

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

CHAPTER 230
SENATE BILL 1216

AN ACT

AMENDING SECTIONS 1-218 AND 28-2154.01, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5008.01, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2015, CHAPTER 4, SECTION 6; AMENDING SECTION 42-5009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 7; AMENDING SECTIONS 42-5014, 42-5039 AND 42-5040, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 10; AMENDING SECTIONS 42-5071 AND 42-5072, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5075, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 11; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 12; AMENDING SECTIONS 42-12057, 42-13304, 42-14159 AND 43-1098, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 Sec. 3. Section 42-5008.01, Arizona Revised Statutes, as added by Laws
30 2015, chapter 4, section 6, is amended to read:

31 42-5008.01. Liability for amounts equal to retail transaction
32 privilege tax due

33 A. A person that is either a prime contractor subject to tax under
34 section 42-5075 or a subcontractor working under the control of such a prime
35 contractor, that purchases tangible personal property, the purchase price of
36 which was excluded from the tax base under the retail classification under
37 section 42-5061, subsection A, paragraph 27 or was excluded from the use tax
38 under section 42-5159, subsection A, paragraph 13, subdivision (g) at the
39 time of purchase, and that incorporates or fabricates the tangible personal
40 property into a project described in section 42-5075, subsection 0 is liable
41 for an amount equal to any tax that a seller would have been required to pay
42 under section 42-5061 and this article as follows:

43 1. The amount of liability shall be calculated and reported based on
44 the location of the project and the taxes imposed under this chapter and
45 chapter 6 of this title.

1 2. All deductions, exemptions and exclusions for the cost of tangible
2 personal property provided in section 42-5075 apply to the tangible personal
3 property incorporated or fabricated into the project.

4 3. This subsection does not apply to tangible personal property that
5 is incorporated or fabricated into any project under a contract that would
6 otherwise be excluded from the tax base under section 42-5075, without regard
7 to section 42-5075, subsection 0.

8 4. The amount of liability shall be reported within the reporting
9 period that includes the month in which the person incorporates or fabricates
10 the tangible personal property into the project.

11 5. The person is not liable for the amount if the contractor who hired
12 the person executes and provides to the person a certificate stating that the
13 contractor providing the certificate is liable for any amount due under this
14 subsection. The department shall prescribe the form of the certificate. If
15 the person has reason to believe that the information contained on the
16 certificate is erroneous or incomplete, the department may disregard the
17 certificate. The contractor providing the certificate is liable for the
18 amount that otherwise would be due from the person under this subsection.

19 B. A person that purchased tangible personal property, the purchase
20 price of which was excluded from the tax base under section 42-5061,
21 subsection A, paragraph 27 or was excluded from the use tax under section
22 42-5159, subsection A, paragraph 13, subdivision (g) at the time of purchase,
23 ~~whose~~ **THAT SUBSEQUENTLY CANCELS ITS** transaction privilege tax license ~~has~~
24 ~~been canceled~~ and that ~~subsequently~~ uses, consumes, sells or discards the
25 tangible personal property is liable for an amount of tax determined under
26 this subsection. For the purposes of this subsection:

27 1. If the tangible personal property is incorporated or fabricated
28 into a project described in section 42-5075, subsection 0, or otherwise used
29 or consumed by the person, the amount of liability shall be calculated and
30 reported based on the person's purchase price of the tangible personal
31 property, the location of the project, use or consumption and the taxes
32 imposed under this chapter and chapter 6 of this title.

33 2. If the tangible personal property is sold in a manner that is not
34 subject to tax under this chapter or is discarded, the amount shall be
35 calculated and reported based on the payment received by the person, the
36 location of the person's principal place of business in this state and the
37 taxes imposed under this chapter and chapter 6 of this title.

38 3. The person is not liable under this subsection for any amount if
39 the person discards the tangible personal property and does not receive
40 payment of any kind.

41 4. The amount of liability shall be reported on or before the business
42 day preceding the last business day of the month following the month in which
43 the person uses the tangible personal property in a manner described in
44 paragraph 1 or 2 of this subsection. No amount is due under this subsection

1 at any time that the person stores the tangible personal property without
2 using it in a manner described in paragraph 1 or 2 of this subsection.

3 5. All deductions, exemptions and exclusions for the cost of tangible
4 personal property provided in section 42-5075 apply to the tangible personal
5 property incorporated or fabricated into a project described in section
6 42-5075, subsection 0.

7 6. This subsection does not apply to tangible personal property that
8 is incorporated or fabricated into any project under a contract that would
9 otherwise be excluded from the tax base under section 42-5075, without regard
10 to section 42-5075, subsection 0.

11 7. The person is not liable for the amount if the contractor who hired
12 the person executes and provides to the person a certificate stating that the
13 contractor providing the certificate is liable for any amount due under this
14 subsection for tangible personal property incorporated or fabricated into a
15 project described in section 42-5075, subsection 0. The department shall
16 prescribe the form of the certificate. If the person has reason to believe
17 that the information contained on the certificate is erroneous or incomplete,
18 the department may disregard the certificate. The contractor providing the
19 certificate is liable for the amount that otherwise would be due from the
20 person under this subsection.

21 C. A person that fails to report or pay any amount due under
22 subsection A or B of this section is liable for interest in a manner
23 consistent with section 42-1123 and penalties in a manner consistent with
24 section 42-1125.

25 D. If a person has paid an amount described in this section on
26 tangible personal property that the person reasonably believed to be
27 described section 42-5075, subsection 0 and a final determination is made
28 that section 42-5075, subsection 0 does not apply, the person is entitled to
29 an offset for the amount paid under this section against the amount of tax
30 liability assessed under this chapter and chapter 6 of this title.

31 Sec. 4. Section 42-5009, Arizona Revised Statutes, as amended by Laws
32 2015, chapter 4, section 7, is amended to read:

33 42-5009. Certificates establishing deductions; liability for
34 making false certificate

35 A. A person who conducts any business classified under article 2 of
36 this chapter may establish entitlement to the allowable deductions from the
37 tax base of that business by both:

38 1. Marking the invoice for the transaction to indicate that the gross
39 proceeds of sales or gross income derived from the transaction was deducted
40 from the tax base.

41 2. Obtaining a certificate executed by the purchaser indicating the
42 name and address of the purchaser, the precise nature of the business of the
43 purchaser, the purpose for which the purchase was made, the necessary facts
44 to establish the appropriate deduction and the tax license number of the
45 purchaser to the extent the deduction depends on the purchaser conducting

1 business classified under article 2 of this chapter and a certification that
2 the person executing the certificate is authorized to do so on behalf of the
3 purchaser. The certificate may be disregarded if the seller has reason to
4 believe that the information contained in the certificate is not accurate or
5 complete.

6 B. A person who does not comply with subsection A of this section may
7 establish entitlement to the deduction by presenting facts necessary to
8 support the entitlement, but the burden of proof is on that person.

9 C. The department may prescribe a form for the certificate described
10 in subsection A of this section. Under such rules as it may prescribe, the
11 department may also describe transactions with respect to which a person is
12 not entitled to rely solely on the information contained in the certificate
13 provided for in subsection A of this section but must instead obtain such
14 additional information as required by the rules in order to be entitled to
15 the deduction.

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

29 E. If a seller is entitled to a deduction by complying with subsection
30 B of this section, the department may require the purchaser to establish the
31 accuracy and completeness of the information provided to the seller that
32 entitled the seller to the deduction. If the purchaser cannot establish the
33 accuracy and completeness of the information, the purchaser is liable in an
34 amount equal to any tax, penalty and interest that the seller would have been
35 required to pay under this article if the seller had not complied with
36 subsection B of this section. Payment of the amount under this subsection
37 exempts the purchaser from liability for any tax imposed under article 4 of
38 this chapter. The amount shall be treated as tax revenues collected from the
39 seller in order to designate the distribution base for purposes of section
40 42-5029.

41 F. The department may prescribe a form for a certificate used to
42 establish entitlement to the deductions described in section 42-5061,
43 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3.
44 Under rules the department may prescribe, the department may also require
45 additional information for the seller to be entitled to the deduction. If a

1 seller is entitled to the deductions described in section 42-5061, subsection
2 A, paragraph 46 and section 42-5063, subsection B, paragraph 3, the
3 department may require the purchaser who executed the certificate to
4 establish the accuracy and completeness of the information contained in the
5 certificate that would entitle the seller to the deduction. If the purchaser
6 cannot establish the accuracy and completeness of the information, the
7 purchaser is liable in an amount equal to any tax, penalty and interest that
8 the seller would have been required to pay under this article. Payment of
9 the amount under this subsection exempts the purchaser from liability for any
10 tax imposed under article 4 of this chapter. The amount shall be treated as
11 tax revenues collected from the seller in order to designate the distribution
12 base for purposes of section 42-5029.

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

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

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

38 2. A copy of the nonresident registration permit authorized by section
39 28-2154.

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

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

4 I. Notwithstanding subsection A, paragraph 2 of this section, if a
5 motor vehicle dealer has established entitlement to a deduction by complying
6 with subsection H of this section, the department may require the purchaser
7 who executed the certificate to establish the accuracy and completeness of
8 the information contained in the certificate that entitled the motor vehicle
9 dealer to the deduction. If the purchaser cannot establish the accuracy and
10 completeness of the information, the purchaser is liable in an amount equal
11 to any tax, penalty and interest that the motor vehicle dealer would have
12 been required to pay under this article and under articles IV and V of the
13 model city tax code as defined in section 42-6051. Payment of the amount
14 under this subsection exempts the purchaser from liability for any tax
15 imposed under article 4 of this chapter and any tax imposed under article VI
16 of the model city tax code as defined in section 42-6051. The amount shall
17 be treated as tax revenues collected from the motor vehicle dealer in order
18 to designate the distribution base for purposes of section 42-5029.

19 J. To establish entitlement to the deduction described in section
20 42-5061, subsection A, paragraph 44, a public consignment auction dealer as
21 defined in section 28-4301 shall submit the valid certificate prescribed by
22 subsection H of this section to the department and retain a copy for its
23 records.

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

27 L. The department shall prescribe a form for a certificate to be used
28 by a person that is not subject to tax under section 42-5075 when the person
29 is engaged by a contractor that is subject to tax under section 42-5075 for a
30 project that is taxable under section 42-5075. The certificate permits the
31 person purchasing tangible personal property to be incorporated or fabricated
32 by the person into any real property, structure, project, development or
33 improvement to provide documentation to a retailer that the sale of tangible
34 personal property qualifies for the deduction under section 42-5061,
35 subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain
36 the certificate from the department and shall provide a copy to any such
37 person working on the project. The prime contractor shall obtain a new
38 certificate for each project to which this subsection applies. For the
39 purposes of this subsection, the following apply:

40 1. The person that is not subject to tax under section 42-5075 may use
41 the certificate issued pursuant to this subsection only with respect to
42 tangible personal property that will be incorporated into a project for which
43 the gross receipts are subject to tax under section 42-5075.

1 AMOUNT OF THE TAX, TO THE DEPARTMENT, ON OR BEFORE THE TWENTIETH DAY OF
2 JANUARY NEXT SUCCEEDING THE YEAR IN WHICH THE TAX ACCRUES.

3 3. ARE DELINQUENT AS FOLLOWS:

4 (a) FOR TAXPAYERS THAT ARE REQUIRED OR ELECT TO FILE AND PAY
5 ELECTRONICALLY IN ANY QUARTER, IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE
6 THE LAST BUSINESS DAY OF THE MONTH.

7 (b) FOR ALL OTHER TAXPAYERS THAT ARE REQUIRED TO FILE AND PAY
8 QUARTERLY, IF NOT RECEIVED BY THE DEPARTMENT ON OR BEFORE THE BUSINESS DAY
9 PRECEDING THE LAST BUSINESS DAY OF THE MONTH.

10 (c) FOR TAXPAYERS THAT ARE REQUIRED OR ELECT TO FILE AND PAY
11 ELECTRONICALLY ON AN ANNUAL BASIS, IF NOT RECEIVED BY THE DEPARTMENT ON OR
12 BEFORE THE LAST BUSINESS DAY OF JANUARY.

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

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

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

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

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

7 E. The taxpayer shall prepare a return showing the amount of the tax
8 for which the taxpayer is liable for the preceding month, and shall mail or
9 deliver the return to the department in the same manner and time as
10 prescribed for the payment of taxes in subsection A of this section. If the
11 taxpayer fails to file the return in the manner and time as prescribed for
12 the payment of taxes in subsection A of this section, the amount of the tax
13 required to be shown on the return is subject to the penalty imposed pursuant
14 to section 42-1125, subsection A, without any reduction for taxes paid on or
15 before the due date of the return. The return shall be verified by the oath
16 of the taxpayer or an authorized agent or as prescribed by the department
17 pursuant to section 42-1105, subsection B.

18 F. Any person who is taxable under this article and who makes cash and
19 credit sales shall report such cash and credit sales separately and on making
20 application may obtain from the department an extension of time for payment
21 of taxes due on the credit sales. The extension shall be granted by the
22 department under such rules as the department prescribes. When the extension
23 is granted, the taxpayer shall thereafter include in each monthly report all
24 collections made on such credit sales during the month next preceding and
25 shall pay the taxes due at the time of filing such report.

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

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

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

37 J. The department, with the approval of the attorney general, may
38 abate small tax balances if the administration costs exceed the amount of tax
39 due.

40 K. For the purposes of subsection D of this section, "taxpayer" means
41 the business entity under which the business reports and pays state income
42 taxes regardless of the number of offices at which the taxes imposed by this
43 article, article 6 of this chapter or chapter 6, article 3 of this title are
44 collected.

45 Sec. 6. Section 42-5039, Arizona Revised Statutes, is amended to read:

1 42-5039. Qualified destination management companies:
2 definitions

3 A. A qualified destination management company is not subject to
4 transaction privilege tax under this chapter on the gross proceeds of sales
5 or gross income derived from a qualified contract for destination management
6 services. The gross proceeds of sales or gross income derived by a qualified
7 destination management company from transactions that are not part of a
8 qualified contract for destination management services are subject to tax IF
9 OTHERWISE TAXABLE under this chapter.

10 B. A qualified destination management company is a final consumer and
11 user of any tangible personal property, activity or service subject to
12 transaction privilege tax under article 2 of this chapter that the qualified
13 destination management company arranges pursuant to a qualified contract for
14 destination management services.

15 C. For the purposes of this section:

16 1. "Destination management services" means the business of
17 coordinating, designing and implementing the delivery by a third party of
18 four or more of the following:

- 19 (a) Transportation.
- 20 (b) Entertainment.
- 21 (c) Food or beverage.
- 22 (d) Recreational or amusement activity.
- 23 (e) Tours.
- 24 (f) Event venue.
- 25 (g) Theme decor.

26 2. "Qualified contract" means a contract for the provision of
27 destination management services by a qualified destination management company
28 where both of the following apply:

29 (a) The qualified destination management company receives payment from
30 or on behalf of the qualified destination management company's client for the
31 cost of the destination management services arranged by the qualified
32 destination management company.

33 (b) The qualified destination management company pays the vendor
34 supplying the destination management services arranged by the qualified
35 destination management company including any applicable transaction privilege
36 tax or collection of use tax charged by the vendor to the qualified
37 destination management company.

38 3. "Qualified destination management company" means a person that
39 receives on an annual basis at least eighty per cent of its gross proceeds of
40 sales or gross income derived from destination management services.

41 Sec. 7. Section 42-5040, Arizona Revised Statutes, is amended to read:

42 42-5040. Sourcing of certain transactions involving tangible
43 personal property; definitions

44 A. Except as provided in section 42-5075, retail sales of tangible
45 personal property shall be sourced as follows:

1 1. To the seller's business location if the seller receives the order
2 at a business location in this state.

3 2. **EXCEPT AS PROVIDED IN SECTION 42-5008.01**, to the purchaser's
4 location in this state if the seller receives the order at a business
5 location outside this state.

6 B. For the purposes of this section, an order is received when all of
7 the information necessary to accept the order has been received by or on
8 behalf of the seller, regardless of where the order is accepted or approved.
9 The place of business or residence of the purchaser does not determine where
10 the order is received.

11 C. The gross receipts from leasing or renting tangible personal
12 property shall be sourced as follows:

13 1. To the lessor's business location if the lessor has a business
14 location in this state.

15 2. To the lessee's address if the lessor does not have a business
16 location in this state. The gross receipts are taxable when the property is
17 shipped, delivered or otherwise brought into this state for use in this
18 state.

19 D. For the purposes of this section:

20 1. "Lessee's address" means the residential address of an individual
21 lessee and the primary business address of any other lessee.

22 2. "Lessor's business location" means the business address that
23 appears on the lessor's transaction privilege tax license.

24 Sec. 8. Section 42-5061, Arizona Revised Statutes, as amended by Laws
25 2015, chapter 4, section 10, is amended to read:

26 42-5061. Retail classification; definitions

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

32 1. Professional or personal service occupations or businesses that
33 involve sales or transfers of tangible personal property only as
34 inconsequential elements.

35 2. Services rendered in addition to selling tangible personal property
36 at retail.

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

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

- 1 5. Sales to persons engaged in business classified under the
2 restaurant classification of articles used by human beings for food, drink or
3 condiment, whether simple, mixed or compounded.
- 4 6. Business activity that is properly included in any other business
5 classification that is taxable under this article.
- 6 7. The sale of stocks and bonds.
- 7 8. Drugs and medical oxygen, including delivery hose, mask or tent,
8 regulator and tank, on the prescription of a member of the medical, dental or
9 veterinarian profession who is licensed by law to administer such substances.
- 10 9. Prosthetic appliances as defined in section 23-501 prescribed or
11 recommended by a health professional who is licensed pursuant to title 32,
12 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 13 10. Insulin, insulin syringes and glucose test strips.
- 14 11. Prescription eyeglasses or contact lenses.
- 15 12. Hearing aids as defined in section 36-1901.
- 16 13. Durable medical equipment that has a centers for medicare and
17 medicaid services common procedure code, is designated reimbursable by
18 medicare, is prescribed by a person who is licensed under title 32, chapter
19 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
20 customarily used to serve a medical purpose, is generally not useful to a
21 person in the absence of illness or injury and is appropriate for use in the
22 home.
- 23 14. Sales of motor vehicles to nonresidents of this state for use
24 outside this state if the motor vehicle dealer ships or delivers the motor
25 vehicle to a destination out of this state.
- 26 15. Food, as provided in and subject to the conditions of article 3 of
27 this chapter and section 42-5074.
- 28 16. Items purchased with United States department of agriculture food
29 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
30 958) or food instruments issued under section 17 of the child nutrition act
31 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
32 section 1786).
- 33 17. Textbooks by any bookstore that are required by any state
34 university or community college.
- 35 18. Food and drink to a person that is engaged in a business that is
36 classified under the restaurant classification and that provides such food
37 and drink without monetary charge to its employees for their own consumption
38 on the premises during the employees' hours of employment.
- 39 19. Articles of food, drink or condiment and accessory tangible
40 personal property to a school district or charter school if such articles and
41 accessory tangible personal property are to be prepared and served to persons
42 for consumption on the premises of a public school within the district or on
43 the premises of the charter school during school hours.
- 44 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
45 article 1.

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

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

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

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

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

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

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

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

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

42 25. Tangible personal property sold to:

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

1 (b) A qualifying health care organization as defined in section
2 42-5001 if the tangible personal property is used by the organization solely
3 to provide health and medical related educational and charitable services.

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

9 (d) A qualifying community health center as defined in section
10 42-5001.

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

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

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

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

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

30 27. Tangible personal property sold to:

31 (a) A person that is subject to tax under this article by reason of
32 being engaged in business classified under section 42-5075 or to a
33 subcontractor working under the control of a person engaged in business
34 classified under section 42-5075, if the property so sold is any of the
35 following:

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

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

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

42 (b) A person that is not subject to tax under section 42-5075 and that
43 has been provided a copy of a certificate under section 42-5009, subsection
44 L, if the property so sold is incorporated or fabricated by the person into

1 the real property, structure, project, development or improvement described
2 in the certificate.

3 28. The sale of a motor vehicle to:

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

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

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

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

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

28 32. Sales of tangible personal property by a nonprofit organization
29 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
30 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
31 sponsors or operates a rodeo featuring primarily farm and ranch animals and
32 no part of the organization's net earnings inures to the benefit of any
33 private shareholder or individual.

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

38 34. Machinery, equipment, technology or related supplies that are only
39 useful to assist a person with a physical disability as defined in section
40 46-191 or a person who has a developmental disability as defined in section
41 36-551 or has a head injury as defined in section 41-3201 to be more
42 independent and functional.

43 35. Sales of natural gas or liquefied petroleum gas used to propel a
44 motor vehicle.

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

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

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

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

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

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

42 40. Sales of food, drink and condiment for consumption within the
43 premises of any prison, jail or other institution under the jurisdiction of
44 the state department of corrections, the department of public safety, the
45 department of juvenile corrections or a county sheriff.

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

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

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

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

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

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

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

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

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

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

43 49. Sales of alternative fuel vehicles if the vehicle was manufactured
44 as a diesel fuel vehicle and converted to operate on alternative fuel and
45 equipment that is installed in a conventional diesel fuel motor vehicle to

1 convert the vehicle to operate on an alternative fuel, as defined in section
2 1-215.

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

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

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

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

16 54. 53. Application services that are designed to assess or test
17 student learning or to promote curriculum design or enhancement purchased by
18 or for any school district, charter school, community college or state
19 university. For the purposes of this paragraph:

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

22 (b) "Curriculum design or enhancement" means planning, implementing or
23 reporting on courses of study, lessons, assignments or other learning
24 activities.

25 ~~55.~~ 54. Sales of motor vehicle fuel and use fuel to a qualified
26 business under section 41-1516 for off-road use in harvesting, processing or
27 transporting qualifying forest products removed from qualifying projects as
28 defined in section 41-1516.

29 ~~56.~~ 55. Sales of repair parts installed in equipment used directly by
30 a qualified business under section 41-1516 in harvesting, processing or
31 transporting qualifying forest products removed from qualifying projects as
32 defined in section 41-1516.

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

40 ~~58.~~ 57. Computer data center equipment purchased by the owner,
41 operator or qualified colocation tenant of the computer data center or an
42 authorized agent of the owner, operator or qualified colocation tenant during
43 the qualification period for use in a computer data center that is certified
44 by the Arizona commerce authority under section 41-1519. To qualify for this
45 deduction, at the time of purchase, the owner, operator or qualified

1 colocation tenant must present to the retailer its certificate that is issued
2 pursuant to section 41-1519 and that establishes its qualification for the
3 deduction. For the purposes of this paragraph, "computer data center",
4 "computer data center equipment", "qualification period" and "qualified
5 colocation tenant" have the same meanings prescribed in section 41-1519.

6 ~~59.~~ 58. Orthodontic devices dispensed by a dental professional who is
7 licensed under title 32, chapter 11 to a patient as part of the practice of
8 dentistry.

9 ~~60.~~ 59. Sales of tangible personal property incorporated or fabricated
10 into a project described in section 42-5075, subsection 0, that is located
11 within the exterior boundaries of an Indian reservation for which the owner,
12 as defined in section 42-5075, of the project is an Indian tribe or an
13 affiliated Indian. For the purposes of this paragraph:

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

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

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

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

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

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

42 3. Tangible personal property sold to persons engaged in business
43 classified under the telecommunications classification, including a person
44 representing or working on behalf of such a person in a manner described in
45 section 42-5075, subsection 0, and consisting of central office switching

1 equipment, switchboards, private branch exchange equipment, microwave radio
2 equipment and carrier equipment including optical fiber, coaxial cable and
3 other transmission media that are components of carrier systems.

4 4. Machinery, equipment or transmission lines used directly in
5 producing or transmitting electrical power, but not including distribution.
6 Transformers and control equipment used at transmission substation sites
7 constitute equipment used in producing or transmitting electrical power.

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

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

15 7. Aircraft, navigational and communication instruments and other
16 accessories and related equipment sold to:

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

23 (b) Any foreign government.

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

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

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

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

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

1 contracting with such governmental entity as part of a governmentally adopted
2 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

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

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

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

44 For the purposes of subdivision (b) of this paragraph, "test period" means
45 the three hundred sixty-five day period beginning on the later of the date on

1 which the tangible personal property is purchased or the date on which the
2 direct broadcast satellite television or data transmission service first
3 transmits information to its customers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 2. Janitorial equipment and hand tools.

23 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 38 1. Sales made directly to the United States government or its
39 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 40 2. Sales made directly to a manufacturer, modifier, assembler or
41 repairer if such sales are of any ingredient or component part of products
42 sold directly to the United States government or its departments or agencies
43 by the manufacturer, modifier, assembler or repairer.

44 3. Overhead materials or other tangible personal property that is used
45 in performing a contract between the United States government and a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 ~~X.~~ W. For the purposes of subsection ~~J~~ I of this section:

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

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

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

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

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

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

10 Sec. 9. Section 42-5071, Arizona Revised Statutes, is amended to read:
11 42-5071. Personal property rental classification

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

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

18 2. Activities engaged in by the Arizona exposition and state fair
19 board or county fair commissions in connection with events sponsored by such
20 entities.

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

28 4. Operating coin-operated washing, drying and dry cleaning machines
29 or coin-operated car washing machines at establishments for the use of such
30 machines.

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

36 6. Leasing or renting aircraft, flight simulators or similar training
37 equipment to students or staff by nonprofit, accredited educational
38 institutions that offer associate or baccalaureate degrees in aviation or
39 aerospace related fields.

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

43 8. Leasing or renting certified ignition interlock devices installed
44 pursuant to the requirements prescribed by section 28-1461. For the purposes

1 of this paragraph, "certified ignition interlock device" has the same meaning
2 prescribed in section 28-1301.

3 B. The tax base for the personal property rental classification is the
4 gross proceeds of sales or gross income derived from the business, but the
5 gross proceeds of sales or gross income derived from the following shall be
6 deducted from the tax base:

7 1. Reimbursements by the lessee to the lessor of a motor vehicle for
8 payments by the lessor of the applicable fees and taxes imposed by sections
9 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
10 article 2 and article IX, section 11, Constitution of Arizona, to the extent
11 such amounts are separately identified as such fees and taxes and are billed
12 to the lessee.

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

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

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

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

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

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

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

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

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

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

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

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

41 E. Until December 31, 1988, leasing or renting animals for
42 recreational purposes is exempt from the tax imposed by this section.
43 Beginning January 1, 1989, the gross proceeds or gross income from leasing or
44 renting animals for recreational purposes is subject to taxation under this
45 section. Tax liabilities, penalties and interest paid for taxable periods

1 before January 1, 1989 shall not be refunded unless the taxpayer requesting
2 the refund provides proof satisfactory to the department that the monies paid
3 as taxes will be returned to the customer.

4 Sec. 10. Section 42-5072, Arizona Revised Statutes, is amended to
5 read:

6 42-5072. Mining classification; definition

7 A. The mining classification is comprised of the business of mining,
8 quarrying or producing for sale, profit or commercial use any
9 nonmetalliferous mineral product that has been mined, quarried or otherwise
10 extracted within the boundaries of this state described in article I, section
11 1, Constitution of Arizona.

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

17 C. The tax base includes the value of the entire product mined,
18 quarried or produced for sale, profit or commercial use in this state,
19 regardless of the place of sale of the product or of the fact that deliveries
20 may be made to points without this state. If, however, the sale price of the
21 product includes freight, the sale price shall be reduced by the actual
22 freight paid by any person from the place of production to the place of
23 delivery.

24 D. In the case of a person engaged in business classified under the
25 mining classification all or part of whose income is derived from service or
26 manufacturing charges instead of from sales of the products manufactured or
27 handled, the tax base includes the gross income of the person derived from
28 the service or manufacturing charge.

29 E. If a person engaging in business classified under the mining
30 classification ships or transports all or part of a product out of this state
31 without making sale of the product or ships his product outside of this state
32 in an unfinished condition, the value of the product or article in the
33 condition or form in which it existed when transported out of this state and
34 before it enters interstate commerce is included in the tax base, and the
35 department shall prescribe equitable and uniform rules for ascertaining that
36 value. In determining the tax base, if the product or any part of the
37 product has been processed in this state and the proceeds of such processing
38 have been included in the tax base of the processor under this chapter, the
39 person may deduct from the value of the product when transported out of this
40 state the cost of such processing.

41 F. A person who conducts a business classified under the mining
42 classification may be deemed also to be engaged in business classified under
43 the retail classification to the extent the person's activities comprise
44 business under the retail classification if the tax is paid at the rate
45 imposed on the retail classification by section 42-5010. If the transaction

1 is not subject to taxation under the retail classification, the transaction
2 shall be included in the tax base under this section, except for the transfer
3 of title or possession of coal back and forth between an owner or operator of
4 a power plant and a person who is responsible for refining coal if both of
5 the following apply:

6 1. The transfer of title or possession of the coal is for the purpose
7 of refining the coal.

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

13 G. For the purposes of this section, "nonmetalliferous mineral
14 product" means oil, natural gas, limestone, sand, gravel or any other
15 nonmetalliferous mineral product, compound or combination of nonmetalliferous
16 mineral products.

17 Sec. 11. Section 42-5075, Arizona Revised Statutes, as amended by Laws
18 2015, chapter 4, section 11, is amended to read:

19 42-5075. Prime contracting classification; exemptions;
20 definitions

21 A. The prime contracting classification is comprised of the business
22 of prime contracting and the business of manufactured building dealer. Sales
23 for resale to another manufactured building dealer are not subject to tax.
24 Sales for resale do not include sales to a lessor of manufactured buildings.
25 The sale of a used manufactured building is not taxable under this chapter.

26 B. The tax base for the prime contracting classification is sixty-five
27 percent of the gross proceeds of sales or gross income derived from the
28 business. The following amounts shall be deducted from the gross proceeds of
29 sales or gross income before computing the tax base:

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

32 2. Sales and installation of groundwater measuring devices required
33 under section 45-604 and groundwater monitoring wells required by law,
34 including monitoring wells installed for acquiring information for a permit
35 required by law.

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

41 4. The gross proceeds of sales or gross income received from a
42 contract entered into for the modification of any building, highway, road,
43 railroad, excavation, manufactured building or other structure, project,
44 development or improvement located in a military reuse zone for providing
45 aviation or aerospace services or for a manufacturer, assembler or fabricator

1 of aviation or aerospace products within an active military reuse zone after
2 the zone is initially established or renewed under section 41-1531. To be
3 eligible to qualify for this deduction, before beginning work under the
4 contract, the prime contractor must have applied for a letter of
5 qualification from the department of revenue.

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

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

25 (a) Actions to monitor, assess and evaluate such a release or a
26 suspected release.

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

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

32 (d) Pumping and treatment or in situ treatment of contaminated
33 groundwater or surface water to reduce the concentration or toxicity of a
34 contaminant.

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

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

44 7. The gross proceeds of sales or gross income that is derived from a
45 contract for the installation, assembly, repair or maintenance of machinery,

1 equipment or other tangible personal property that is either deducted from
2 the tax base of the retail classification under section 42-5061, subsection B
3 or that is exempt from use tax under section 42-5159, subsection B and that
4 has independent functional utility, pursuant to the following provisions:

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

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

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

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

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

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

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

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

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

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

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

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

45 (a) Section 42-5061, subsection A, paragraph 25, 29, ~~or 58~~ 57 OR 59.

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

2 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
3 (c), (d), (e), (f), (j), (k), ~~(i)~~, (m) or (n) or paragraph 54 OR 56.

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

5 9. The gross proceeds of sales or gross income received from a
6 contract for the construction of an environmentally controlled facility for
7 the raising of poultry for the production of eggs and the sorting, cooling
8 and packaging of eggs.

9 10. The gross proceeds of sales or gross income that is derived from a
10 contract entered into with a person who is engaged in the commercial
11 production of livestock, livestock products or agricultural, horticultural,
12 viticultural or floricultural crops or products in this state for the
13 modification of any building, highway, road, excavation, manufactured
14 building or other structure, project, development or improvement used
15 directly and primarily to prevent, monitor, control or reduce air, water or
16 land pollution.

17 11. The gross proceeds of sales or gross income that is derived from
18 the installation, assembly, repair or maintenance of clean rooms that are
19 deducted from the tax base of the retail classification pursuant to section
20 42-5061, subsection B, paragraph 16.

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

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

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

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

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

44 17. The gross proceeds of sales or gross income received from contracts
45 entered into before July 1, 2006 for constructing a state university research

1 infrastructure project if the project has been reviewed by the joint
2 committee on capital review before the university enters into the
3 construction contract for the project. For the purposes of this paragraph,
4 "research infrastructure" has the same meaning prescribed in section 15-1670.

5 18. The gross proceeds of sales or gross income received from a
6 contract for the construction of any building, or other structure, project,
7 development or improvement owned by a qualified business under section
8 41-1516 for harvesting or processing qualifying forest products removed from
9 qualifying projects as defined in section 41-1516 if actual construction
10 begins before January 1, 2024. To qualify for this deduction, the prime
11 contractor must obtain a letter of qualification from the Arizona commerce
12 authority before beginning work under the contract.

13 19. Any amount of the gross proceeds of sales or gross income
14 attributable to development fees that are incurred in relation to a contract
15 for construction, development or improvement of real property and that are
16 paid by a prime contractor or subcontractor. For the purposes of this
17 paragraph:

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

20 (b) The attributable amount is equal to the total amount of
21 development fees paid by the prime contractor or subcontractor, and the total
22 development fees credited in exchange for the construction of, contribution
23 to or dedication of real property for providing public infrastructure, public
24 safety or other public services necessary to the development. The real
25 property must be the subject of the development fees.

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

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

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

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

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

6 (d) "Renewable energy" has the same meaning prescribed in section
7 41-1511.

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

10 1. A prime contractor may establish entitlement to the deduction by
11 both:

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

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

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

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

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

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

3 D. Subcontractors or others who perform modification activities are
4 not subject to tax if they can demonstrate that the job was within the
5 control of a prime contractor or contractors or a dealership of manufactured
6 buildings and that the prime contractor or dealership is liable for the tax
7 on the gross income, gross proceeds of sales or gross receipts attributable
8 to the job and from which the subcontractors or others were paid.

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

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

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

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

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

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

5 J. Except as provided in subsection 0 of this section, the gross
6 proceeds of sales or gross income derived from landscaping activities are
7 subject to tax under this section. Landscaping includes installing lawns,
8 grading or leveling ground, installing gravel or boulders, planting trees and
9 other plants, felling trees, removing or mulching tree stumps, removing other
10 imbedded plants, building irrigation berms, installing railroad ties and
11 installing underground sprinkler or watering systems.

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

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

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

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

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

33 3. For sales in this state where the manufactured building dealer
34 contracts to deliver the building to a setup site that is outside this state,
35 the situs is outside this state and the transaction is excluded from tax.

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

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

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

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

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

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

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

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

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

29 (e) Inspection to determine the dates of substantial completion or
30 final completion.

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

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

40 (i) Master schedule updates.

41 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (vi) Any bond and insurance premiums.

43 (vii) Any applicable taxes.

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

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

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

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

13 0. The gross proceeds of sales or gross income derived from a contract
14 with the owner of real property or improvements to real property for the
15 maintenance, repair, replacement or alteration of existing property is not
16 subject to tax under this section if the contract does not include
17 modification activities, except as specified in this subsection. The gross
18 proceeds of sales or gross income derived from a de minimis amount of
19 modification activity does not subject the contract or any part of the
20 contract to tax under this section. For the purposes of this subsection:

21 1. Tangible personal property that is incorporated or fabricated into
22 a project described in this subsection may be subject to the amount
23 prescribed in section 42-5008.01.

24 2. Each contract is independent of any other contract, except that any
25 change order that directly relates to the scope of work of the original
26 contract shall be treated the same as the original contract under this
27 chapter, regardless of the amount of modification activities included in the
28 change order. If a change order does not directly relate to the scope of
29 work of the original contract, the change order shall be treated as a new
30 contract, with the tax treatment of any subsequent change order to follow the
31 tax treatment of the contract to which the scope of work of the subsequent
32 change order directly relates.

33 P. Notwithstanding subsection 0 of this section, a contract that
34 primarily involves surface or subsurface improvements to land and that is
35 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
36 taxable under this section, even if the contract also includes vertical
37 improvements. Agencies that are subject to procurement processes under those
38 provisions shall include in the request for proposals a notice to bidders
39 when those projects are subject to this section. This subsection does not
40 apply to contracts with:

41 1. Community facilities districts, fire districts, county television
42 improvement districts, community park maintenance districts, cotton pest
43 control districts, hospital districts, pest abatement districts, health
44 service districts, agricultural improvement districts, county free library
45 districts, county jail districts, county stadium districts, special health

1 care districts, public health services districts, theme park districts,
2 regional attraction districts or revitalization districts.

3 2. Any special taxing district not specified in paragraph 1 of this
4 subsection if the district does not substantially engage in the modification,
5 maintenance, repair, replacement or alteration of surface or subsurface
6 improvements to land.

7 Q. Notwithstanding subsection R, paragraph 10 of this section, a
8 person owning real property who enters into a contract for sale of the real
9 property, who is responsible to the new owner of the property for
10 modifications made to the property in the period subsequent to the transfer
11 of title and who receives a consideration for the modifications is considered
12 a prime contractor solely for purposes of taxing the gross proceeds of sale
13 or gross income received for the modifications made subsequent to the
14 transfer of title. The original owner's gross proceeds of sale or gross
15 income received for the modifications shall be determined according to the
16 following methodology:

17 1. If any part of the contract for sale of the property specifies
18 amounts to be paid to the original owner for the modifications to be made in
19 the period subsequent to the transfer of title, the amounts are included in
20 the original owner's gross proceeds of sale or gross income under this
21 section. Proceeds from the sale of the property that are received after
22 transfer of title and that are unrelated to the modifications made subsequent
23 to the transfer of title are not considered gross proceeds of sale or gross
24 income from the modifications.

25 2. If the original owner enters into an agreement separate from the
26 contract for sale of the real property providing for amounts to be paid to
27 the original owner for the modifications to be made in the period subsequent
28 to the transfer of title to the property, the amounts are included in the
29 original owner's gross proceeds of sale or gross income received for the
30 modifications made subsequent to the transfer of title.

31 3. If the original owner is responsible to the new owner for
32 modifications made to the property in the period subsequent to the transfer
33 of title and derives any gross proceeds of sale or gross income from the
34 project subsequent to the transfer of title other than a delayed disbursement
35 from escrow unrelated to the modifications, it is presumed that the amounts
36 are received for the modifications made subsequent to the transfer of title
37 unless the contrary is established by the owner through its books, records
38 and papers kept in the regular course of business.

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

41 R. For the purposes of this section:

42 1. "Alteration" means an activity or action that causes a direct
43 physical change to existing property. For the purposes of this paragraph:

44 (a) For existing property that is properly classified as class two
45 property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2,

1 subdivision (c) and that is used for residential purposes, class three
2 property under section 42-12003 or class four property under 42-12004, this
3 paragraph does not apply if the contract amount is more than twenty-five
4 percent of the most recent full cash value established under chapter 13,
5 article 2 of this title as of the date of any bid for the work or the date of
6 the contract, whichever value is higher.

7 (b) For all existing property other than existing property described
8 in subdivision (a) of this paragraph, this paragraph does not apply if any of
9 the following is true:

10 (i) The contract amount is more than seven hundred fifty thousand
11 dollars.

12 (ii) The scope of work directly relates to more than forty percent of
13 the existing square footage of the existing property.

14 (iii) The scope of work involves expanding the square footage of more
15 than ten percent of the existing property.

16 (c) Project elements may not be artificially separated from a contract
17 to cause a project to qualify as an alteration. The department has the
18 burden of proof that project elements have been artificially separated from a
19 contract.

20 (d) If a project for which the owner and the person performing the
21 work reasonably believed, at the inception of the contract, would be treated
22 as an alteration under this paragraph and, on completion of the project, the
23 project exceeded the applicable threshold described in either subdivision (a)
24 or (b) of this paragraph by no more than twenty-five percent of the
25 applicable threshold for any reason, the work performed under the contract
26 qualifies as an alteration.

27 (e) A change order that directly relates to the scope of work of the
28 original contract shall be treated as part of the original contract, and the
29 contract amount shall include any amount attributable to a change order that
30 directly relates to the scope of work of the original contract.

31 (f) Alteration does not include maintenance, repair or replacement.

32 2. "Contracting" means engaging in business as a contractor.

33 3. "Contractor" is synonymous with the term "builder" and means any
34 person or organization that undertakes to or offers to undertake to, or
35 purports to have the capacity to undertake to, or submits a bid to, or does
36 personally or by or through others, modify any building, highway, road,
37 railroad, excavation, manufactured building or other structure, project,
38 development or improvement, or to do any part of such a project, including
39 the erection of scaffolding or other structure or works in connection with
40 such a project, and includes subcontractors and specialty contractors. For
41 all purposes of taxation or deduction, this definition shall govern without
42 regard to whether or not such contractor is acting in fulfillment of a
43 contract.

44 4. "Manufactured building" means a manufactured home, mobile home or
45 factory-built building, as defined in section 41-2142.

- 1 5. "Manufactured building dealer" means a dealer who either:
2 (a) Is licensed pursuant to title 41, chapter 16 and who sells
3 manufactured buildings to the final consumer.
4 (b) Supervises, performs or coordinates the excavation and completion
5 of site improvements or the setup or moving of a manufactured building
6 including the contracting, if any, with any subcontractor or specialty
7 contractor for the completion of the contract.
- 8 6. "Modification" means construction, grading and leveling ground,
9 wreckage or demolition. Modification does not include:
10 (a) Any project described in subsection 0 of this section.
11 (b) Any wreckage or demolition of existing property, or any other
12 activity that is a necessary component of a project described in subsection 0
13 of this section.
14 (c) Any mobilization or demobilization related to a project described
15 in subsection 0 of this section, such as the erection or removal of temporary
16 facilities to be used by those persons working on the project.
- 17 7. "Modify" means to make a modification or cause a modification to be
18 made.
- 19 8. "Owner" means the person that holds title to the real property or
20 improvements to real property that is the subject of the work, as well as an
21 agent of the title holder and any person with the authority to perform or
22 authorize work on the real property or improvements, including a tenant and a
23 property manager. For the purposes of subsection 0 of this section, a person
24 who is hired by a general contractor that is hired by an owner, or a
25 subcontractor of a general contractor that is hired by an owner, is
26 considered to be hired by the owner.
- 27 9. "Prime contracting" means engaging in business as a prime
28 contractor.
- 29 10. "Prime contractor" means a contractor who supervises, performs or
30 coordinates the modification of any building, highway, road, railroad,
31 excavation, manufactured building or other structure, project, development or
32 improvement including the contracting, if any, with any subcontractors or
33 specialty contractors and who is responsible for the completion of the
34 contract. Except as provided in subsections E and Q of this section, a
35 person who owns real property, who engages one or more contractors to modify
36 that real property and who does not itself modify that real property is not a
37 prime contractor within the meaning of this paragraph regardless of the
38 existence of a contract for sale or the subsequent sale of that real
39 property.
- 40 11. "Replacement" means the removal of one component or system of
41 existing property or tangible personal property installed in existing
42 property, including machinery or equipment, and the installation of a new
43 component or system or new tangible personal property, including machinery or
44 equipment, that provides the same or upgraded design or functionality,
45 regardless of the contract amount.

1 12. "Sale of a used manufactured building" does not include a lease of
2 a used manufactured building.

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

5 42-5159. Exemptions

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

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

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

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

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

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

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

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

44 8. Livestock, poultry, supplies, feed, salts, vitamins and other
45 additives for use or consumption in the businesses of farming, ranching and

1 feeding livestock or poultry, not including fertilizers, herbicides and
2 insecticides. For the purposes of this paragraph, "poultry" includes
3 ratites.

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

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

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

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

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

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

20 13. Tangible personal property purchased by:

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

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

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

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

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

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

44 (g) A person that is subject to tax under this chapter by reason of
45 being engaged in business classified under section 42-5075, or a

1 subcontractor working under the control of a person that is engaged in
2 business classified under section 42-5075, if the tangible personal property
3 is any of the following:

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

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

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

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

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

19 (j) A qualifying community health center as defined in section
20 42-5001.

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

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

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

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

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

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

1 rules of a commodity market regulated by the United States commodity futures
2 trading commission.

3 15. Tangible personal property sold by:

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

7 (b) A nonprofit organization that is exempt from taxation under
8 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
9 organization is associated with a major league baseball team or a national
10 touring professional golfing association and no part of the organization's
11 net earnings inures to the benefit of any private shareholder or individual.

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

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

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

24 18. Prescription eyeglasses and contact lenses.

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

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

27 21. Durable medical equipment that has a centers for medicare and
28 medicaid services common procedure code, is designated reimbursable by
29 medicare, is prescribed by a person who is licensed under title 32, chapter
30 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
31 used to serve a medical purpose, is generally not useful to a person in the
32 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

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

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

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

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

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

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

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

30 (b) Public educational institutions.

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

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

36 34. Machinery, equipment, technology or related supplies that are only
37 useful to assist a person with a physical disability as defined in section
38 46-191 or a person who has a developmental disability as defined in section
39 36-551 or has a head injury as defined in section 41-3201 to be more
40 independent and functional.

41 35. Liquid, solid or gaseous chemicals used in manufacturing,
42 processing, fabricating, mining, refining, metallurgical operations, research
43 and development and, beginning on January 1, 1999, printing, if using or
44 consuming the chemicals, alone or as part of an integrated system of
45 chemicals, involves direct contact with the materials from which the product

1 is produced for the purpose of causing or permitting a chemical or physical
2 change to occur in the materials as part of the production process. This
3 paragraph does not include chemicals that are used or consumed in activities
4 such as packaging, storage or transportation but does not affect any
5 exemption for such chemicals that is otherwise provided by this section. For
6 the purposes of this paragraph, "printing" means a commercial printing
7 operation and includes job printing, engraving, embossing, copying and
8 bookbinding.

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

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

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

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

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

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

43 40. Through December 31, 1994, tangible personal property sold pursuant
44 to a personal property liquidation transaction, as defined in section
45 42-5061. From and after December 31, 1994, tangible personal property sold

1 pursuant to a personal property liquidation transaction, as defined in
2 section 42-5061, if the gross proceeds of the sales were included in the
3 measure of the tax imposed by article 1 of this chapter or if the personal
4 property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

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

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

42 49. Prepared food, drink or condiment donated by a restaurant as
43 classified in section 42-5074, subsection A to a nonprofit charitable
44 organization that has qualified under section 501(c)(3) of the internal

1 revenue code and that regularly serves meals to the needy and indigent on a
2 continuing basis at no cost.

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

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

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

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

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

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

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

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

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

42 (b) The title or possession of the coal is transferred back to the
43 owner or operator of the power plant after completion of the coal refining
44 process. For the purposes of this subdivision, "coal refining process" means

1 the application of a coal additive system that aids the reduction of power
2 plant emissions during the combustion of coal and the treatment of flue gas.

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

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

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

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

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

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

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

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

43 4. Machinery, equipment or transmission lines used directly in
44 producing or transmitting electrical power, but not including distribution.

1 Transformers and control equipment used at transmission substation sites
2 constitute equipment used in producing or transmitting electrical power.

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

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

10 7. Aircraft, navigational and communication instruments and other
11 accessories and related equipment sold to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 16. Clean rooms that are used for manufacturing, processing,
40 fabrication or research and development, as defined in paragraph 14 of this
41 subsection, of semiconductor products. For the purposes of this paragraph,
42 "clean room" means all property that comprises or creates an environment
43 where humidity, temperature, particulate matter and contamination are
44 precisely controlled within specified parameters, without regard to whether

1 the property is actually contained within that environment or whether any of
2 the property is affixed to or incorporated into real property. Clean room:

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

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

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

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

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

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

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

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

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

44 21. Qualifying equipment that is purchased from and after June 30, 2004
45 through June 30, 2024 by a qualified business under section 41-1516 for

1 harvesting or processing qualifying forest products removed from qualifying
2 projects as defined in section 41-1516. To qualify for this exemption, the
3 qualified business must obtain and present its certification from the Arizona
4 commerce authority at the time of purchase.

5 C. The exemptions provided by subsection B of this section do not
6 include:

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

11 2. Janitorial equipment and hand tools.

12 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

27 1. Revenues received from sales of ancillary services, electric
28 distribution services, electric generation services, electric transmission
29 services and other services related to providing electricity to a retail
30 electric customer who is located outside this state for use outside this
31 state if the electricity is delivered to a point of sale outside this state.

32 2. Revenues received from providing electricity, including ancillary
33 services, electric distribution services, electric generation services,
34 electric transmission services and other services related to providing
35 electricity with respect to which the transaction privilege tax imposed under
36 section 42-5063 has been paid.

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

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

42 1. Fees charged by a municipally owned utility to persons constructing
43 residential, commercial or industrial developments or connecting residential,
44 commercial or industrial developments to a municipal utility system or

1 systems if the fees are segregated and used only for capital expansion,
2 system enlargement or debt service of the utility system or systems.

3 2. Reimbursement or contribution compensation to any person or persons
4 owning a utility system for property and equipment installed to provide
5 utility access to, on or across the land of an actual utility consumer if the
6 property and equipment become the property of the utility. This deduction
7 shall not exceed the value of such property and equipment.

8 G. The tax levied by this article does not apply to the purchase price
9 of electricity or natural gas by a business that is principally engaged in
10 manufacturing or smelting operations and that uses at least fifty-one percent
11 of the electricity or natural gas in the manufacturing or smelting
12 operations. This subsection does not apply to gas transportation
13 services. For the purposes of this subsection:

14 1. "Gas transportation services" means the services of transporting
15 natural gas to a natural gas customer or to a natural gas distribution
16 facility if the natural gas was purchased from a supplier other than the
17 utility.

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

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

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

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

29 1. "Aircraft" includes:

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

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

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

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

43 Sec. 13. Section 42-12057, Arizona Revised Statutes, is amended to
44 read:

45 42-12057. Criteria for renewable energy property

1 A. To qualify for the classification as class six pursuant to section
2 42-12006, paragraph ~~9~~ 8, the owner of a manufacturing facility or
3 headquarters facility must be certified pursuant to section 41-1511,
4 subsection C and must provide documentation to the county assessor each year
5 that the facility is primarily dedicated to renewable energy manufacturing or
6 regional, national or global renewable energy business headquarters
7 operations.

8 B. For the purposes of this section, renewable energy operations are
9 limited to manufacturers of, and headquarters for, systems and components
10 that are used or useful in manufacturing renewable energy equipment for the
11 generation, storage, testing and research and development, transmission or
12 distribution of electricity from renewable resources, including specialized
13 crates necessary to package the renewable energy equipment manufactured at
14 the facility.

15 Sec. 14. Section 42-13304, Arizona Revised Statutes, is amended to
16 read:

17 42-13304. Exemptions from limitation

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

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

22 2. Property included in property class one under section 42-12001,
23 paragraphs 1 through 7, ~~and~~ 11 AND 14. The full cash value of that property
24 shall be used for all purposes in lieu of limited property value.

25 Sec. 15. Section 42-14159, Arizona Revised Statutes, is amended to
26 read:

27 42-14159. Computing valuation of distribution cooperatives:
28 standard market value factor; definitions

29 A. The department shall determine the valuation of the electric
30 distribution and transmission property of a distribution cooperative as
31 defined in section 42-14154 that is operating in this state as follows:

32 1. Compute the value of the property pursuant to section 42-14154,
33 subsection B.

34 2. Multiply the value computed under paragraph 1 of this subsection by
35 the standard market value factor determined under subsection E of this
36 section.

37 B. The value of construction work in progress is fifty per cent of the
38 amount spent and entered on the taxpayer's accounting records as of December
39 31 of the preceding calendar year as construction work in progress.

40 C. The value of materials and supplies is the total cost of this
41 property as of December 31 of the preceding calendar year.

42 D. The value of environmental protection facilities that are required
43 by law is fifty per cent of the depreciated cost of the facilities.

44 E. The standard market value factor shall be determined as follows:

1 1. Using the most recent publicly available data obtained from annual
2 reports produced by the federal energy regulatory commission **OR THE PUBLICLY**
3 **AVAILABLE DATA FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON FORM 10-K**
4 for each investor-owned electric utility operating in this state, calculate
5 the following standard factors for each investor-owned electric utility:

6 (a) Megawatt hours sold to ultimate customers per ultimate customer.

7 (b) Megawatt hours sold to ultimate customers per net dollar invested
8 in distribution plant.

9 (c) Megawatt hours sold to ultimate customers per dollar of operating
10 and maintenance expense.

11 (d) Megawatt hours sold to ultimate customers per dollar of
12 distribution operating and maintenance expense.

13 (e) The number of ultimate customers per net dollar invested in
14 distribution plant.

15 (f) The number of ultimate customers per mile of distribution line.

16 2. Determine the average of each of the six standard factors under
17 paragraph 1 of this subsection for the investor-owned electric utilities
18 operating in this state as follows:

19 (a) For each factor, add the values obtained for that factor for all
20 investor-owned electric utilities operating in this state.

21 (b) Divide the sum obtained under subdivision (a) of this paragraph
22 for each factor by the number of investor-owned electric utilities operating
23 in this state that were included in the calculation under subdivision (a) of
24 this paragraph for that factor.

25 3. Using information obtained from the most recent report filed with
26 the department under section 42-14152, calculate each of the standard factors
27 under paragraph 1 of this subsection for the distribution cooperative.

28 4. Divide each of the six standard factors for the distribution
29 cooperative calculated under paragraph 3 of this subsection by the
30 corresponding average standard factors calculated under paragraph 2 of this
31 subsection.

32 5. Add the six ratios calculated pursuant to paragraph 4 of this
33 subsection, and divide that sum by six. The quotient is the standard market
34 value factor.

35 F. For the purposes of this section:

36 1. "Distribution line" means a line that is capable of transporting
37 voltage of 69,000 volts or less and that is employed between the primary
38 source of power supply and delivery to a customer.

39 2. "Distribution plant" means all property that is situated in this
40 state and that is used or useful for the distribution of electric power
41 except land rights, materials and supplies, and licensed vehicles.

42 3. "Investor-owned electric utility" means a business organization
43 that provides electric power production and distribution, is regarded as a
44 utility and is managed as a private enterprise rather than a function of a
45 government or as a utility cooperative.

1 Sec. 16. Section 43-1098, Arizona Revised Statutes, is amended to
2 read:

3 43-1098. Apportionment of exemptions

4 A. Any resident taxpayer, other than an active member of the armed
5 forces of the United States or any other auxiliary branch, who commences or
6 terminates his residency in this state during any one taxable year shall
7 prorate the following on the basis of the proportion which such taxpayer's
8 total Arizona gross income bears to the federal adjusted gross income:

9 1. The personal exemption provided in section 43-1043.

10 2. The exemptions provided in section 43-1023 for the blind, for
11 persons age sixty-five or older and for dependents.

12 B. The percentage of exemption allowed shall be computed by dividing
13 the taxpayer's Arizona ~~adjusted~~ gross income by the federal adjusted gross
14 income.

APPROVED BY THE GOVERNOR APRIL 9, 2015.

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