machinery, tools, equipment and related supplies used or consumed  
2 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
3 or aircraft component parts by or on behalf of a certificated or licensed  
4 carrier of persons or property.

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

7           10. Machinery or equipment used directly to drill for oil or gas or  
8 used directly in the process of extracting oil or gas from the earth for  
9 commercial purposes.

10           11. Buses or other urban mass transit vehicles that are used directly  
11 to transport persons or property for hire or pursuant to a governmentally  
12 adopted and controlled urban mass transportation program and that are sold to  
13 bus companies holding a federal certificate of convenience and necessity or  
14 operated by any city, town or other governmental entity or by any person  
15 contracting with such governmental entity as part of a governmentally adopted  
16 and controlled program to provide urban mass transportation.

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

18           13. New machinery and equipment consisting of tractors, tractor-drawn  
19 implements, self-powered implements, machinery and equipment necessary for  
20 extracting milk, and machinery and equipment necessary for cooling milk and  
21 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
22 this subsection and that are used for commercial production of agricultural,  
23 horticultural, viticultural and floricultural crops and products in this  
24 state. For the purposes of this paragraph:

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

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

30           14. Machinery or equipment used in research and development. For the  
31 purposes of this paragraph, "research and development" means basic and  
32 applied research in the sciences and engineering, and designing, developing  
33 or testing prototypes, processes or new products, including research and  
34 development of computer software that is embedded in or an integral part of  
35 the prototype or new product or that is required for machinery or equipment  
36 otherwise exempt under this section to function effectively. Research and  
37 development do not include manufacturing quality control, routine consumer  
38 product testing, market research, sales promotion, sales service, research in  
39 social sciences or psychology, computer software research that is not  
40 included in the definition of research and development, or other  
41 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

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

39 18. Machinery or equipment, including related structural components,  
40 that is employed in connection with manufacturing, processing, fabricating,  
41 job printing, refining, mining, natural gas pipelines, metallurgical  
42 operations, telecommunications, producing or transmitting electricity or  
43 research and development and that is used directly to meet or exceed rules or  
44 regulations adopted by the federal energy regulatory commission, the United  
45 States environmental protection agency, the United States nuclear regulatory

1 commission, the Arizona department of environmental quality or a political  
2 subdivision of this state to prevent, monitor, control or reduce land, water  
3 or air pollution.

4 19. Machinery and equipment that are used in the commercial production  
5 of livestock, livestock products or agricultural, horticultural, viticultural  
6 or floricultural crops or products in this state and that are used directly  
7 and primarily to prevent, monitor, control or reduce air, water or land  
8 pollution.

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

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

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

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

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

29 C. The exemptions provided by subsection B of this section do not  
30 include:

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

35 2. Janitorial equipment and hand tools.

36 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

6           1. Revenues received from sales of ancillary services, electric  
7 distribution services, electric generation services, electric transmission  
8 services and other services related to providing electricity to a retail  
9 electric customer who is located outside this state for use outside this  
10 state if the electricity is delivered to a point of sale outside this state.

11           2. Revenues received from providing electricity, including ancillary  
12 services, electric distribution services, electric generation services,  
13 electric transmission services and other services related to providing  
14 electricity with respect to which the transaction privilege tax imposed under  
15 section 42-5063 has been paid.

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

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

21           1. Fees charged by a municipally owned utility to persons constructing  
22 residential, commercial or industrial developments or connecting residential,  
23 commercial or industrial developments to a municipal utility system or  
24 systems if the fees are segregated and used only for capital expansion,  
25 system enlargement or debt service of the utility system or systems.

26           2. Reimbursement or contribution compensation to any person or persons  
27 owning a utility system for property and equipment installed to provide  
28 utility access to, on or across the land of an actual utility consumer if the  
29 property and equipment become the property of the utility. This deduction  
30 shall not exceed the value of such property and equipment.

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

37           1. "Gas transportation services" means the services of transporting  
38 natural gas to a natural gas customer or to a natural gas distribution  
39 facility if the natural gas was purchased from a supplier other than the  
40 utility.

41           2. "Manufacturing" means the performance as a business of an  
42 integrated series of operations that places tangible personal property in a  
43 form, composition or character different from that in which it was acquired  
44 and transforms it into a different product with a distinctive name, character

1 or use. Manufacturing does not include processing, fabricating, job  
2 printing, mining, generating electricity or operating a restaurant.

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

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

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

8 1. "Aircraft" includes:

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

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

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

18 I. For the purposes of subsection D of this section, "ancillary  
19 services", "electric distribution service", "electric generation service",  
20 "electric transmission service" and "other services" have the same meanings  
21 prescribed in section 42-5063.

22 Sec. 14. Section 42-12057, Arizona Revised Statutes, is amended to  
23 read:

24 42-12057. Criteria for renewable energy property

25 A. To qualify for the classification as class six pursuant to section  
26 42-12006, paragraph ~~9~~ 8, the owner of a manufacturing facility or  
27 headquarters facility must be certified pursuant to section 41-1511,  
28 subsection C and must provide documentation to the county assessor each year  
29 that the facility is primarily dedicated to renewable energy manufacturing or  
30 regional, national or global renewable energy business headquarters  
31 operations.

32 B. For the purposes of this section, renewable energy operations are  
33 limited to manufacturers of, and headquarters for, systems and components  
34 that are used or useful in manufacturing renewable energy equipment for the  
35 generation, storage, testing and research and development, transmission or  
36 distribution of electricity from renewable resources, including specialized  
37 crates necessary to package the renewable energy equipment manufactured at  
38 the facility.

39 Sec. 15. Section 42-13304, Arizona Revised Statutes, is amended to  
40 read:

41 42-13304. Exemptions from limitation

42 The limitations prescribed by this article do not apply to:

43 1. Personal property, other than mobile homes. The full cash value of  
44 personal property, other than mobile homes, shall be used for all purposes in  
45 lieu of limited property value.



1 after the five consecutive taxable years, the taxpayer must meet the  
2 qualifications to be considered a multistate service provider and renew the  
3 election for another five consecutive taxable years.

4 2. During the election period, the election may be terminated as  
5 follows:

6 (a) Without the permission of the department on the acquisition or  
7 merger of the taxpayer.

8 (b) With the permission of the department before the expiration of  
9 five consecutive taxable years.

10 D. For a multistate service provider under subsection E, paragraph 3,  
11 subdivision (b) of this section, an election under subsection B of this  
12 section is limited to the treatment of sales for educational services.

13 E. For the purposes of this section:

14 1. "Income producing activity sales" means the total sales from  
15 services that are sales in this state under subsection A of this section.

16 2. "Market sales" means the total sales from services for which the  
17 purchaser received the benefit of the service in this state.

18 3. "Multistate service provider" means either:

19 (a) A taxpayer that derives more than eighty-five ~~per-cent~~ PERCENT of  
20 its TOTAL sales from THE SALE OF services provided to purchasers who receive  
21 the benefit of the service outside this state in the taxable year of  
22 election, and includes all taxpayers required to file a combined report  
23 pursuant to section 43-942 and all members of an affiliated group included in  
24 a consolidated return pursuant to section 43-947. In calculating the  
25 eighty-five ~~per-cent~~ PERCENT, sales to students receiving educational  
26 services at campuses physically located in this state shall be excluded from  
27 the calculation.

28 (b) A taxpayer that is a regionally accredited institution of higher  
29 education with at least one university campus in this state that has more  
30 than two thousand students residing on the campus, and includes all taxpayers  
31 required to file a combined report pursuant to section 43-942 and all members  
32 of an affiliated group included in a consolidated return pursuant to section  
33 43-947.

34 4. "Received the benefit of the service in this state" means the  
35 services are received by the purchaser in this state. If the state where the  
36 services are received cannot be readily determined, the services are  
37 considered to be received at the home of the customer or, in the case of a  
38 business, the office of the customer from which the services were ordered in  
39 the regular course of the customer's trade or business. If the ordering  
40 location cannot be determined, the services are considered to be received at  
41 the home or office of the customer to which the services were billed.

42 5. "Sales for educational services" means tuition and fees required  
43 for enrollment and fees required for courses of instruction, transcripts and  
44 graduation.