

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

SENATE BILL 1446

AN ACT

AMENDING SECTIONS 9-467, 11-321, 32-1122, 32-1169 AND 42-5005, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5008.01; 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 42-5010, 42-5061, 42-5075, 42-5159 AND 42-6004, ARIZONA REVISED STATUTES; RELATING TO PRIME CONTRACTING TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-467, Arizona Revised Statutes, is amended to
3 read:

4 9-467. Building permits; issuance; distribution of copies;
5 subsequent owner

6 A. Any city or town requiring the issuance of a building permit shall
7 transmit one copy of the permit to the county assessor and one copy to the
8 director of the department of revenue. Permit copies shall provide the
9 permit number, issue date and parcel number. On the issuance of the
10 certificate of occupancy or the certificate of completion or on the
11 expiration or cancellation of the permit, the assessor and the department of
12 revenue shall be notified in writing or in electronic format of the permit
13 number, parcel number, issue date and completion date.

14 ~~B. If a contractor is employed for any construction exceeding the cost~~
15 ~~of ten thousand dollars, a building permit may not be issued unless the~~
16 ~~contractor holds a valid privilege tax license issued pursuant to section~~
17 ~~42-5005 for engaging or continuing in the business of contracting.~~

18 B. A CITY OR TOWN MAY NOT REQUIRE AN APPLICANT FOR A BUILDING PERMIT
19 TO HOLD A TRANSACTION PRIVILEGE TAX LICENSE OR BUSINESS LICENSE AS A
20 CONDITION FOR ISSUING THE BUILDING PERMIT. A CITY OR TOWN MAY REQUIRE A
21 PERSON THAT HAS BEEN ISSUED A BUILDING PERMIT AND THAT DOES NOT OTHERWISE
22 HOLD A BUSINESS LICENSE FROM THE CITY OR TOWN TO APPLY FOR A BUSINESS LICENSE
23 WITHIN THIRTY DAYS AFTER ISSUING THE BUILDING PERMIT.

24 C. If a person has constructed a building or an addition to a building
25 without obtaining a building permit, a city or town shall not require a
26 subsequent owner to obtain a permit for the construction or addition done by
27 the prior owner before issuing a permit for a building addition except that
28 nothing in this section shall be construed as prohibiting the enforcement of
29 an applicable ordinance or code provision which affects the public health or
30 safety.

31 Sec. 2. Section 11-321, Arizona Revised Statutes, is amended to read:

32 11-321. Building permits; issuance; distribution of copies;
33 subsequent owner

34 A. Except in those cities and towns which have an ordinance relating
35 to the issuance of building permits, the board of supervisors shall require a
36 building permit for any construction of a building or an addition thereto
37 exceeding a cost of one thousand dollars within its jurisdiction. The
38 building permit shall be filed with the board of supervisors or its
39 designated agent.

40 ~~B. If a contractor is employed for any construction exceeding the cost~~
41 ~~of ten thousand dollars, a building permit may not be issued unless the~~
42 ~~contractor holds a valid privilege tax license issued pursuant to section~~
43 ~~42-5005 for engaging or continuing in the business of contracting.~~

1 B. THE BOARD OF SUPERVISORS MAY NOT REQUIRE AN APPLICANT FOR A
2 BUILDING PERMIT TO HOLD A TRANSACTION PRIVILEGE TAX LICENSE OR BUSINESS
3 LICENSE AS A CONDITION FOR ISSUING THE BUILDING PERMIT.

4 C. Where deemed of public convenience, the supervisors shall permit
5 the application for and the issuance of building permits by mail.

6 D. One copy of the building permit required by the terms of subsection
7 A of this section shall be transmitted to the county assessor and one copy to
8 the director of the department of revenue. The permit copy provided to the
9 assessor and the department of revenue shall have the permit number, the
10 issue date and the parcel number for which the permit is issued. On the
11 issuance of the certificate of occupancy or the certificate of completion or
12 on the expiration or cancellation of the permit, the assessor and the
13 department of revenue shall be notified in writing or in electronic format of
14 the permit number, parcel number, issue date and completion date.

15 E. If a person has constructed a building or an addition to a building
16 without obtaining a building permit, a county shall not require a subsequent
17 owner to obtain a permit for the construction or addition done by the prior
18 owner before issuing a permit for a building addition except that nothing in
19 this section shall be construed as prohibiting the enforcement of an
20 applicable ordinance or code provision which affects the public health or
21 safety.

22 Sec. 3. Section 32-1122, Arizona Revised Statutes, is amended to read:
23 32-1122. Qualifications for license

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

- 26 1. Classify and qualify applicants for a license.
- 27 2. If necessary, change the license classification of a licensee in
28 the case of a title reclassification, with or without a bond rider for the
29 purpose of continuing liability on the bond.
- 30 3. Conduct investigations the registrar deems necessary.
- 31 4. Establish written examinations if deemed necessary to protect the
32 health and safety of the public.

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

35 1. Submit to the registrar of contractors a verified application on
36 forms that are prescribed by the registrar of contractors and that contain
37 the following information and shall advise the registrar of any change in the
38 information within thirty days:

- 39 (a) A designation of the classification of license that is sought by
40 the applicant.
- 41 (b) If the applicant is an individual, the applicant's name and
42 address.
- 43 (c) If the applicant is a partnership, the names and addresses of all
44 partners with a designation of any limited partners.

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

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

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

9 (g) The address or location of the applicant's place of business and
10 the mailing address if it is different from the applicant's place of
11 business.

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

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

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

17 C. To obtain a contractor's license under this chapter other than a
18 residential contractor's license, the applicant shall submit a detailed
19 statement of current financial condition containing information required by
20 the registrar of contractors on a form furnished by or acceptable to the
21 registrar of contractors. Notwithstanding any other law, a swimming pool
22 contractor shall also submit a detailed statement of current financial
23 condition as required by this subsection.

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

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

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

44 1. Have had a minimum of four years' practical or management trade
45 experience, at least two of which must have been within the last ten years,

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

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

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

31 H. Before receiving, renewing and holding a license pursuant to this
32 chapter, the registrar may require a license applicant or licensee to submit
33 to the registrar a full set of fingerprints and the fees required in section
34 41-1750. The registrar shall submit the fingerprints and fees to the
35 department of public safety for the purpose of obtaining a state and federal
36 criminal records check pursuant to section 41-1750 and Public Law 92-544.
37 The department of public safety may exchange this fingerprint data with the
38 federal bureau of investigation.

39 Sec. 4. Section 32-1169, Arizona Revised Statutes, is amended to read:
40 32-1169. Local proof of valid license; violation

41 A. Each county, city or other political subdivision or authority of
42 this state or any agency, department, board or commission of this state which
43 requires the issuance of a building permit as a condition precedent to the
44 construction, alteration, improvement, demolition or repair of a building,
45 structure or other improvement to real property for which a license is

1 required under this chapter, as part of the application procedures which it
2 utilizes, shall require that each applicant for a building permit file a
3 signed statement that the applicant is currently licensed under ~~the~~
4 ~~provisions of~~ this chapter with the applicant's license number ~~and the~~
5 ~~applicant's privilege license number required pursuant to section 42-5005.~~
6 If the applicant purports to be exempt from the licensing requirements of
7 this chapter, the statement shall contain the basis of the asserted exemption
8 and the name and license number of any general, mechanical, electrical or
9 plumbing contractor who will be employed on the work. The local issuing
10 authority may require from the applicant a statement signed by the registrar
11 to verify any purported exemption.

12 B. The filing of an application containing false or incorrect
13 information concerning an applicant's contractor's license ~~or transaction~~
14 ~~privilege license~~ with the intent to avoid the licensing requirements of this
15 chapter is unsworn falsification pursuant to section 13-2704.

16 Sec. 5. Section 42-5005, Arizona Revised Statutes, is amended to read:
17 42-5005. Transaction privilege tax and municipal privilege tax
18 licenses; fees; renewal; revocation; violation;
19 classification

20 A. Every person who receives gross proceeds of sales or gross income
21 on which a transaction privilege tax is imposed by this article and who
22 desires to engage or continue in business shall apply to the department for
23 an annual transaction privilege tax license accompanied by a fee of twelve
24 dollars. A person shall not engage or continue in business until the person
25 has obtained a transaction privilege tax license.

26 B. A person desiring to engage or continue in business within a city
27 or town that imposes a municipal privilege tax shall apply to the department
28 of revenue for an annual municipal privilege tax license accompanied by a fee
29 of up to fifty dollars, as established by ordinance of the city or town. The
30 person shall submit the fee with each new license application. The person
31 may not engage or continue in business until the person has obtained a
32 municipal privilege tax license. The department must collect, hold, pay and
33 manage the fees in trust for the city or town and may not use the monies for
34 any other purposes.

35 C. A transaction privilege tax license is valid only for the calendar
36 year in which it is issued, but it may be renewed for the following calendar
37 year. There is no fee for the renewal of the transaction privilege tax
38 license. The transaction privilege tax license must be renewed at the same
39 time and in the manner as the municipal privilege tax license renewal.

40 D. A municipal privilege tax license is valid only for the calendar
41 year in which it is issued, but it may be renewed for the following calendar
42 year by the payment of a license renewal fee of up to fifty dollars. The
43 renewal fee is due and payable on January 1 and is considered delinquent if
44 not received on or before the last business day of January. The department

1 must collect, hold, pay and manage the fees in trust for the city or town and
2 may not use the monies for any other purposes.

3 E. A licensee that remains in business after the municipal privilege
4 tax license has expired is subject to the payment of the license renewal fee
5 and the civil penalty prescribed in section 42-1125, subsection R.

6 F. If the applicant is not in arrears in payment of any tax imposed by
7 this article, the department shall issue a license authorizing the applicant
8 to engage and continue in business on the condition that the applicant
9 complies with this article. The license number shall be continuous.

10 G. The transaction privilege tax license and the municipal privilege
11 tax license are not transferable on a COMPLETE change of ownership or change
12 of location of the business. For the purposes of this subsection:

13 1. "Location" means the business address appearing in the application
14 for the license and on the transaction privilege tax or municipal privilege
15 tax license.

16 2. "Ownership" means any right, title or interest in the business.

17 3. "Transferable" means the ability to convey or change the right or
18 privilege to engage or continue in business by virtue of the issuance of the
19 transaction privilege tax or municipal privilege tax license.

20 H. When the ownership or location of a business on which a transaction
21 privilege tax or municipal privilege tax is imposed has been changed within
22 the meaning of subsection G of this section, the licensee shall surrender the
23 license to the department. The license shall be reissued to the new owners
24 or for the new location on application by the taxpayer and payment of the
25 twelve-dollar fee for a transaction privilege tax license and a fee of up to
26 fifty dollars per jurisdiction for a municipal privilege tax license. The
27 department must collect, hold, pay and manage the fees in trust for the city
28 or town and may not use the monies for any other purposes.

29 I. A person who is engaged in or conducting a business in two or more
30 locations or under two or more business names shall procure a transaction
31 privilege tax license for each location or business name regardless of
32 whether all locations or business names are reported on a consolidated return
33 under a single transaction privilege tax license number. This requirement
34 shall not be construed as conflicting with section 42-5020.

35 J. A person who is engaged in or conducting a business in two or more
36 locations or under two or more business names shall procure a municipal
37 privilege tax license for each location or business name regardless of
38 whether all locations or business names are reported on a consolidated
39 return.

40 K. A person who is engaged in or conducting business at two or more
41 locations or under two or more business names and who files a consolidated
42 return under a single transaction privilege tax license number as provided by
43 section 42-5020 is required to pay only a single municipal privilege tax
44 license renewal fee for each local jurisdiction pursuant to subsection D of
45 this section. A person who is engaged in or conducting business at two or

1 more locations or under two or more business names and who does not file a
2 consolidated return under a single license number is required to pay a
3 license renewal fee for each location or license in a local jurisdiction.

4 L. If a person violates this article or any rule adopted under this
5 article, the department upon hearing may revoke any transaction privilege tax
6 or municipal privilege tax license issued to the person. The department
7 shall provide ten days' written notice of the hearing, stating the time and
8 place and requiring the person to appear and show cause why the license or
9 licenses should not be revoked. The department shall provide written notice
10 to the person of the revocation of the license. The notices may be served
11 personally or by mail pursuant to section 42-5037. After revocation, the
12 department shall not issue a new license to the person unless the person
13 presents evidence satisfactory to the department that the person will comply
14 with this article and with the rules adopted under this article. The
15 department may prescribe the terms under which a revoked license may be
16 reissued.

17 M. A person who violates any provision of this section is guilty of a
18 class 3 misdemeanor.

19 Sec. 6. Title 42, chapter 5, article 1, Arizona Revised Statutes, is
20 amended by adding section 42-5008.01, to read:

21 42-5008.01. Liability for amounts equal to retail transaction
22 privilege tax due

23 A. A PERSON THAT IS EITHER A PRIME CONTRACTOR SUBJECT TO TAX UNDER
24 SECTION 42-5075 OR A SUBCONTRACTOR WORKING UNDER THE CONTROL OF SUCH A PRIME
25 CONTRACTOR, THAT PURCHASES TANGIBLE PERSONAL PROPERTY, THE PURCHASE PRICE OF
26 WHICH WAS EXCLUDED FROM THE TAX BASE UNDER THE RETAIL CLASSIFICATION UNDER
27 SECTION 42-5061, SUBSECTION A, PARAGRAPH 27 OR WAS EXCLUDED FROM THE USE TAX
28 UNDER SECTION 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (g) AT THE
29 TIME OF PURCHASE, AND THAT INCORPORATES OR FABRICATES THE TANGIBLE PERSONAL
30 PROPERTY INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION 0 IS LIABLE
31 FOR AN AMOUNT EQUAL TO ANY TAX THAT A SELLER WOULD HAVE BEEN REQUIRED TO PAY
32 UNDER SECTION 42-5061 AND THIS ARTICLE AS FOLLOWS:

33 1. THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND REPORTED BASED ON
34 THE LOCATION OF THE PROJECT AND THE TAXES IMPOSED UNDER THIS CHAPTER AND
35 CHAPTER 6 OF THIS TITLE.

36 2. ALL DEDUCTIONS, EXEMPTIONS AND EXCLUSIONS FOR THE COST OF TANGIBLE
37 PERSONAL PROPERTY PROVIDED IN SECTION 42-5075 APPLY TO THE TANGIBLE PERSONAL
38 PROPERTY INCORPORATED OR FABRICATED INTO THE PROJECT.

39 3. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT
40 IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD
41 OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5075, WITHOUT REGARD
42 TO SECTION 42-5075, SUBSECTION 0.

43 4. THE AMOUNT OF LIABILITY SHALL BE REPORTED WITHIN THE REPORTING
44 PERIOD THAT INCLUDES THE MONTH IN WHICH THE PERSON INCORPORATES OR FABRICATES
45 THE TANGIBLE PERSONAL PROPERTY INTO THE PROJECT.

1 5. THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR WHO HIRED
2 THE PERSON EXECUTES AND PROVIDES TO THE PERSON A CERTIFICATE STATING THAT THE
3 CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS
4 SUBSECTION. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF THE CERTIFICATE. IF
5 THE PERSON HAS REASON TO BELIEVE THAT THE INFORMATION CONTAINED ON THE
6 CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY DISREGARD THE
7 CERTIFICATE. THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR THE
8 AMOUNT THAT OTHERWISE WOULD BE DUE FROM THE PERSON UNDER THIS SUBSECTION.

9 B. A PERSON THAT PURCHASED TANGIBLE PERSONAL PROPERTY, THE PURCHASE
10 PRICE OF WHICH WAS EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5061,
11 SUBSECTION A, PARAGRAPH 27 OR WAS EXCLUDED FROM THE USE TAX UNDER SECTION
12 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (g) AT THE TIME OF PURCHASE,
13 WHOSE TRANSACTION PRIVILEGE TAX LICENSE HAS BEEN CANCELED AND THAT
14 SUBSEQUENTLY USES, CONSUMES, SELLS OR DISCARDS THE TANGIBLE PERSONAL PROPERTY
15 IS LIABLE FOR AN AMOUNT OF TAX DETERMINED UNDER THIS SUBSECTION. FOR THE
16 PURPOSES OF THIS SUBSECTION:

17 1. IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED
18 INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O, OR OTHERWISE USED
19 OR CONSUMED BY THE PERSON, THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND
20 REPORTED BASED ON THE PERSON'S PURCHASE PRICE OF THE TANGIBLE PERSONAL
21 PROPERTY, THE LOCATION OF THE PROJECT, USE OR CONSUMPTION AND THE TAXES
22 IMPOSED UNDER THIS CHAPTER AND CHAPTER 6 OF THIS TITLE.

23 2. IF THE TANGIBLE PERSONAL PROPERTY IS SOLD IN A MANNER THAT IS NOT
24 SUBJECT TO TAX UNDER THIS CHAPTER OR IS DISCARDED, THE AMOUNT SHALL BE
25 CALCULATED AND REPORTED BASED ON THE PAYMENT RECEIVED BY THE PERSON, THE
26 LOCATION OF THE PERSON'S PRINCIPAL PLACE OF BUSINESS IN THIS STATE AND THE
27 TAXES IMPOSED UNDER THIS CHAPTER AND CHAPTER 6 OF THIS TITLE.

28 3. THE PERSON IS NOT LIABLE UNDER THIS SUBSECTION FOR ANY AMOUNT IF
29 THE PERSON DISCARDS THE TANGIBLE PERSONAL PROPERTY AND DOES NOT RECEIVE
30 PAYMENT OF ANY KIND.

31 4. THE AMOUNT OF LIABILITY SHALL BE REPORTED ON OR BEFORE THE BUSINESS
32 DAY PRECEDING THE LAST BUSINESS DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH
33 THE PERSON USES THE TANGIBLE PERSONAL PROPERTY IN A MANNER DESCRIBED IN
34 PARAGRAPH 1 OR 2 OF THIS SUBSECTION. NO AMOUNT IS DUE UNDER THIS SUBSECTION
35 AT ANY TIME THAT THE PERSON STORES THE TANGIBLE PERSONAL PROPERTY WITHOUT
36 USING IT IN A MANNER DESCRIBED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION.

37 5. ALL DEDUCTIONS, EXEMPTIONS AND EXCLUSIONS FOR THE COST OF TANGIBLE
38 PERSONAL PROPERTY PROVIDED IN SECTION 42-5075 APPLY TO THE TANGIBLE PERSONAL
39 PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION
40 42-5075, SUBSECTION O.

41 6. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT
42 IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD
43 OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5075, WITHOUT REGARD
44 TO SECTION 42-5075, SUBSECTION O.

1 department may also describe transactions with respect to which a person is
2 not entitled to rely solely on the information contained in the certificate
3 provided for in subsection A of this section but must instead obtain such
4 additional information as required by the rules in order to be entitled to
5 the deduction.

6 D. If a seller is entitled to a deduction by complying with subsection
7 A of this section, the department may require the purchaser that caused the
8 execution of the certificate to establish the accuracy and completeness of
9 the information required to be contained in the certificate that would
10 entitle the seller to the deduction. If the purchaser cannot establish the
11 accuracy and completeness of the information, the purchaser is liable in an
12 amount equal to any tax, penalty and interest that the seller would have been
13 required to pay under this article if the seller had not complied with
14 subsection A of this section. Payment of the amount under this subsection
15 exempts the purchaser from liability for any tax imposed under article 4 of
16 this chapter. The amount shall be treated as tax revenues collected from the
17 seller in order to designate the distribution base for purposes of section
18 42-5029.

19 E. If a seller is entitled to a deduction by complying with subsection
20 B of this section, the department may require the purchaser to establish the
21 accuracy and completeness of the information provided to the seller that
22 entitled the seller to the deduction. If the purchaser cannot establish the
23 accuracy and completeness of the information, the purchaser is liable in an
24 amount equal to any tax, penalty and interest that the seller would have been
25 required to pay under this article if the seller had not complied with
26 subsection B of this section. Payment of the amount under this subsection
27 exempts the purchaser from liability for any tax imposed under article 4 of
28 this chapter. The amount shall be treated as tax revenues collected from the
29 seller in order to designate the distribution base for purposes of section
30 42-5029.

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

1 tax revenues collected from the seller in order to designate the distribution
2 base for purposes of section 42-5029.

3 G. If a seller claims a deduction under section 42-5061, subsection A,
4 paragraph 25 and establishes entitlement to the deduction with an exemption
5 letter that the purchaser received from the department and the exemption
6 letter was based on a contingent event, the department may require the
7 purchaser that received the exemption letter to establish the satisfaction of
8 the contingent event within a reasonable time. If the purchaser cannot
9 establish the satisfaction of the event, the purchaser is liable in an amount
10 equal to any tax, penalty and interest that the seller would have been
11 required to pay under this article if the seller had not been furnished the
12 exemption letter. Payment of the amount under this subsection exempts the
13 purchaser from liability for any tax imposed under article 4 of this chapter.
14 The amount shall be treated as tax revenues collected from the seller in
15 order to designate the distribution base for purposes of section 42-5029.
16 For the purposes of this subsection, "reasonable time" means a time
17 limitation that the department determines and that does not exceed the time
18 limitations pursuant to section 42-1104.

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

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

29 2. A copy of the nonresident registration permit authorized by section
30 28-2154.

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

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

39 I. Notwithstanding subsection A, paragraph 2 of this section, if a
40 motor vehicle dealer has established entitlement to a deduction by complying
41 with subsection H of this section, the department may require the purchaser
42 who executed the certificate to establish the accuracy and completeness of
43 the information contained in the certificate that entitled the motor vehicle
44 dealer to the deduction. If the purchaser cannot establish the accuracy and
45 completeness of the information, the purchaser is liable in an amount equal

1 to any tax, penalty and interest that the motor vehicle dealer would have
2 been required to pay under this article and under articles IV and V of the
3 model city tax code as defined in section 42-6051. Payment of the amount
4 under this subsection exempts the purchaser from liability for any tax
5 imposed under article 4 of this chapter and any tax imposed under article VI
6 of the model city tax code as defined in section 42-6051. The amount shall
7 be treated as tax revenues collected from the motor vehicle dealer in order
8 to designate the distribution base for purposes of section 42-5029.

9 J. To establish entitlement to the deduction described in section
10 42-5061, subsection A, paragraph ~~45~~ 44, a public consignment auction dealer
11 as defined in section 28-4301 shall submit the valid certificate prescribed
12 by subsection H of this section to the department and retain a copy for its
13 records.

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

17 L. The department shall prescribe a form for a certificate to be used
18 by a ~~contractor~~ PERSON that is not ~~otherwise~~ subject to tax under section
19 42-5075, ~~subsection 0~~ when THE PERSON IS ENGAGED BY A CONTRACTOR THAT IS
20 SUBJECT TO TAX UNDER SECTION 42-5075 FOR A PROJECT THAT IS TAXABLE UNDER
21 SECTION 42-5075. THE CERTIFICATE PERMITS THE PERSON purchasing tangible
22 personal property to be incorporated or fabricated by the person into any
23 real property, structure, project, development or improvement to provide
24 documentation to a retailer that the sale of tangible personal property
25 qualifies for the deduction under section 42-5061, subsection A, paragraph
26 27, SUBDIVISION (b). A prime contractor shall obtain the certificate from
27 the department and shall provide a copy to any ~~contractor~~ SUCH PERSON working
28 on the project ~~that does not have a transaction privilege tax license by~~
29 ~~reason of not being subject to tax under section 42-5075, subsection 0~~. The
30 prime contractor shall obtain a new certificate for each project to which
31 this subsection applies. For the purposes of this subsection, the following
32 apply:

33 1. The ~~contractor~~ PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION
34 42-5075 may use the certificate issued pursuant to this subsection only with
35 respect to tangible personal property that will be incorporated into a
36 project for which the gross receipts are subject to tax under section
37 42-5075.

38 2. The department shall issue the certificate to the prime contractor
39 on receiving sufficient documentation to establish that the prime contractor
40 meets the requirements of this subsection.

41 3. If ~~a contractor~~ ANY PERSON uses the certificate provided under this
42 subsection to purchase tangible personal property to be used in a ~~nontaxable~~
43 ~~contract~~ PROJECT THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075, the
44 ~~contractor~~ PERSON is liable in an amount equal to any tax, penalty and
45 interest that the seller would have been required to pay under this article

1 if the seller had not complied with subsection A of this section. Payment of
2 the amount under this section exempts the ~~contractor~~ PERSON from liability
3 for any tax imposed under article 4 of this chapter. The amount shall be
4 ~~treated as tax revenues collected from the seller in order to designate the~~
5 ~~distribution base for purposes of section 42-5029~~ SOURCED UNDER SECTION
6 42-5040, SUBSECTION A, PARAGRAPH 2.

7 M. Notwithstanding any other law, compliance with subsection L of this
8 section by a ~~contractor~~ PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION
9 42-5075 entitles the ~~contractor~~ PERSON TO THE EXEMPTION ALLOWED BY SECTION
10 465, SUBSECTION (k) OF THE MODEL CITY TAX CODE WHEN purchasing tangible
11 personal property to be incorporated or fabricated by the person into any
12 real property, structure, project, development or improvement ~~to the~~
13 ~~exemption provided in section 465, subsection (k) of the model city tax code.~~

14 Sec. 8. Repeal

15 Section 42-5009, Arizona Revised Statutes, as amended by Laws 2014,
16 chapter 245, section 3, is repealed.

17 Sec. 9. Section 42-5010, Arizona Revised Statutes, is amended to read:
18 42-5010. Rates; distribution base

19 A. The tax imposed by this article is levied and shall be collected at
20 the following rates:

21 1. Five ~~per-cent~~ PERCENT of the tax base as computed for the business
22 of every person engaging or continuing in this state in the following
23 business classifications described in article 2 of this chapter:

- 24 (a) Transporting classification.
- 25 (b) Utilities classification.
- 26 (c) Telecommunications classification.
- 27 (d) Pipeline classification.
- 28 (e) Private car line classification.
- 29 (f) Publication classification.
- 30 (g) Job printing classification.
- 31 (h) Prime contracting classification.
- 32 (i) Amusement classification.
- 33 (j) Restaurant classification.
- 34 (k) Personal property rental classification.
- 35 (l) Retail classification AND AMOUNTS EQUAL TO RETAIL TRANSACTION
36 PRIVILEGE TAX DUE PURSUANT TO SECTION 42-5008.01.

37 2. Five and one-half ~~per-cent~~ PERCENT of the tax base as computed for
38 the business of every person engaging or continuing in this state in the
39 transient lodging classification described in section 42-5070.

40 3. Three and one-eighth ~~per-cent~~ PERCENT of the tax base as computed
41 for the business of every person engaging or continuing in this state in the
42 mining classification described in section 42-5072.

43 4. Zero ~~per-cent~~ PERCENT of the tax base as computed for the business
44 of every person engaging or continuing in this state in the commercial lease
45 classification described in section 42-5069.

1 B. Except as provided by subsection J of this section, twenty ~~per cent~~
2 PERCENT of the tax revenues collected at the rate prescribed by subsection A,
3 paragraph 1 of this section from persons on account of engaging in business
4 under the business classifications listed in subsection A, paragraph 1,
5 subdivisions (a) through (h) of this section is designated as distribution
6 base for purposes of section 42-5029.

7 C. Forty ~~per cent~~ PERCENT of the tax revenues collected at the rate
8 prescribed by subsection A, paragraph 1 of this section from persons on
9 account of engaging in business under the business classifications listed in
10 subsection A, paragraph 1, subdivisions (i) through (l) of this section is
11 designated as distribution base for purposes of section 42-5029.

12 D. Thirty-two ~~per cent~~ PERCENT of the tax revenues collected from
13 persons on account of engaging in business under the business classification
14 listed in subsection A, paragraph 3 of this section is designated as
15 distribution base for purposes of section 42-5029.

16 E. Fifty-three and one-third ~~per cent~~ PERCENT of the tax revenues
17 collected from persons on account of engaging in business under the business
18 classification listed in subsection A, paragraph 4 of this section is
19 designated as distribution base for purposes of section 42-5029.

20 F. Fifty ~~per cent~~ PERCENT of the tax revenues collected from persons
21 on account of engaging in business under the business classification listed
22 in subsection A, paragraph 2 of this section is designated as distribution
23 base for purposes of section 42-5029.

24 G. In addition to the rates prescribed by subsection A of this
25 section, if approved by the qualified electors voting at a statewide general
26 election, an additional rate increment is imposed and shall be collected
27 through June 30, 2021. The taxpayer shall pay taxes pursuant to this
28 subsection at the same time and in the same manner as under subsection A of
29 this section. The department shall separately account for the revenues
30 collected with respect to the rates imposed pursuant to this subsection and
31 the state treasurer shall distribute all of those revenues in the manner
32 prescribed by section 42-5029, subsection E. The rates imposed pursuant to
33 this subsection shall not be considered local revenues for purposes of
34 article IX, section 21, Constitution of Arizona. The additional tax rate
35 increment is levied at the rate of six-tenths of one per cent of the tax base
36 of every person engaging or continuing in this state in a business
37 classification listed in subsection A, paragraph 1 of this section.

38 H. Any increase in the rate of tax that is imposed by this chapter and
39 that is enacted by the legislature or by a vote of the people does not apply
40 with respect to contracts entered into by prime contractors or pursuant to
41 written bids made by prime contractors on or before the effective date of the
42 legislation or the date of the election enacting the increase. To qualify
43 for the exemption under this subsection, the prime contractor must maintain
44 sufficient documentation, in a manner and form prescribed by the department,
45 to verify the date of the contract or written bid.

1 I. For taxpayers taxable under this chapter other than prime
2 contractors taxable pursuant to section 42-5075:

3 1. Any increase in the rate of tax that is levied by this article or
4 article 2 of this chapter enacted by the legislature or by a vote of the
5 people does not apply for a period of one hundred twenty days from the date
6 of the tax rate increase to the gross proceeds of sales or gross income from
7 the business of the taxpayer with respect to written contracts entered into
8 before the effective date of the tax rate increase unless the taxpayer has
9 entered into a contract that contains a provision that entitles the taxpayer
10 to recover from the purchaser the amount of the additional tax levied.

11 2. The provisions of this subsection apply without regard to the
12 accounting method used by the taxpayer to report the taxes imposed under
13 article 2 of this chapter.

14 3. The provisions of this subsection shall not be considered in
15 determining the rate of tax imposed under chapter 6, article 3 of this title.

16 J. Zero ~~per cent~~ PERCENT of the tax revenues that are collected at the
17 rate prescribed by subsection A, paragraph 1 of this section from persons on
18 account of engaging in business under the business classification listed in
19 subsection A, paragraph 1, subdivision (h) of this section, and that are
20 subject to any distribution required by section 42-5032.02, is designated as
21 distribution base for the purposes of section 42-5029 until the total amount
22 subject to distribution pursuant to section 42-5032.02 has reached the
23 maximum amount prescribed by section 42-5032.02, subsection C. Thereafter,
24 twenty ~~per cent~~ PERCENT of the remaining tax revenues is designated as
25 distribution base for the purposes of section 42-5029 as provided by
26 subsection B of this section.

27 Sec. 10. Section 42-5061, Arizona Revised Statutes, is amended to
28 read:

29 42-5061. Retail classification; definitions

30 A. The retail classification is comprised of the business of selling
31 tangible personal property at retail. The tax base for the retail
32 classification is the gross proceeds of sales or gross income derived from
33 the business. The tax imposed on the retail classification does not apply to
34 the gross proceeds of sales or gross income from:

35 1. Professional or personal service occupations or businesses that
36 involve sales or transfers of tangible personal property only as
37 inconsequential elements.

38 2. Services rendered in addition to selling tangible personal property
39 at retail.

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

43 4. Sales of tangible personal property by any nonprofit organization
44 organized and operated exclusively for charitable purposes and recognized by

- 1 the United States internal revenue service under section 501(c)(3) of the
2 internal revenue code.
- 3 5. Sales to persons engaged in business classified under the
4 restaurant classification of articles used by human beings for food, drink or
5 condiment, whether simple, mixed or compounded.
- 6 6. Business activity that is properly included in any other business
7 classification that is taxable under this article.
- 8 7. The sale of stocks and bonds.
- 9 8. Drugs and medical oxygen, including delivery hose, mask or tent,
10 regulator and tank, on the prescription of a member of the medical, dental or
11 veterinarian profession who is licensed by law to administer such substances.
- 12 9. Prosthetic appliances as defined in section 23-501 prescribed or
13 recommended by a health professional who is licensed pursuant to title 32,
14 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 15 10. Insulin, insulin syringes and glucose test strips.
- 16 11. Prescription eyeglasses or contact lenses.
- 17 12. Hearing aids as defined in section 36-1901.
- 18 13. Durable medical equipment that has a centers for medicare and
19 medicaid services common procedure code, is designated reimbursable by
20 medicare, is prescribed by a person who is licensed under title 32, chapter
21 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
22 customarily used to serve a medical purpose, is generally not useful to a
23 person in the absence of illness or injury and is appropriate for use in the
24 home.
- 25 14. Sales of motor vehicles to nonresidents of this state for use
26 outside this state if the motor vehicle dealer ships or delivers the motor
27 vehicle to a destination out of this state.
- 28 15. Food, as provided in and subject to the conditions of article 3 of
29 this chapter and section 42-5074.
- 30 16. Items purchased with United States department of agriculture food
31 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
32 958) or food instruments issued under section 17 of the child nutrition act
33 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
34 section 1786).
- 35 17. Textbooks by any bookstore that are required by any state
36 university or community college.
- 37 18. Food and drink to a person that is engaged in a business that is
38 classified under the restaurant classification and that provides such food
39 and drink without monetary charge to its employees for their own consumption
40 on the premises during the employees' hours of employment.
- 41 19. Articles of food, drink or condiment and accessory tangible
42 personal property to a school district or charter school if such articles and
43 accessory tangible personal property are to be prepared and served to persons
44 for consumption on the premises of a public school within the district or on
45 the premises of the charter school during school hours.

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

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

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

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

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

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

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

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

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

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

- 1 25. Tangible personal property sold to:
- 2 (a) A qualifying hospital as defined in section 42-5001.
- 3 (b) A qualifying health care organization as defined in section
- 4 42-5001 if the tangible personal property is used by the organization solely
- 5 to provide health and medical related educational and charitable services.
- 6 (c) A qualifying health care organization as defined in section
- 7 42-5001 if the organization is dedicated to providing educational,
- 8 therapeutic, rehabilitative and family medical education training for blind
- 9 and visually impaired children and children with ~~multidisabilities~~ MULTIPLE
- 10 DISABILITIES from the time of birth to age twenty-one.
- 11 (d) A qualifying community health center as defined in section
- 12 42-5001.
- 13 (e) A nonprofit charitable organization that has qualified under
- 14 section 501(c)(3) of the internal revenue code and that regularly serves
- 15 meals to the needy and indigent on a continuing basis at no cost.
- 16 (f) For taxable periods beginning from and after June 30, 2001, a
- 17 nonprofit charitable organization that has qualified under section 501(c)(3)
- 18 of the internal revenue code and that provides residential apartment housing
- 19 for low income persons over sixty-two years of age in a facility that
- 20 qualifies for a federal housing subsidy, if the tangible personal property is
- 21 used by the organization solely to provide residential apartment housing for
- 22 low income persons over sixty-two years of age in a facility that qualifies
- 23 for a federal housing subsidy.
- 24 (g) A qualifying health sciences educational institution as defined in
- 25 section 42-5001.
- 26 (h) ANY PERSON REPRESENTING OR WORKING ON BEHALF OF ANOTHER PERSON
- 27 DESCRIBED IN SUBDIVISIONS (a) THROUGH (g) OF THIS PARAGRAPH IF THE TANGIBLE
- 28 PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN
- 29 SECTION 42-5075, SUBSECTION O.
- 30 26. Magazines or other periodicals or other publications by this state
- 31 to encourage tourist travel.
- 32 27. Tangible personal property sold to:
- 33 (a) A person that is subject to tax under this article by reason of
- 34 being engaged in business classified ~~under the prime contracting~~
- 35 ~~classification~~ under section 42-5075 or to a subcontractor working under the
- 36 control of a ~~prime contractor that is subject to tax under article 1 of this~~
- 37 ~~chapter~~ PERSON ENGAGED IN BUSINESS CLASSIFIED UNDER SECTION 42-5075, if the
- 38 property so sold is any of the following:
- 39 ~~(a)~~ (i) Incorporated or fabricated by the person into any real
- 40 property, structure, project, development or improvement as part of the
- 41 business.
- 42 (ii) INCORPORATED OR FABRICATED BY THE PERSON INTO ANY PROJECT
- 43 DESCRIBED IN SECTION 42-5075, SUBSECTION O.
- 44 ~~(b)~~ (iii) Used in environmental response or remediation activities
- 45 under section 42-5075, subsection B, paragraph 6.

1 (b) A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075 AND THAT
2 HAS BEEN PROVIDED A COPY OF A CERTIFICATE UNDER SECTION 42-5009, SUBSECTION
3 L, IF THE PROPERTY SO SOLD IS INCORPORATED OR FABRICATED BY THE PERSON INTO
4 THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT DESCRIBED
5 IN THE CERTIFICATE.

6 28. The sale of a motor vehicle to:

7 (a) A nonresident of this state if the purchaser's state of residence
8 does not allow a corresponding use tax exemption to the tax imposed by
9 article 1 of this chapter and if the nonresident has secured a special ninety
10 day nonresident registration permit for the vehicle as prescribed by sections
11 28-2154 and 28-2154.01.

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

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

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

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

31 32. Sales of tangible personal property by a nonprofit organization
32 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
33 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
34 sponsors or operates a rodeo featuring primarily farm and ranch animals and
35 no part of the organization's net earnings inures to the benefit of any
36 private shareholder or individual.

37 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
38 propagative material to persons who use those items to commercially produce
39 agricultural, horticultural, viticultural or floricultural crops in this
40 state.

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

1 35. Sales of natural gas or liquefied petroleum gas used to propel a
2 motor vehicle.

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

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

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

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

36 (a) "Personal property liquidation transaction" means a sale of
37 personal property made by a personal property liquidator acting solely on
38 behalf of the owner of the personal property sold at the dwelling of the
39 owner or on the death of any owner, on behalf of the surviving spouse, if
40 any, any devisee or heir or the personal representative of the estate of the
41 deceased, if one has been appointed.

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

44 40. Sales of food, drink and condiment for consumption within the
45 premises of any prison, jail or other institution under the jurisdiction of

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

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

7 42. Livestock and poultry feed, salts, vitamins and other additives for
8 livestock or poultry consumption that are sold to persons who are engaged in
9 producing livestock, poultry, or livestock or poultry products or who are
10 engaged in feeding livestock or poultry commercially. For the purposes of
11 this paragraph, "poultry" includes ratites.

12 43. Sales of implants used as growth promotants and injectable
13 medicines, not already exempt under paragraph 8 of this subsection, for
14 livestock or poultry owned by or in possession of persons who are engaged in
15 producing livestock, poultry, or livestock or poultry products or who are
16 engaged in feeding livestock or poultry commercially. For the purposes of
17 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

37 48. Tangible personal property sold to a commercial airline and
38 consisting of food, beverages and condiments and accessories used for serving
39 the food and beverages, if those items are to be provided without additional
40 charge to passengers for consumption in flight. For the purposes of this
41 paragraph, "commercial airline" means a person holding a federal certificate
42 of public convenience and necessity or foreign air carrier permit for air
43 transportation to transport persons, property or United States mail in
44 intrastate, interstate or foreign commerce.

1 49. Sales of alternative fuel vehicles if the vehicle was manufactured
2 as a diesel fuel vehicle and converted to operate on alternative fuel and
3 equipment that is installed in a conventional diesel fuel motor vehicle to
4 convert the vehicle to operate on an alternative fuel, as defined in section
5 1-215.

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

9 51. Sales of tangible personal property to be incorporated or installed
10 as part of environmental response or remediation activities under section
11 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

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

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

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

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

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

12 60. SALES OF TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO
13 A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O, THAT IS LOCATED WITHIN
14 THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS
15 DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN
16 AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:

17 (a) "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO
18 IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT
19 THE INDIAN RESERVATION WAS ESTABLISHED.

20 (b) "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF
21 AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF
22 AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS
23 INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

24 (c) "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR
25 COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES
26 DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF
27 THE INDIAN TRIBE.

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

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

39 2. Mining machinery, or equipment, used directly in the process of
40 extracting ores or minerals from the earth for commercial purposes, including
41 equipment required to prepare the materials for extraction and handling,
42 loading or transporting such extracted material to the surface. "Mining"
43 includes underground, surface and open pit operations for extracting ores and
44 minerals.

1 3. Tangible personal property sold to persons engaged in business
2 classified under the telecommunications classification, **INCLUDING A PERSON**
3 **REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN**
4 **SECTION 42-5075, SUBSECTION 0**, and consisting of central office switching
5 equipment, switchboards, private branch exchange equipment, microwave radio
6 equipment and carrier equipment including optical fiber, coaxial cable and
7 other transmission media that are components of carrier systems.

8 4. Machinery, equipment or transmission lines used directly in
9 producing or transmitting electrical power, but not including distribution.
10 Transformers and control equipment used at transmission substation sites
11 constitute equipment used in producing or transmitting electrical power.

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

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

19 7. Aircraft, navigational and communication instruments and other
20 accessories and related equipment sold to:

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

27 (b) Any foreign government.

28 (c) Persons who are not residents of this state and who will not use
29 such property in this state other than in removing such property from this
30 state. This subdivision also applies to corporations that are not
31 incorporated in this state, regardless of maintaining a place of business in
32 this state, if the principal corporate office is located outside this state
33 and the property will not be used in this state other than in removing the
34 property from this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 19. Machinery and equipment that are sold to a person engaged in the
39 commercial production of livestock, livestock products or agricultural,
40 horticultural, viticultural or floricultural crops or products in this state,
41 ~~and that~~ INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A
42 PERSON IN A MANNER DESCRIBED IN SECTION 42-5075, SUBSECTION 0, IF THE
43 MACHINERY AND EQUIPMENT are used directly and primarily to prevent, monitor,
44 control or reduce air, water or land pollution.

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

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

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

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

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

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

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

27 2. Janitorial equipment and hand tools.

28 3. Office equipment, furniture and supplies.

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

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

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

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

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

41 D. In addition to the deductions from the tax base prescribed by
42 subsection A of this section, there shall be deducted from the tax base the
43 gross proceeds of sales or gross income derived from sales of machinery,
44 equipment, materials and other tangible personal property used directly and
45 predominantly to construct a qualified environmental technology

1 manufacturing, producing or processing facility as described in section
2 41-1514.02. This subsection applies for ten full consecutive calendar or
3 fiscal years after the start of initial construction.

4 E. In computing the tax base, gross proceeds of sales or gross income
5 from retail sales of heavy trucks and trailers does not include any amount
6 attributable to federal excise taxes imposed by 26 United States Code section
7 4051.

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

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

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

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

- 32 1. Transporting classification.
- 33 2. Utilities classification.
- 34 3. Telecommunications classification.
- 35 4. Pipeline classification.
- 36 5. Private car line classification.
- 37 6. Publication classification.
- 38 7. Job printing classification.
- 39 8. Prime contracting classification.
- 40 9. Restaurant classification.

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

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

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

5 3. Overhead materials or other tangible personal property that is used
6 in performing a contract between the United States government and a
7 manufacturer, modifier, assembler or repairer, including property used in
8 performing a subcontract with a government contractor who is a manufacturer,
9 modifier, assembler or repairer, to which title passes to the government
10 under the terms of the contract or subcontract.

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

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

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

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

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

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

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

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

42 P. For the purposes of this section, a sale of wireless
43 telecommunications equipment to a person who holds the equipment for sale or
44 transfer to a customer as an inducement to enter into or continue a contract

1 for telecommunications services that are taxable under section 42-5064 is
2 considered to be a sale for resale in the regular course of business.

3 Q. Retail sales of prepaid calling cards or prepaid authorization
4 numbers for telecommunications services, including sales of reauthorization
5 of a prepaid card or authorization number, are subject to tax under this
6 section.

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

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

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

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

19 1. The transfer of title or possession of the coal is for the purpose
20 of refining the coal.

21 2. The title or possession of the coal is transferred back to the
22 owner or operator of the power plant after completion of the coal refining
23 process. For the purposes of this paragraph, "coal refining process"
24 means the application of a coal additive system that aids in the reduction of
25 power plant emissions during the combustion of coal and the treatment of flue
26 gas.

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

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

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

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

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

18 W. For the purposes of this section:

19 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

44 4. "Overhead materials" means tangible personal property, the gross
45 proceeds of sales or gross income derived from that would otherwise be

1 included in the retail classification, and that are used or consumed in the
2 performance of a contract, the cost of which is charged to an overhead
3 expense account and allocated to various contracts based on generally
4 accepted accounting principles and consistent with government contract
5 accounting standards.

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

8 6. "Subcontract" means an agreement between a contractor and any
9 person who is not an employee of the contractor for furnishing of supplies or
10 services that, in whole or in part, are necessary to the performance of one
11 or more government contracts, or under which any portion of the contractor's
12 obligation under one or more government contracts is performed, undertaken or
13 assumed and that includes provisions causing title to overhead materials or
14 other tangible personal property used in the performance of the subcontract
15 to pass to the government or that includes provisions incorporating such
16 title passing clauses in a government contract into the subcontract. ~~For the~~
17 ~~purposes of this paragraph, "contractor" has its ordinary and common meaning~~
18 ~~and does not have the meaning prescribed by section 42-5001.~~

19 Sec. 11. Section 42-5075, Arizona Revised Statutes, is amended to
20 read:

21 42-5075. Prime contracting classification; exemptions;
22 definitions

23 A. The prime contracting classification is comprised of the business
24 of prime contracting and ~~dealership of manufactured buildings~~ THE BUSINESS OF
25 MANUFACTURED BUILDING DEALER. Sales for resale to another ~~dealership of~~
26 manufactured ~~buildings~~ BUILDING DEALER are not subject to tax. Sales for
27 resale do not include sales to a lessor of manufactured buildings. The sale
28 of a used manufactured building is not taxable under this chapter. ~~The~~
29 ~~proceeds from alteration and repairs to a used manufactured building are~~
30 ~~taxable under this section.~~

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

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

37 2. Sales and installation of groundwater measuring devices required
38 under section 45-604 and groundwater monitoring wells required by law,
39 including monitoring wells installed for acquiring information for a permit
40 required by law.

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

1 4. The gross proceeds of sales or gross income received from a
2 contract entered into for the ~~construction, addition, subtraction,~~
3 ~~improvement, movement, wrecking or demolition~~ MODIFICATION of any building,
4 highway, road, railroad, excavation, manufactured building or other
5 structure, project, development or improvement located in a military reuse
6 zone for providing aviation or aerospace services or for a manufacturer,
7 assembler or fabricator of aviation or aerospace products within an active
8 military reuse zone after the zone is initially established or renewed under
9 section 41-1531. To be eligible to qualify for this deduction, before
10 beginning work under the contract, the prime contractor must have applied for
11 a letter of qualification from the department of revenue.

12 5. The gross proceeds of sales or gross income derived from a contract
13 to construct a qualified environmental technology manufacturing, producing or
14 processing facility, as described in section 41-1514.02, and from subsequent
15 construction and installation contracts that begin within ten years after the
16 start of initial construction. To qualify for this deduction, before
17 beginning work under the contract, the prime contractor must obtain a letter
18 of qualification from the department of revenue. This paragraph shall apply
19 for ten full consecutive calendar or fiscal years after the start of initial
20 construction.

21 6. The gross proceeds of sales or gross income from a contract to
22 provide for one or more of the following actions, or a contract for site
23 preparation, constructing, furnishing or installing machinery, equipment or
24 other tangible personal property, including structures necessary to protect
25 exempt incorporated materials or installed machinery or equipment, and
26 tangible personal property incorporated into the project, to perform one or
27 more of the following actions in response to a release or suspected release
28 of a hazardous substance, pollutant or contaminant from a facility to the
29 environment, unless the release was authorized by a permit issued by a
30 governmental authority:

31 (a) Actions to monitor, assess and evaluate such a release or a
32 suspected release.

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

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

38 (d) Pumping and treatment or in situ treatment of contaminated
39 groundwater or surface water to reduce the concentration or toxicity of a
40 contaminant.

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

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

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

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

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

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

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

23 (b) The deduction provided in this paragraph does not include gross
24 proceeds of sales or gross income from the portion of any contracting
25 activity that consists of the development of, or modification to, real
26 property in order to facilitate the installation, assembly, repair,
27 maintenance or removal of machinery, equipment or other tangible personal
28 property that is either deducted from the tax base of the retail
29 classification under section 42-5061, subsection B or exempt from use tax
30 under section 42-5159, subsection B.

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

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

38 (i) Assembling the machinery, equipment or other tangible personal
39 property.

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

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

1 (iv) Stabilizing or protecting the machinery, equipment or other
2 tangible personal property during operation by bolting, burying or performing
3 other similar nonpermanent connections to either real property or real
4 property improvements.

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

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

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

10 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
11 (c), (d), (e), (f), ~~(i)~~, (j), (k) ~~or~~, (l), (m) OR (n) or paragraph 54.

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

13 9. The gross proceeds of sales or gross income received from a
14 contract for the construction of an environmentally controlled facility for
15 the raising of poultry for the production of eggs and the sorting, cooling
16 and packaging of eggs.

17 10. The gross proceeds of sales or gross income that is derived from a
18 contract entered into with a person who is engaged in the commercial
19 production of livestock, livestock products or agricultural, horticultural,
20 viticultural or floricultural crops or products in this state for the
21 ~~construction, alteration, repair, improvement, movement, wrecking or~~
22 ~~demolition or addition to or subtraction from~~ MODIFICATION OF any building,
23 highway, road, excavation, manufactured building or other structure, project,
24 development or improvement used directly and primarily to prevent, monitor,
25 control or reduce air, water or land pollution.

26 11. The gross proceeds of sales or gross income that is derived from
27 the installation, assembly, repair or maintenance of clean rooms that are
28 deducted from the tax base of the retail classification pursuant to section
29 42-5061, subsection B, paragraph 16.

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

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

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

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

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

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

14 18. The gross proceeds of sales or gross income received from a
15 contract for the construction of any building, or other structure, project,
16 development or improvement owned by a qualified business under section
17 41-1516 for harvesting or processing qualifying forest products removed from
18 qualifying projects as defined in section 41-1516 if actual construction
19 begins before January 1, 2024. To qualify for this deduction, the prime
20 contractor must obtain a letter of qualification from the Arizona commerce
21 authority before beginning work under the contract.

22 19. Any amount of the gross proceeds of sales or gross income
23 attributable to development fees that are incurred in relation to a contract
24 for construction, development or improvement of real property and that are
25 paid by a prime contractor or subcontractor. For the purposes of this
26 paragraph:

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

29 (b) The attributable amount is equal to the total amount of
30 development fees paid by the prime contractor or subcontractor, and the total
31 development fees credited in exchange for the construction of, contribution
32 to or dedication of real property for providing public infrastructure, public
33 safety or other public services necessary to the development. The real
34 property must be the subject of the development fees.

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

39 ~~20. The gross proceeds of sales or gross income derived from a contract
40 with the owner of real property for the maintenance, repair or replacement of
41 existing property if the contract does not include modification activities.
42 For the purposes of this paragraph, each contract or project is independent
43 of another contract. A contractor that has gross proceeds of sales or gross
44 income derived from a contract that is not subject to tax under this~~

1 ~~paragraph is subject to tax on a contract that includes modification~~
2 ~~activities.~~

3 ~~21-~~ 20. The gross proceeds of sales or gross income derived from a
4 contract entered into for the construction of a mixed waste processing
5 facility that is located on a municipal solid waste landfill and that is
6 constructed for the purpose of recycling solid waste or producing renewable
7 energy from landfill waste. For the purposes of this paragraph:

8 (a) "Mixed waste processing facility" means a solid waste facility
9 that is owned, operated or used for the treatment, processing or disposal of
10 solid waste, recyclable solid waste, conditionally exempt small quantity
11 generator waste or household hazardous waste. For the purposes of
12 this subdivision, "conditionally exempt small quantity generator waste",
13 "household hazardous waste" and "solid waste facility" have the same meanings
14 prescribed in section 49-701, except that solid waste facility does include a
15 site that stores, treats or processes paper, glass, wood, cardboard,
16 household textiles, scrap metal, plastic, vegetative waste, aluminum, steel
17 or other recyclable material.

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

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

23 (d) "Renewable energy" has the same meaning prescribed in section
24 41-1511.

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

27 1. A prime contractor may establish entitlement to the deduction by
28 both:

29 (a) Marking the invoice for the transaction to indicate that the gross
30 proceeds of sales or gross income derived from the transaction was deducted
31 from the base.

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

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

43 3. The department may prescribe a form for the certificate described
44 in paragraph 1, subdivision (b) of this subsection. The department may also
45 adopt rules that describe the transactions with respect to which a person is

1 not entitled to rely solely on the information contained in the certificate
2 provided in paragraph 1, subdivision (b) of this subsection but must instead
3 obtain such additional information as required in order to be entitled to the
4 deduction.

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

19 D. Subcontractors or others who perform ~~services in respect to any~~
20 ~~improvement, building, highway, road, railroad, excavation, manufactured~~
21 ~~building or other structure, project, development or improvement~~ MODIFICATION
22 ACTIVITIES are not subject to tax if they can demonstrate that the job was
23 within the control of a prime contractor or contractors or a dealership of
24 manufactured buildings and that the prime contractor or dealership is liable
25 for the tax on the gross income, gross proceeds of sales or gross receipts
26 attributable to the job and from which the subcontractors or others were
27 paid.

28 E. Amounts received by a contractor for a project are excluded from
29 the contractor's gross proceeds of sales or gross income derived from the
30 business if the person who hired the contractor executes and provides a
31 certificate to the contractor stating that the person providing the
32 certificate is a prime contractor and is liable for the tax under article 1
33 of this chapter. The department shall prescribe the form of the certificate.
34 If the contractor has reason to believe that the information contained on the
35 certificate is erroneous or incomplete, the department may disregard the
36 certificate. If the person who provides the certificate is not liable for
37 the tax as a prime contractor, that person is nevertheless deemed to be the
38 prime contractor in lieu of the contractor and is subject to the tax under
39 this section on the gross receipts or gross proceeds received by the
40 contractor.

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

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

7 H. For the purposes of section 42-5032.02, from and after
8 September 30, 2013, the department shall separately account for revenues
9 reported and collected under the prime contracting classification from any
10 prime contractor engaged in the construction of any buildings and associated
11 improvements that are for the benefit of a manufacturing facility. For the
12 purposes of this subsection, "associated improvements" and "manufacturing
13 facility" have the same meanings prescribed in section 42-5032.02.

14 I. The gross proceeds of sales or gross income derived from a contract
15 for lawn maintenance services are not subject to tax under this section if
16 the contract does not include landscaping activities. Lawn maintenance
17 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
18 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
19 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
20 lawn de-thatching, seeding winter lawns, leaf and debris collection and
21 removal, tree or shrub pruning or clipping, garden and gravel raking and
22 applying pesticides, as defined in section 3-361, and fertilizer materials,
23 as defined in section 3-262.

24 J. ~~EXCEPT AS PROVIDED IN SUBSECTION O OF THIS SECTION,~~ the gross
25 proceeds of sales or gross income derived from landscaping activities are
26 subject to tax under this section. Landscaping includes installing lawns,
27 grading or leveling ground, installing gravel or boulders, planting trees and
28 other plants, felling trees, removing or mulching tree stumps, removing other
29 imbedded plants, building ~~or modifying~~ irrigation berms, ~~repairing sprinkler~~
30 ~~or watering systems,~~ installing railroad ties and installing underground
31 sprinkler or watering systems.

32 K. The portion of gross proceeds of sales or gross income attributable
33 to the actual direct costs of providing architectural or engineering services
34 that are incorporated in a contract is not subject to tax under this section.
35 For the purposes of this subsection, "direct costs" means the portion of the
36 actual costs that are directly expended in providing architectural or
37 engineering services.

38 L. Operating a landfill or a solid waste disposal facility is not
39 subject to taxation under this section, including filling, compacting and
40 creating vehicle access to and from cell sites within the landfill.
41 Constructing roads to a landfill or solid waste disposal facility and
42 constructing cells within a landfill or solid waste disposal facility may be
43 deemed prime contracting under this section.

44 M. The following apply in determining the taxable situs of sales of
45 manufactured buildings:

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

4 2. For sales in this state where the manufactured building dealer does
5 not contract to deliver the building to a setup site or does not perform the
6 setup, the taxable situs is the location of the dealership where the building
7 is delivered to the buyer.

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

12 N. The gross proceeds of sales or gross income attributable to a
13 written contract for design phase services or professional services, executed
14 before modification begins and with terms, conditions and pricing of all of
15 these services separately stated in the contract from those for construction
16 phase services, is not subject to tax under this section, regardless of
17 whether the services are provided sequential to or concurrent with prime
18 contracting activities that are subject to tax under this section. This
19 subsection does not include the gross proceeds of sales or gross income
20 attributable to construction phase services. For the purposes of this
21 subsection:

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

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

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

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

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

38 (ii) The amount of an adjustment, if any, to the guaranteed maximum
39 price as set in the contract for modification work. For the purposes of this
40 item, "guaranteed maximum price" means the amount guaranteed to be the
41 maximum amount due to a prime contractor for the performance of all
42 modification work for the project.

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

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

6 (e) Inspection to determine the dates of substantial completion or
7 final completion.

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

14 (g) Preparation of status reports after modification work has begun
15 detailing the progress of work performed, including preparation of any of the
16 following:

17 (i) Master schedule updates.

18 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

31 2. "Design phase services" means services for developing and
32 completing a design for a project that are not construction phase services,
33 including the following:

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

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

40 (c) Preparing drawings and specifications for architectural program
41 documents, schematic design documents, design development documents,
42 modification work documents or documents that identify the scope of or
43 materials for the project.

1 (d) Preparing an initial schedule for the project, excluding the
2 preparation of updates to the master schedule after modification work has
3 begun.

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

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

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

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

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

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

20 (vi) Any bond and insurance premiums.

21 (vii) Any applicable taxes.

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

24 (f) Reviewing and evaluating cost estimates and project documents to
25 prepare recommendations on site use, site improvements, selection of
26 materials, building systems and equipment, modification feasibility,
27 availability of materials and labor, local modification activity as related
28 to schedules and time requirements for modification work.

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

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

36 0. The gross proceeds of sales or gross income derived from a contract
37 with the owner of real property or ~~the person owning the~~ improvements to ~~the~~
38 real property for the maintenance, repair, replacement or alteration of
39 existing property is not subject to tax under this section if the contract
40 does not include modification activities, except as specified in this
41 subsection. The gross proceeds of sales or gross income derived from a de
42 minimis amount of modification activity ~~that is essential to the completion~~
43 ~~of the maintenance, repair, replacement or alteration contract~~ does not
44 subject the ~~entire~~ contract OR ANY PART OF THE CONTRACT to tax under this

1 section. For the purposes of this subsection: ~~, each contract or project is~~
2 ~~independent of any other contract.~~

3 1. TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO
4 A PROJECT DESCRIBED IN THIS SUBSECTION MAY BE SUBJECT TO THE AMOUNT
5 PRESCRIBED IN SECTION 42-5008.01.

6 2. EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY
7 CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL
8 CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS
9 CHAPTER, REGARDLESS OF THE AMOUNT OF MODIFICATION ACTIVITIES INCLUDED IN THE
10 CHANGE ORDER. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF
11 WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW
12 CONTRACT, WITH THE TAX TREATMENT OF ANY SUBSEQUENT CHANGE ORDER TO FOLLOW THE
13 TAX TREATMENT OF THE CONTRACT TO WHICH THE SCOPE OF WORK OF THE SUBSEQUENT
14 CHANGE ORDER DIRECTLY RELATES.

15 P. NOTWITHSTANDING SUBSECTION O OF THIS SECTION, A CONTRACT THAT
16 PRIMARILY INVOLVES SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND AND THAT IS
17 SUBJECT TO TITLE 28, CHAPTER 19, 20 OR 22 OR TITLE 34, CHAPTER 2 OR 6 IS
18 TAXABLE UNDER THIS SECTION, EVEN IF THE CONTRACT ALSO INCLUDES VERTICAL
19 IMPROVEMENTS. AGENCIES THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER THOSE
20 PROVISIONS SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A NOTICE TO BIDDERS
21 WHEN THOSE PROJECTS ARE SUBJECT TO THIS SECTION. THIS SUBSECTION DOES NOT
22 APPLY TO CONTRACTS WITH:

23 1. COMMUNITY FACILITIES DISTRICTS, FIRE DISTRICTS, COUNTY TELEVISION
24 IMPROVEMENT DISTRICTS, COMMUNITY PARK MAINTENANCE DISTRICTS, COTTON PEST
25 CONTROL DISTRICTS, HOSPITAL DISTRICTS, PEST ABATEMENT DISTRICTS, HEALTH
26 SERVICE DISTRICTS, AGRICULTURAL IMPROVEMENT DISTRICTS, COUNTY FREE LIBRARY
27 DISTRICTS, COUNTY JAIL DISTRICTS, COUNTY STADIUM DISTRICTS, SPECIAL HEALTH
28 CARE DISTRICTS, PUBLIC HEALTH SERVICES DISTRICTS, THEME PARK DISTRICTS,
29 REGIONAL ATTRACTION DISTRICTS OR REVITALIZATION DISTRICTS.

30 2. ANY SPECIAL TAXING DISTRICT NOT SPECIFIED IN PARAGRAPH 1 OF THIS
31 SUBSECTION IF THE DISTRICT DOES NOT SUBSTANTIALLY ENGAGE IN THE MODIFICATION,
32 MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF SURFACE OR SUBSURFACE
33 IMPROVEMENTS TO LAND.

34 ~~P.~~ Q. Notwithstanding subsection ~~Q~~ R, paragraph ~~8~~ 10 of this
35 section, a person owning real property who enters into a contract for sale of
36 the real property, who is responsible to the new owner of the property for
37 modifications made to the property in the period subsequent to the transfer
38 of title and who receives a consideration for the modifications is considered
39 a prime contractor solely for purposes of taxing the gross proceeds of sale
40 or gross income received for the modifications made subsequent to the
41 transfer of title. The original owner's gross proceeds of sale or gross
42 income received for the modifications shall be determined according to the
43 following methodology:

44 1. If any part of the contract for sale of the property specifies
45 amounts to be paid to the original owner for the modifications to be made in

1 the period subsequent to the transfer of title, the amounts are included in
2 the original owner's gross proceeds of sale or gross income under this
3 section. Proceeds from the sale of the property that are received after
4 transfer of title and that are unrelated to the modifications made subsequent
5 to the transfer of title are not considered gross proceeds of sale or gross
6 income from the modifications.

7 2. If the original owner enters into an agreement separate from the
8 contract for sale of the real property providing for amounts to be paid to
9 the original owner for the modifications to be made in the period subsequent
10 to the transfer of title to the property, the amounts are included in the
11 original owner's gross proceeds of sale or gross income received for the
12 modifications made subsequent to the transfer of title.

13 3. If the original owner is responsible to the new owner for
14 modifications made to the property in the period subsequent to the transfer
15 of title and derives any gross proceeds of sale or gross income from the
16 project subsequent to the transfer of title other than a delayed disbursement
17 from escrow unrelated to the modifications, it is presumed that the amounts
18 are received for the modifications made subsequent to the transfer of title
19 unless the contrary is established by the owner through its books, records
20 and papers kept in the regular course of business.

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

23 ~~Q.~~ R. For the purposes of this section:

24 1. "ALTERATION" MEANS AN ACTIVITY OR ACTION THAT CAUSES A DIRECT
25 PHYSICAL CHANGE TO EXISTING PROPERTY. FOR THE PURPOSES OF THIS PARAGRAPH:

26 (a) FOR EXISTING PROPERTY THAT IS PROPERLY CLASSIFIED AS CLASS TWO
27 PROPERTY UNDER SECTION 42-12002, PARAGRAPH 1, SUBDIVISION (c) OR PARAGRAPH 2,
28 SUBDIVISION (c) AND THAT IS USED FOR RESIDENTIAL PURPOSES, CLASS THREE
29 PROPERTY UNDER SECTION 42-12003 OR CLASS FOUR PROPERTY UNDER 42-12004, THIS
30 PARAGRAPH DOES NOT APPLY IF THE CONTRACT AMOUNT IS MORE THAN TWENTY-FIVE
31 PERCENT OF THE MOST RECENT FULL CASH VALUE ESTABLISHED UNDER CHAPTER 13,
32 ARTICLE 2 OF THIS TITLE AS OF THE DATE OF ANY BID FOR THE WORK OR THE DATE OF
33 THE CONTRACT, WHICHEVER VALUE IS HIGHER.

34 (b) FOR ALL EXISTING PROPERTY OTHER THAN EXISTING PROPERTY DESCRIBED
35 IN SUBDIVISION (a) OF THIS PARAGRAPH, THIS PARAGRAPH DOES NOT APPLY IF ANY OF
36 THE FOLLOWING IS TRUE:

37 (i) THE CONTRACT AMOUNT IS MORE THAN SEVEN HUNDRED FIFTY THOUSAND
38 DOLLARS.

39 (ii) THE SCOPE OF WORK DIRECTLY RELATES TO MORE THAN FORTY PERCENT OF
40 THE EXISTING SQUARE FOOTAGE OF THE EXISTING PROPERTY.

41 (iii) THE SCOPE OF WORK INVOLVES EXPANDING THE SQUARE FOOTAGE OF MORE
42 THAN TEN PERCENT OF THE EXISTING PROPERTY.

43 (c) PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A CONTRACT
44 TO CAUSE A PROJECT TO QUALIFY AS AN ALTERATION. THE DEPARTMENT HAS THE

1 BURDEN OF PROOF THAT PROJECT ELEMENTS HAVE BEEN ARTIFICIALLY SEPARATED FROM A
2 CONTRACT.

3 (d) IF A PROJECT FOR WHICH THE OWNER AND THE PERSON PERFORMING THE
4 WORK REASONABLY BELIEVED, AT THE INCEPTION OF THE CONTRACT, WOULD BE TREATED
5 AS AN ALTERATION UNDER THIS PARAGRAPH AND, ON COMPLETION OF THE PROJECT, THE
6 PROJECT EXCEEDED THE APPLICABLE THRESHOLD DESCRIBED IN EITHER SUBDIVISION (a)
7 OR (b) OF THIS PARAGRAPH BY NO MORE THAN TWENTY-FIVE PERCENT OF THE
8 APPLICABLE THRESHOLD FOR ANY REASON, THE WORK PERFORMED UNDER THE CONTRACT
9 QUALIFIES AS AN ALTERATION.

10 (e) A CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE
11 ORIGINAL CONTRACT SHALL BE TREATED AS PART OF THE ORIGINAL CONTRACT, AND THE
12 CONTRACT AMOUNT SHALL INCLUDE ANY AMOUNT ATTRIBUTABLE TO A CHANGE ORDER THAT
13 DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT.

14 (f) ALTERATION DOES NOT INCLUDE MAINTENANCE, REPAIR OR REPLACEMENT.

15 ~~1-~~ 2. "Contracting" means engaging in business as a contractor.

16 ~~2-~~ 3. "Contractor" is synonymous with the term "builder" and means
17 any person or organization that undertakes to or offers to undertake to, or
18 purports to have the capacity to undertake to, or submits a bid to, or does
19 personally or by or through others, modify any building, highway, road,
20 railroad, excavation, manufactured building or other structure, project,
21 development or improvement, or to do any part of such a project, including
22 the erection of scaffolding or other structure or works in connection with
23 such a project, and includes subcontractors and specialty contractors. For
24 all purposes of taxation or deduction, this definition shall govern without
25 regard to whether or not such contractor is acting in fulfillment of a
26 contract.

27 ~~3-~~ 4. "Manufactured building" means a manufactured home, mobile home
28 or factory-built building, as defined in section 41-2142.

29 ~~4-~~ 5. "Manufactured building dealer" means a dealer who either:

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

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

36 ~~5-~~ 6. "Modification" means construction, ~~improvement, movement,~~
37 GRADING AND LEVELING GROUND, wreckage or demolition. MODIFICATION DOES NOT
38 INCLUDE:

39 (a) ANY PROJECT DESCRIBED IN SUBSECTION O OF THIS SECTION.

40 (b) ANY WRECKAGE OR DEMOLITION OF EXISTING PROPERTY, OR ANY OTHER
41 ACTIVITY THAT IS A NECESSARY COMPONENT OF A PROJECT DESCRIBED IN SUBSECTION O
42 OF THIS SECTION.

43 (c) ANY MOBILIZATION OR DEMOBILIZATION RELATED TO A PROJECT DESCRIBED
44 IN SUBSECTION O OF THIS SECTION, SUCH AS THE ERECTION OR REMOVAL OF TEMPORARY
45 FACILITIES TO BE USED BY THOSE PERSONS WORKING ON THE PROJECT.

1 ~~6.~~ 7. "Modify" means to ~~construct, improve, move, wreck or demolish~~
2 MAKE A MODIFICATION OR CAUSE A MODIFICATION TO BE MADE.

3 8. "OWNER" MEANS THE PERSON THAT HOLDS TITLE TO THE REAL PROPERTY OR
4 IMPROVEMENTS TO REAL PROPERTY THAT IS THE SUBJECT OF THE WORK, AS WELL AS AN
5 AGENT OF THE TITLE HOLDER AND ANY PERSON WITH THE AUTHORITY TO PERFORM OR
6 AUTHORIZE WORK ON THE REAL PROPERTY OR IMPROVEMENTS, INCLUDING A TENANT AND A
7 PROPERTY MANAGER. FOR THE PURPOSES OF SUBSECTION O OF THIS SECTION, A PERSON
8 WHO IS HIRED BY A GENERAL CONTRACTOR THAT IS HIRED BY AN OWNER, OR A
9 SUBCONTRACTOR OF A GENERAL CONTRACTOR THAT IS HIRED BY AN OWNER, IS
10 CONSIDERED TO BE HIRED BY THE OWNER.

11 ~~7.~~ 9. "Prime contracting" means engaging in business as a prime
12 contractor.

13 ~~8.~~ 10. "Prime contractor" means a contractor who supervises, performs
14 or coordinates the modification of any building, highway, road, railroad,
15 excavation, manufactured building or other structure, project, development or
16 improvement including the contracting, if any, with any subcontractors or
17 specialty contractors and who is responsible for the completion of the
18 contract. Except as provided in subsections E and ~~P~~ Q of this section, a
19 person who owns real property, who engages one or more contractors to modify
20 that real property and who does not itself modify that real property is not a
21 prime contractor within the meaning of this paragraph regardless of the
22 existence of a contract for sale or the subsequent sale of that real
23 property.

24 11. "REPLACEMENT" MEANS THE REMOVAL OF ONE COMPONENT OR SYSTEM OF
25 EXISTING PROPERTY OR TANGIBLE PERSONAL PROPERTY INSTALLED IN EXISTING
26 PROPERTY, INCLUDING MACHINERY OR EQUIPMENT, AND THE INSTALLATION OF A NEW
27 COMPONENT OR SYSTEM OR NEW TANGIBLE PERSONAL PROPERTY, INCLUDING MACHINERY OR
28 EQUIPMENT, THAT PROVIDES THE SAME OR UPGRADED DESIGN OR FUNCTIONALITY,
29 REGARDLESS OF THE CONTRACT AMOUNT.

30 ~~9.~~ 12. "Sale of a used manufactured building" does not include a
31 lease of a used manufactured building.

32 Sec. 12. Section 42-5159, Arizona Revised Statutes, is amended to
33 read:

34 42-5159. Exemptions

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

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

41 2. Tangible personal property the sale or use of which has already
42 been subjected to an excise tax at a rate equal to or exceeding the tax
43 imposed by this article under the laws of another state of the United States.
44 If the excise tax imposed by the other state is at a rate less than the tax

1 imposed by this article, the tax imposed by this article is reduced by the
2 amount of the tax already imposed by the other state.

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

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

10 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
11 which in this state is subject to the tax imposed under title 28, chapter 16,
12 article 1, use fuel that is sold to or used by a person holding a valid
13 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
14 the sales, distribution or use of which in this state is subject to the tax
15 imposed under section 28-8344, and jet fuel, the sales, distribution or use
16 of which in this state is subject to the tax imposed under article 8 of this
17 chapter.

18 6. Tangible personal property brought into this state by an individual
19 who was a nonresident at the time the property was purchased for storage, use
20 or consumption by the individual if the first actual use or consumption of
21 the property was outside this state, unless the property is used in
22 conducting a business in this state.

23 7. Purchases of implants used as growth promotants and injectable
24 medicines, not already exempt under paragraph 16 of this subsection, for
25 livestock and poultry owned by, or in possession of, persons who are engaged
26 in producing livestock, poultry, or livestock or poultry products, or who are
27 engaged in feeding livestock or poultry commercially. For the purposes of
28 this paragraph, "poultry" includes ratites.

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

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

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

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

44 12. Materials that are purchased by or for publicly funded libraries
45 including school district libraries, charter school libraries, community

1 college libraries, state university libraries or federal, state, county or
2 municipal libraries for use by the public as follows:

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

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

5 13. Tangible personal property purchased by:

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

9 (b) A hospital operated by this state or a political subdivision of
10 this state.

11 (c) A licensed nursing care institution or a licensed residential care
12 institution or a residential care facility operated in conjunction with a
13 licensed nursing care institution or a licensed kidney dialysis center, which
14 provides medical services, nursing services or health related services and is
15 not used or held for profit.

16 (d) A qualifying health care organization, as defined in section
17 42-5001, if the tangible personal property is used by the organization solely
18 to provide health and medical related educational and charitable services.

19 (e) A qualifying health care organization as defined in section
20 42-5001 if the organization is dedicated to providing educational,
21 therapeutic, rehabilitative and family medical education training for blind
22 and visually impaired children and children with ~~multidisabilities~~ MULTIPLE
23 DISABILITIES from the time of birth to age twenty-one.

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

29 (g) A person that is subject to tax under ~~article 1 of~~ this chapter by
30 reason of being engaged in business classified ~~under the prime contracting~~
31 ~~classification~~ under section 42-5075, or a subcontractor working under the
32 control of a ~~prime contractor~~ PERSON THAT IS ENGAGED IN BUSINESS CLASSIFIED
33 UNDER SECTION 42-5075, if the tangible personal property is any of the
34 following:

35 (i) Incorporated or fabricated by the ~~contractor~~ PERSON into a
36 structure, project, development or improvement in fulfillment of a contract.

37 (ii) INCORPORATED OR FABRICATED BY THE PERSON INTO ANY PROJECT
38 DESCRIBED IN SECTION 42-5075, SUBSECTION O.

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

41 (h) A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075 AND THAT
42 HAS BEEN PROVIDED A COPY OF A CERTIFICATE DESCRIBED IN SECTION 42-5009,
43 SUBSECTION L, IF THE PROPERTY PURCHASED IS INCORPORATED OR FABRICATED BY THE
44 PERSON INTO THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT
45 DESCRIBED IN THE CERTIFICATE.

1 ~~(h)~~ (i) A nonprofit charitable organization that has qualified under
2 section 501(c)(3) of the internal revenue code if the property is purchased
3 from the parent or an affiliate organization that is located outside this
4 state.

5 ~~(i)~~ (j) A qualifying community health center as defined in section
6 42-5001.

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

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

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

23 ~~(m)~~ (n) A qualifying health sciences educational institution as
24 defined in section 42-5001.

25 (o) A PERSON REPRESENTING OR WORKING ON BEHALF OF ANY PERSON DESCRIBED
26 IN SUBDIVISION (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) OR (n) OF
27 THIS PARAGRAPH, IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR
28 FABRICATED INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION 0.

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

34 15. Tangible personal property sold by:

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

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

43 (c) A nonprofit organization that is exempt from taxation under
44 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
45 internal revenue code if the organization sponsors or operates a rodeo

1 featuring primarily farm and ranch animals and no part of the organization's
2 net earnings inures to the benefit of any private shareholder or individual.

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

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

10 18. Prescription eyeglasses and contact lenses.

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

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

13 21. Durable medical equipment that has a centers for medicare and
14 medicaid services common procedure code, is designated reimbursable by
15 medicare, is prescribed by a person who is licensed under title 32, chapter
16 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
17 used to serve a medical purpose, is generally not useful to a person in the
18 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

37 27. Lottery tickets or shares purchased pursuant to title 5, chapter
38 5.1, article 1.

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

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

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

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

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

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

16 (b) Public educational institutions.

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

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

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

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

40 36. Food, drink and condiment purchased for consumption within the
41 premises of any prison, jail or other institution under the jurisdiction of
42 the state department of corrections, the department of public safety, the
43 department of juvenile corrections or a county sheriff.

44 37. A motor vehicle and any repair and replacement parts and tangible
45 personal property becoming a part of such motor vehicle sold to a motor

1 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
2 and who is engaged in the business of leasing or renting such property.

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

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

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

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

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

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

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

42 43. Tangible personal property purchased by a commercial airline and
43 consisting of food, beverages and condiments and accessories used for serving
44 the food and beverages, if those items are to be provided without additional
45 charge to passengers for consumption in flight. For the purposes of this

1 paragraph, "commercial airline" means a person holding a federal certificate
2 of public convenience and necessity or foreign air carrier permit for air
3 transportation to transport persons, property or United States mail in
4 intrastate, interstate or foreign commerce.

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

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

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

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

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

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

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

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

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

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

39 (b) "Curriculum design or enhancement" means planning, implementing or
40 reporting on courses of study, lessons, assignments or other learning
41 activities.

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

1 52. Repair parts installed in equipment used directly by a qualified
2 business under section 41-1516 in harvesting, processing or transporting
3 qualifying forest products removed from qualifying projects as defined in
4 section 41-1516.

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

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

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

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

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

32 56. TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A
33 PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION 0, THAT IS LOCATED WITHIN
34 THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS
35 DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN
36 AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:

37 (a) "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO
38 IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT
39 THE INDIAN RESERVATION WAS ESTABLISHED.

40 (b) "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF
41 AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF
42 AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS
43 INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

44 (c) "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR
45 COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES

1 DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF
2 THE INDIAN TRIBE.

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

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

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

19 3. Tangible personal property sold to persons engaged in business
20 classified under the telecommunications classification under section 42-5064,
21 INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A
22 MANNER DESCRIBED IN SECTION 42-5075, SUBSECTION O, and consisting of central
23 office switching equipment, switchboards, private branch exchange equipment,
24 microwave radio equipment and carrier equipment including optical fiber,
25 coaxial cable and other transmission media that are components of carrier
26 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, or sold to persons who are not residents
2 of this state and who will not use such property in this state other than in
3 removing such property from this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 18. Machinery or equipment, including related structural components,
43 that is employed in connection with manufacturing, processing, fabricating,
44 job printing, refining, mining, natural gas pipelines, metallurgical
45 operations, telecommunications, producing or transmitting electricity or

1 research and development and that is used directly to meet or exceed rules or
2 regulations adopted by the federal energy regulatory commission, the United
3 States environmental protection agency, the United States nuclear regulatory
4 commission, the Arizona department of environmental quality or a political
5 subdivision of this state to prevent, monitor, control or reduce land, water
6 or air pollution.

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

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

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

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

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

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

32 C. The exemptions provided by subsection B of this section do not
33 include:

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

38 2. Janitorial equipment and hand tools.

39 3. Office equipment, furniture and supplies.

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

43 5. Motor vehicles required to be licensed by this state, except buses
44 or other urban mass transit vehicles specifically exempted pursuant to

1 subsection B, paragraph 11 of this section, without regard to the use of such
2 motor vehicles.

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

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

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

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

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

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

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

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

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

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

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

41 1. "Gas transportation services" means the services of transporting
42 natural gas to a natural gas customer or to a natural gas distribution
43 facility if the natural gas was purchased from a supplier other than the
44 utility.

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

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

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

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

12 1. "Aircraft" includes:

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

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

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

22 I. For the purposes of subsection D of this section, "ancillary
23 services", "electric distribution service", "electric generation service",
24 "electric transmission service" and "other services" have the same meanings
25 prescribed in section 42-5063.

26 Sec. 13. Section 42-6004, Arizona Revised Statutes, is amended to
27 read:

28 42-6004. Exemption from municipal tax

29 A. A city, town or special taxing district shall not levy a
30 transaction privilege, sales, use or other similar tax on:

31 1. Exhibition events in this state sponsored, conducted or operated by
32 a nonprofit organization that is exempt from taxation under section
33 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
34 organization is associated with a major league baseball team or a national
35 touring professional golfing association and no part of the organization's
36 net earnings inures to the benefit of any private shareholder or individual.

37 2. Interstate telecommunications services, which include that portion
38 of telecommunications services, such as subscriber line service, allocable by
39 federal law to interstate telecommunications service.

40 3. Sales of warranty or service contracts.

41 4. Sales of motor vehicles to nonresidents of this state for use
42 outside this state if the motor vehicle dealer ships or delivers the motor
43 vehicle to a destination outside this state.

44 5. Interest on finance contracts.

45 6. Dealer documentation fees on the sales of motor vehicles.

1 7. Sales of food or other items purchased with United States
2 department of agriculture food stamp coupons issued under the food stamp act
3 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
4 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
5 section 4302; 42 United States Code section 1786) but may impose such a tax
6 on other sales of food. If a city, town or special taxing district exempts
7 sales of food from its tax or imposes a different transaction privilege rate
8 on the gross proceeds of sales or gross income from sales of food and nonfood
9 items, it shall use the definition of food prescribed by rule adopted by the
10 department pursuant to section 42-5106.

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

14 9. Sales of internet access services to the person's subscribers and
15 customers. For the purposes of this paragraph:

16 (a) "Internet" means the computer and telecommunications facilities
17 that comprise the interconnected worldwide network of networks that employ
18 the transmission control protocol or internet protocol, or any predecessor or
19 successor protocol, to communicate information of all kinds by wire or radio.

20 (b) "Internet access" means a service that enables users to access
21 content, information, electronic mail or other services over the internet.
22 Internet access does not include telecommunication services provided by a
23 common carrier.

24 10. The gross proceeds of sales or gross income retained by the Arizona
25 exposition and state fair board from ride ticket sales at the annual Arizona
26 state fair.

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

29 12. Leasing real property between affiliated companies, businesses,
30 persons or reciprocal insurers. For the purposes of this paragraph:

31 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
32 means the lessor holds a controlling interest in the lessee, the lessee holds
33 a controlling interest in the lessor, affiliated persons hold a controlling
34 interest in both the lessor and the lessee, or an unrelated person holds a
35 controlling interest in both the lessor and lessee.

36 (b) "Affiliated persons" means members of the individual's family or
37 persons who have ownership or control of a business entity.

38 (c) "Controlling interest" means direct or indirect ownership of at
39 least eighty ~~per cent~~ PERCENT of the voting shares of a corporation or of the
40 interests in a company, business or person other than a corporation.

41 (d) "Members of the individual's family" means the individual's spouse
42 and brothers and sisters, whether by whole or half blood, including adopted
43 persons, ancestors and lineal descendants.

44 (e) "Reciprocal insurer" has the same meaning prescribed in section
45 20-762.

1 13. The gross proceeds of sales or gross income derived from a contract
2 for the installation, assembly, repair or maintenance of machinery, equipment
3 or other tangible personal property **THAT IS** described in section 42-5061,
4 subsection B and that has independent functional utility, pursuant to the
5 following provisions:

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

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

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

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

17 (b) The deduction provided in this paragraph does not include gross
18 proceeds of sales or gross income from the portion of any contracting
19 activity that consists of the development of, or modification to, real
20 property in order to facilitate the installation, assembly, repair,
21 maintenance or removal of machinery, equipment or other tangible personal
22 property described in section 42-5061, subsection B.

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

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

30 (i) Assembling the machinery, equipment or other tangible personal
31 property.

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

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

37 (iv) Stabilizing or protecting the machinery, equipment or other
38 tangible personal property during operation by bolting, burying or performing
39 other dissimilar nonpermanent connections to either real property or real
40 property improvements.

41 14. The leasing or renting of certified ignition interlock devices
42 installed pursuant to the requirements prescribed by section 28-1461. For
43 the purposes of this paragraph, "certified ignition interlock device" has the
44 same meaning prescribed in section 28-1301.

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

12 16. The gross proceeds of sales or gross income derived from a contract
13 with the owner of real property or ~~the person owning the~~ improvements to ~~the~~
14 real property for the maintenance, repair, ~~or~~ replacement or alteration of
15 existing property ~~is not subject to tax under this section if the contract~~
16 ~~does not include modification activities~~, except as specified in this
17 paragraph. The gross proceeds of sales or gross income derived from a
18 de minimis amount of modification activity ~~that is essential to the~~
19 ~~completion of the maintenance, repair, replacement or alteration contract~~
20 does not subject the ~~entire~~ contract **OR ANY PART OF THE CONTRACT** to tax ~~under~~
21 ~~this section~~. For the purposes of this paragraph:

22 (a) Each contract ~~or project~~ is independent of another contract,
23 **EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF**
24 **THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT**
25 **UNDER THIS CHAPTER, REGARDLESS OF THE AMOUNT OF MODIFICATION ACTIVITIES**
26 **INCLUDED IN THE CHANGE ORDER. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO**
27 **THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED**
28 **AS A NEW CONTRACT, WITH THE TAX TREATMENT OF ANY SUBSEQUENT CHANGE ORDER TO**
29 **FOLLOW THE TAX TREATMENT OF THE CONTRACT TO WHICH THE SCOPE OF WORK OF THE**
30 **SUBSEQUENT CHANGE ORDER DIRECTLY RELATES.**

31 ~~(b) "Modification" means construction, alteration, addition,~~
32 ~~subtraction, improvement, movement, wreckage or demolition.~~

33 (b) **ANY TERM NOT DEFINED IN THIS PARAGRAPH THAT IS DEFINED IN SECTION**
34 **42-5075 HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5075.**

35 (c) **THIS PARAGRAPH DOES NOT APPLY TO A CONTRACT THAT PRIMARILY**
36 **INVOLVES SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND AND THAT IS SUBJECT TO**
37 **TITLE 28, CHAPTER 19, 20 OR 22 OR TITLE 34, CHAPTER 2 OR 6 EVEN IF THE**
38 **CONTRACT ALSO INCLUDES VERTICAL IMPROVEMENTS. IF A CITY OR TOWN IMPOSES A**
39 **TAX ON CONTRACTS THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER THOSE**
40 **PROVISIONS, THE CITY OR TOWN SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A**
41 **NOTICE TO BIDDERS WHEN THOSE PROJECTS ARE SUBJECT TO THE TAX. THIS**
42 **SUBDIVISION DOES NOT APPLY TO CONTRACTS WITH:**

43 (i) **COMMUNITY FACILITIES DISTRICTS, FIRE DISTRICTS, COUNTY TELEVISION**
44 **IMPROVEMENT DISTRICTS, COMMUNITY PARK MAINTENANCE DISTRICTS, COTTON PEST**
45 **CONTROL DISTRICTS, HOSPITAL DISTRICTS, PEST ABATEMENT DISTRICTS, HEALTH**

1 SERVICE DISTRICTS, AGRICULTURAL IMPROVEMENT DISTRICTS, COUNTY FREE LIBRARY
2 DISTRICTS, COUNTY JAIL DISTRICTS, COUNTY STADIUM DISTRICTS, SPECIAL HEALTH
3 CARE DISTRICTS, PUBLIC HEALTH SERVICES DISTRICTS, THEME PARK DISTRICTS,
4 REGIONAL ATTRACTION DISTRICTS OR REVITALIZATION DISTRICTS.

5 (ii) ANY SPECIAL TAXING DISTRICT NOT SPECIFIED IN ITEM (i) OF THIS
6 SUBDIVISION IF THE DISTRICT DOES NOT SUBSTANTIALLY ENGAGE IN THE
7 MODIFICATION, MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF SURFACE OR
8 SUBSURFACE IMPROVEMENTS TO LAND.

9 17. Monitoring services relating to an alarm system as defined in
10 section 32-101.

11 18. Tangible personal property, job printing or publications sold to or
12 purchased by, or tangible personal property leased, rented or licensed for
13 use to or by, a qualifying health sciences educational institution as defined
14 in section 42-5001.

15 19. The transfer of title or possession of coal back and forth between
16 an owner or operator of a power plant and a person who is responsible for
17 refining coal if both of the following apply:

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

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

25 20. The gross proceeds of sales or gross income from sales of low or
26 reduced cost articles of food or drink to eligible elderly, ~~disabled~~ or
27 homeless persons OR PERSONS WITH A DISABILITY by a business subject to tax
28 under section 42-5074 that contracts with the department of economic security
29 and that is approved by the food and nutrition service of the United States
30 department of agriculture pursuant to the supplemental nutrition assistance
31 program established by the food and nutrition act of 2008 (P.L. 110-246; 122
32 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the
33 purchases are made with the benefits issued pursuant to the supplemental
34 nutrition assistance program.

35 21. TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A
36 PROJECT DESCRIBED IN PARAGRAPH 16 OF THIS SUBSECTION, THAT IS LOCATED WITHIN
37 THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS
38 DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN
39 AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:

40 (a) "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO
41 IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT
42 THE INDIAN RESERVATION WAS ESTABLISHED.

43 (b) "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF
44 AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF

1 AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS
2 INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

3 (c) "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR
4 COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES
5 DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF
6 THAT INDIAN TRIBE.

7 B. A city, town or other taxing jurisdiction shall not levy a
8 transaction privilege, sales, use, franchise or other similar tax or fee,
9 however denominated, on natural gas or liquefied petroleum gas used to propel
10 a motor vehicle.

11 C. A city, town or other taxing jurisdiction shall not levy a
12 transaction privilege, sales, gross receipts, use, franchise or other similar
13 tax or fee, however denominated, on gross proceeds of sales or gross income
14 derived from any of the following:

15 1. A motor carrier's use on the public highways in this state if the
16 motor carrier is subject to a fee prescribed in title 28, chapter 16,
17 article 4.

18 2. Leasing, renting or licensing a motor vehicle subject to and on
19 which the fee has been paid under title 28, chapter 16, article 4.

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

25 4. Incarcerating or detaining in a privately operated prison, jail or
26 detention facility prisoners who are under the jurisdiction of the United
27 States, this state or any other state or a political subdivision of this
28 state or of any other state.

29 5. Transporting for hire persons, freight or property by light motor
30 vehicles subject to a fee under title 28, chapter 15, article 4.

31 6. Any amount attributable to development fees that are incurred in
32 relation to the construction, development or improvement of real property and
33 paid by the taxpayer as defined in the model city tax code or by a contractor
34 providing services to the taxpayer. For the purposes of this paragraph:

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

37 (b) The attributable amount is equal to the total amount of
38 development fees paid by the taxpayer or by a contractor providing services
39 to the taxpayer and the total development fees credited in exchange for the
40 construction of, contribution to or dedication of real property for providing
41 public infrastructure, public safety or other public services necessary to
42 the development. The real property must be the subject of the development
43 fees.

44 (c) "Development fees" means fees imposed to offset capital costs of
45 providing public infrastructure, public safety or other public services to a

1 development and authorized pursuant to section 9-463.05, section 11-1102 or
2 title 48 regardless of the jurisdiction to which the fees are paid.

3 D. A city, town or other taxing jurisdiction shall not levy a
4 transaction privilege, sales, use, franchise or other similar tax or fee,
5 however denominated, in excess of one-tenth of one ~~per-cent~~ PERCENT of the
6 value of the entire product mined, smelted, extracted, refined, produced or
7 prepared for sale, profit or commercial use, on persons engaged in the
8 business of mineral processing, except to the extent that the tax is computed
9 on the gross proceeds or gross income from sales at retail.

10 E. In computing the tax base, any city, town or other taxing
11 jurisdiction shall not include in the gross proceeds of sales or gross
12 income:

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

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

16 F. A city or town shall not levy a use tax on the storage, use or
17 consumption of tangible personal property in the city or town by a school
18 district or charter school.

19 Sec. 14. Legislative intent

20 This act is intended to clarify and simplify the transaction privilege
21 tax reform measures enacted by Laws 2014, chapter 263 until such time as the
22 prime contracting transaction privilege tax classification can be repealed.

23 Sec. 15. Exemption from rulemaking

24 For the purposes of this act, the department of revenue is exempt from
25 the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes,
26 through December 31, 2015.

27 Sec. 16. Retroactivity; persons canceling transaction privilege
28 tax prime contracting licenses; safe harbor; change
29 orders; transition; application; definition

30 A. This act applies retroactively to from and after December 31, 2014.

31 B. With respect to any person canceling a transaction privilege tax
32 license for the purposes of section 42-5075, Arizona Revised Statutes, on or
33 before the last day of the first month that occurs at least sixty days after
34 the enactment date of this act, the following provisions apply, and the
35 department of revenue shall provide written guidelines that include these
36 provisions in addition to any forms necessary to effectuate this act. For
37 any materials on hand that the person purchased exempt from tax under section
38 42-5061, subsection A, paragraph 27 or section 42-5159, subsection A,
39 paragraph 13, subdivision (g), Arizona Revised Statutes, with no intent to
40 evade taxation, the person may make a reasonable estimation of the value of
41 all such items on hand at the time the tax license is canceled. If the
42 reasonable estimate of the value is:

43 1. Ten thousand dollars or less, the person is not liable for any tax
44 or similar amounts that otherwise would be due by law.

1 2. More than ten thousand dollars, the person is not liable for any
2 tax or similar amounts that otherwise would be due by law on the first ten
3 thousand dollars, and the value in excess of ten thousand dollars is subject
4 to tax in an amount determined, reported and paid pursuant to any of the
5 following:

6 (a) Pursuant to section 42-5008.01, subsection B, Arizona Revised
7 Statutes.

8 (b) In a single payment, based on any tax that the seller would have
9 been required to pay under title 42, chapter 5 or 6, Arizona Revised
10 Statutes, if the seller were located at the person's principal place of
11 business in this state.

12 (c) In twelve equal monthly installments to be reported and paid to
13 the department beginning immediately following the month in which the
14 person's license is canceled, based on any tax that the seller would have
15 been required to pay under title 42, chapter 5 or 6, Arizona Revised
16 Statutes, if the seller were located at the person's principal place of
17 business in this state.

18 C. For contracts that are bid or entered into or for any other binding
19 obligation executed on or before the last day of the first month that occurs
20 at least sixty days after the enactment date of this act:

21 1. A person may treat the contract as a contract that is taxable under
22 section 42-5075, Arizona Revised Statutes.

23 2. A person shall be held harmless from any additional tax, penalty
24 and interest if the department of revenue determines, under audit, that the
25 person's good faith treatment of the contract, as either subject to tax under
26 section 42-5075, Arizona Revised Statutes, or excluded from tax under section
27 42-5075, subsection 0, Arizona Revised Statutes, was incorrect.

28 D. The treatment of change orders under this act does not alter or
29 affect the treatment of change orders in any other context, including with
30 respect to the application of changes in the rate of tax.

31 E. For the purposes of this section, "enactment date" means the date
32 the governor signs this act or the date the secretary of state receives the
33 transmission of the unsigned act from the governor pursuant to article V,
34 section 7, Constitution of Arizona.

35 Sec. 17. Emergency

36 This act is an emergency measure that is necessary to preserve the
37 public peace, health or safety and is operative immediately as provided by
38 law.