

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2267

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 42-5008.01, Arizona Revised Statutes, is amended  
3 to read:

4 42-5008.01. Liability for amounts equal to retail transaction  
5 privilege tax due

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

16 ~~1. The amount of liability shall be calculated and reported based on~~  
17 ~~the location of the project and the taxes imposed under this chapter and~~  
18 ~~chapter 6 of this title.~~

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

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

26 ~~4. The amount of liability shall be reported within the reporting~~  
27 ~~period that includes the month in which the person incorporates or fabricates~~  
28 ~~the tangible personal property into the project.~~

29 ~~5. The person is not liable for the amount if the contractor who hired~~  
30 ~~the person executes and provides to the person a certificate stating that the~~  
31 ~~contractor providing the certificate is liable for any amount due under this~~  
32 ~~subsection. The department shall prescribe the form of the certificate. If~~  
33 ~~the person has reason to believe that the information contained on the~~  
34 ~~certificate is erroneous or incomplete, the department may disregard the~~  
35 ~~certificate. The contractor providing the certificate is liable for the~~  
36 ~~amount that otherwise would be due from the person under this subsection.~~

37 ~~B. A. A person that purchased tangible personal property, the~~  
38 ~~purchase price of which was excluded from the tax base under section 42-5061,~~

1 subsection A, paragraph 27 or was excluded from the use tax under section  
2 42-5159, subsection A, paragraph 13, subdivision (g) at the time of purchase,  
3 that subsequently cancels its transaction privilege tax license and that  
4 uses, consumes, sells or discards the tangible personal property is liable  
5 for an amount of tax determined under this subsection. For the purposes of  
6 this subsection:

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

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

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

21 4. The amount of liability shall be reported on or before the business  
22 day preceding the last business day of the month following the month in which  
23 the person uses the tangible personal property in a manner described in  
24 paragraph 1 or 2 of this subsection. No amount is due under this subsection  
25 at any time that the person stores the tangible personal property without  
26 using it in a manner described in paragraph 1 or 2 of this subsection.

27 ~~5. All deductions, exemptions and exclusions for the cost of tangible~~  
28 ~~personal property provided in section 42-5075 apply to the tangible personal~~  
29 ~~property incorporated or fabricated into a project described in section~~  
30 ~~42-5075, subsection 0.~~

31 ~~6.~~ 5. This subsection does not apply to tangible personal property  
32 that is incorporated or fabricated into any project under a contract that  
33 would otherwise be excluded from the tax base under section 42-5075, ~~without~~  
34 ~~regard to section 42-5075, subsection 0.~~

35 ~~7. The person is not liable for the amount if the contractor who hired~~  
36 ~~the person executes and provides to the person a certificate stating that the~~  
37 ~~contractor providing the certificate is liable for any amount due under this~~  
38 ~~subsection for tangible personal property incorporated or fabricated into a~~  
39 ~~project described in section 42-5075, subsection 0. The department shall~~  
40 ~~prescribe the form of the certificate. If the person has reason to believe~~  
41 ~~that the information contained on the certificate is erroneous or incomplete,~~  
42 ~~the department may disregard the certificate. The contractor providing the~~  
43 ~~certificate is liable for the amount that otherwise would be due from the~~  
44 ~~person under this subsection.~~

45 ~~C.~~ B. A person that fails to report or pay any amount due under  
46 ~~subsection A or B of~~ this section is liable for interest in a manner  
47 consistent with section 42-1123 and penalties in a manner consistent with  
48 section 42-1125.

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

Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:  
42-5061. Retail classification; definitions

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

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

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

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

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

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

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

7. The sale of stocks and bonds.

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

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

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

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

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

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

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

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

11           17. Textbooks by any bookstore that are required by any state  
12 university or community college.

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

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

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

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

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

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

44           (ii) Prepaid calling cards or prepaid authorization numbers for  
45 telecommunications services made taxable by subsection P of this section.

46           (b) "Monetized bullion" means coins and other forms of money that are  
47 manufactured from gold, silver or other metals and that have been or are used

1 as a medium of exchange in this or another state, the United States or a  
2 foreign nation.

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

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

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

15 24. Tangible personal property sold in interstate or foreign commerce  
16 if prohibited from being so taxed by the constitution of the United States or  
17 the constitution of this state.

18 25. Tangible personal property sold to:

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

20 (b) A qualifying health care organization as defined in section  
21 42-5001 if the tangible personal property is used by the organization solely  
22 to provide health and medical related educational and charitable services.

23 (c) A qualifying health care organization as defined in section  
24 42-5001 if the organization is dedicated to providing educational,  
25 therapeutic, rehabilitative and family medical education training for blind  
26 and visually impaired children and children with multiple disabilities from  
27 the time of birth to age twenty-one.

28 (d) A qualifying community health center as defined in section  
29 42-5001.

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

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

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

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

47 26. Magazines or other periodicals or other publications by this state  
48 to encourage tourist travel.

1           27. Tangible personal property sold to:

2           (a) A person that is subject to tax under this article by reason of  
3 being engaged in business classified under section 42-5075 or to a  
4 subcontractor working under the control of a person engaged in business  
5 classified under section 42-5075, if the property so sold is any of the  
6 following:

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

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

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

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

18           28. The sale of a motor vehicle to:

19           (a) A nonresident of this state if the purchaser's state of residence  
20 does not allow a corresponding use tax exemption to the tax imposed by  
21 article 1 of this chapter and if the nonresident has secured a special ninety  
22 day nonresident registration permit for the vehicle as prescribed by sections  
23 28-2154 and 28-2154.01.

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

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

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

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

43           32. Sales of tangible personal property by a nonprofit organization  
44 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
45 501(c)(7) or 501(c)(8) of the internal revenue code if the organization  
46 sponsors or operates a rodeo featuring primarily farm and ranch animals and  
47 no part of the organization's net earnings inures to the benefit of any  
48 private shareholder or individual.

1           33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
2 propagative material to persons who use those items to commercially produce  
3 agricultural, horticultural, viticultural or floricultural crops in this  
4 state.

5           34. Machinery, equipment, technology or related supplies that are only  
6 useful to assist a person with a physical disability as defined in section  
7 46-191 or a person who has a developmental disability as defined in section  
8 36-551 or has a head injury as defined in section 41-3201 to be more  
9 independent and functional.

10           35. Sales of natural gas or liquefied petroleum gas used to propel a  
11 motor vehicle.

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

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

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

45           (a) "Personal property liquidation transaction" means a sale of  
46 personal property made by a personal property liquidator acting solely on  
47 behalf of the owner of the personal property sold at the dwelling of the  
48 owner or on the death of any owner, on behalf of the surviving spouse, if

1 any, any devisee or heir or the personal representative of the estate of the  
2 deceased, if one has been appointed.

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

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

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

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

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

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

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

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

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

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

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

43 48. Tangible personal property sold to a commercial airline and  
44 consisting of food, beverages and condiments and accessories used for serving  
45 the food and beverages, if those items are to be provided without additional  
46 charge to passengers for consumption in flight. For the purposes of this  
47 paragraph, "commercial airline" means a person holding a federal certificate  
48 of public convenience and necessity or foreign air carrier permit for air

1 transportation to transport persons, property or United States mail in  
2 intrastate, interstate or foreign commerce.

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

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

11 51. Sales of tangible personal property to be incorporated or installed  
12 as part of environmental response or remediation activities under section  
13 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

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

43 57. Computer data center equipment purchased by the owner, operator or  
44 qualified colocation tenant of the computer data center or an authorized  
45 agent of the owner, operator or qualified colocation tenant during the  
46 qualification period for use in a computer data center that is certified by  
47 the Arizona commerce authority under section 41-1519. To qualify for this  
48 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 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 ~~59. Sales of tangible personal property incorporated or fabricated into  
10 a project described in section 42-5075, subsection 0, that is located within  
11 the exterior boundaries of an Indian reservation for which the owner, as  
12 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  
46 equipment, switchboards, private branch exchange equipment, microwave radio  
47 equipment and carrier equipment including optical fiber, coaxial cable and  
48 other transmission media that are components of carrier systems.

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

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

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

12           7. Aircraft, navigational and communication instruments and other  
13 accessories and related equipment sold to:

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

20           (b) Any foreign government.

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

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

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

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

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

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

45           13. New machinery and equipment consisting of tractors, tractor-drawn  
46 implements, self-powered implements, machinery and equipment necessary for  
47 extracting milk, and machinery and equipment necessary for cooling milk and  
48 livestock, and drip irrigation lines not already exempt under paragraph 6 of

1 this subsection and that are used for commercial production of agricultural,  
2 horticultural, viticultural and floricultural crops and products in this  
3 state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

42 16. Clean rooms that are used for manufacturing, processing,  
43 fabrication or research and development, as defined in paragraph 14 of this  
44 subsection, of semiconductor products. For the purposes of this paragraph,  
45 "clean room" means all property that comprises or creates an environment  
46 where humidity, temperature, particulate matter and contamination are  
47 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 used directly in the feeding of poultry,  
12 the environmental control of housing for poultry, the movement of eggs within  
13 a production and packaging facility or the sorting or cooling of eggs. This  
14 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 sold to a person engaged in the  
26 commercial production of livestock, livestock products or agricultural,  
27 horticultural, viticultural or floricultural crops or products in this state,  
28 ~~including a person representing or working on behalf of such a person in a~~  
29 ~~manner described in section 42-5075, subsection 0,~~ if the machinery and  
30 equipment are used directly and primarily to prevent, monitor, control or  
31 reduce air, water or land pollution.

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

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

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

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

46 21. Qualifying equipment that is purchased from and after June 30, 2004  
47 through June 30, 2024 by a qualified business under section 41-1516 for  
48 harvesting or processing qualifying forest products removed from qualifying

1 projects as defined in section 41-1516. To qualify for this deduction, the  
2 qualified business at the time of purchase must present its certification  
3 approved by the department.

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

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

10 2. Janitorial equipment and hand tools.

11 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

42 G. If a person is engaged in the business of selling tangible personal  
43 property at both wholesale and retail, the tax under this section applies  
44 only to the gross proceeds of the sales made other than at wholesale if the  
45 person's books are kept so as to show separately the gross proceeds of sales  
46 of each class, and if the books are not so kept, the tax under this section  
47 applies to the gross proceeds of every sale so made.

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

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

18 I. The gross proceeds of sales or gross income derived from the  
19 following shall be deducted from the tax base for the retail classification:

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

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

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

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

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

46 L. In computing the tax base, gross proceeds of sales or gross income  
47 does not include:

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

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

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

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

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

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

25           Q. For the purposes of this section, the diversion of gas from a  
26 pipeline by a person engaged in the business of:

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

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

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

37           1. The transfer of title or possession of the coal is for the purpose  
38 of refining the coal.

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

45           S. If a seller is entitled to a deduction pursuant to subsection B,  
46 paragraph 15, subdivision (b) of this section, the department may require the  
47 purchaser to establish that the requirements of subsection B, paragraph 15,  
48 subdivision (b) of this section have been satisfied. If the purchaser cannot

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

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

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

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

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

32 V. For the purposes of this section:

33 1. "Aircraft" includes:

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

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

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

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

48 W. For the purposes of subsection I of this section:



1 manufactured building or the setup site. The sale of such items may be  
2 subject to the taxes imposed by article 1 of this chapter separately and  
3 distinctly from the sale of the manufactured building.

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

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

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

33 (a) Actions to monitor, assess and evaluate such a release or a  
34 suspected release.

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

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

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

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

47 This paragraph does not include asbestos removal or the construction or use  
48 of ancillary structures such as maintenance sheds, offices or storage

1 facilities for unattached equipment, pollution control equipment, facilities  
2 or other control items required or to be used by a person to prevent or  
3 control contamination before it reaches the environment.

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

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

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

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

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

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

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

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

36 (i) Assembling the machinery, equipment or other tangible personal  
37 property.

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

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

43 (iv) Stabilizing or protecting the machinery, equipment or other  
44 tangible personal property during operation by bolting, burying or performing  
45 other similar nonpermanent connections to either real property or real  
46 property improvements.

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

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

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

6           (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),  
7 (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.

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

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

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

21           11. The gross proceeds of sales or gross income that is derived from  
22 the installation, assembly, repair or maintenance of clean rooms that are  
23 deducted from the tax base of the retail classification pursuant to section  
24 42-5061, subsection B, paragraph 16.

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

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

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

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

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

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

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

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

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

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

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

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

38           (a) "Mixed waste processing facility" means a solid waste facility  
39 that is owned, operated or used for the treatment, processing or disposal of  
40 solid waste, recyclable solid waste, conditionally exempt small quantity  
41 generator waste or household hazardous waste. For the purposes of  
42 this subdivision, "conditionally exempt small quantity generator waste",  
43 "household hazardous waste" and "solid waste facility" have the same meanings  
44 prescribed in section 49-701, except that solid waste facility does include a  
45 site that stores, treats or processes paper, glass, wood, cardboard,  
46 household textiles, scrap metal, plastic, vegetative waste, aluminum, steel  
47 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  
45 as tax revenues collected from the prime contractor in order to designate the  
46 distribution base for purposes of section 42-5029.

47 D. Subcontractors or others who perform modification activities are  
48 not subject to tax if they can demonstrate that the job was within the

1 control of a prime contractor or contractors or a dealership of manufactured  
2 buildings and that the prime contractor or dealership is liable for the tax  
3 on the gross income, gross proceeds of sales or gross receipts attributable  
4 to the job and from which the subcontractors or others were paid.

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

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

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

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

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

46 J. ~~Except as provided in subsection 0 of this section,~~ The gross  
47 proceeds of sales or gross income derived from landscaping activities are  
48 subject to tax under this section. Landscaping includes installing lawns,

1 grading or leveling ground, installing gravel or boulders, planting trees and  
2 other plants, felling trees, removing or mulching tree stumps, removing other  
3 imbedded plants, building OR MODIFYING irrigation berms, REPAIRING SPRINKLER  
4 OR WATERING SYSTEMS, installing railroad ties and installing underground  
5 sprinkler or watering systems.

6 K. The portion of gross proceeds of sales or gross income attributable  
7 to the actual direct costs of providing architectural or engineering services  
8 that are incorporated in a contract is not subject to tax under this section.  
9 For the purposes of this subsection, "direct costs" means the portion of the  
10 actual costs that are directly expended in providing architectural or  
11 engineering services.

12 L. Operating a landfill or a solid waste disposal facility is not  
13 subject to taxation under this section, including filling, compacting and  
14 creating vehicle access to and from cell sites within the landfill.  
15 Constructing roads to a landfill or solid waste disposal facility and  
16 constructing cells within a landfill or solid waste disposal facility may be  
17 deemed prime contracting under this section.

18 M. The following apply in determining the taxable situs of sales of  
19 manufactured buildings:

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

23 2. For sales in this state where the manufactured building dealer does  
24 not contract to deliver the building to a setup site or does not perform the  
25 setup, the taxable situs is the location of the dealership where the building  
26 is delivered to the buyer.

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

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

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

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

46 (b) Administration or supervision of any modification performed  
47 pursuant to a punch list. For the purposes of this subdivision, "punch list"

1 means minor items of modification work performed after substantial completion  
2 and before final completion of the project.

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

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

9 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
10 price as set in the contract for modification work. For the purposes of this  
11 item, "guaranteed maximum price" means the amount guaranteed to be the  
12 maximum amount due to a prime contractor for the performance of all  
13 modification work for the project.

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

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

21 (e) Inspection to determine the dates of substantial completion or  
22 final completion.

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

29 (g) Preparation of status reports after modification work has begun  
30 detailing the progress of work performed, including preparation of any of the  
31 following:

32 (i) Master schedule updates.

33 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

46 2. "Design phase services" means services for developing and  
47 completing a design for a project that are not construction phase services,  
48 including the following:

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

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

7 (c) Preparing drawings and specifications for architectural program  
8 documents, schematic design documents, design development documents,  
9 modification work documents or documents that identify the scope of or  
10 materials for the project.

11 (d) Preparing an initial schedule for the project, excluding the  
12 preparation of updates to the master schedule after modification work has  
13 begun.

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

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

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

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

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

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

30 (vi) Any bond and insurance premiums.

31 (vii) Any applicable taxes.

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

34 (f) Reviewing and evaluating cost estimates and project documents to  
35 prepare recommendations on site use, site improvements, selection of  
36 materials, building systems and equipment, modification feasibility,  
37 availability of materials and labor, local modification activity as related  
38 to schedules and time requirements for modification work.

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

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

46 ~~0. The gross proceeds of sales or gross income derived from a contract~~  
47 ~~with the owner of real property or improvements to real property for the~~  
48 ~~maintenance, repair, replacement or alteration of existing property is not~~

1 ~~subject to tax under this section if the contract does not include~~  
2 ~~modification activities, except as specified in this subsection. The gross~~  
3 ~~proceeds of sales or gross income derived from a de minimis amount of~~  
4 ~~modification activity does not subject the contract or any part of the~~  
5 ~~contract to tax under this section. For the purposes of this subsection:~~

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

9 ~~2. Each contract is independent of any other contract, except that any~~  
10 ~~change order that directly relates to the scope of work of the original~~  
11 ~~contract shall be treated the same as the original contract under this~~  
12 ~~chapter, regardless of the amount of modification activities included in the~~  
13 ~~change order. If a change order does not directly relate to the scope of~~  
14 ~~work of the original contract, the change order shall be treated as a new~~  
15 ~~contract, with the tax treatment of any subsequent change order to follow the~~  
16 ~~tax treatment of the contract to which the scope of work of the subsequent~~  
17 ~~change order directly relates.~~

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

26 ~~1. Community facilities districts, fire districts, county television~~  
27 ~~improvement districts, community park maintenance districts, cotton pest~~  
28 ~~control districts, hospital districts, pest abatement districts, health~~  
29 ~~service districts, agricultural improvement districts, county free library~~  
30 ~~districts, county jail districts, county stadium districts, special health~~  
31 ~~care districts, public health services districts, theme park districts,~~  
32 ~~regional attraction districts or revitalization districts.~~

33 ~~2. Any special taxing district not specified in paragraph 1 of this~~  
34 ~~subsection if the district does not substantially engage in the modification,~~  
35 ~~maintenance, repair, replacement or alteration of surface or subsurface~~  
36 ~~improvements to land.~~

37 ~~Q. O.~~ ~~Notwithstanding subsection R- P,~~ ~~paragraph 10 9~~ of this  
38 section, a person owning real property who enters into a contract for sale of  
39 the real property, who is responsible to the new owner of the property for  
40 modifications made to the property in the period subsequent to the transfer  
41 of title and who receives a consideration for the modifications is considered  
42 a prime contractor solely for purposes of taxing the gross proceeds of sale  
43 or gross income received for the modifications made subsequent to the  
44 transfer of title. The original owner's gross proceeds of sale or gross  
45 income received for the modifications shall be determined according to the  
46 following methodology:

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

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

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

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

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

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

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

26 ~~(a) For existing property that is properly classified as class two~~  
27 ~~property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2,~~  
28 ~~subdivision (c) and that is used for residential purposes, class three~~  
29 ~~property under section 42-12003 or class four property under 42-12004, this~~  
30 ~~paragraph does not apply if the contract amount is more than twenty-five~~  
31 ~~percent of the most recent full cash value established under chapter 13,~~  
32 ~~article 2 of this title as of the date of any bid for the work or the date of~~  
33 ~~the contract, whichever value is higher.~~

34 ~~(b) For all existing property other than existing property described~~  
35 ~~in subdivision (a) of this paragraph, this paragraph does not apply if any of~~  
36 ~~the following is true:~~

37 ~~(i) The contract amount is more than seven hundred fifty thousand~~  
38 ~~dollars.~~

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

41 ~~(iii) The scope of work involves expanding the square footage of more~~  
42 ~~than ten percent of the existing property.~~

43 ~~(c) Project elements may not be artificially separated from a contract~~  
44 ~~to cause a project to qualify as an alteration. The department has the~~  
45 ~~burden of proof that project elements have been artificially separated from a~~  
46 ~~contract.~~

47 ~~(d) If a project for which the owner and the person performing the~~  
48 ~~work reasonably believed, at the inception of the contract, would be treated~~

1 ~~as an alteration under this paragraph and, on completion of the project, the~~  
2 ~~project exceeded the applicable threshold described in either subdivision (a)~~  
3 ~~or (b) of this paragraph by no more than twenty-five percent of the~~  
4 ~~applicable threshold for any reason, the work performed under the contract~~  
5 ~~qualifies as an alteration.~~

6 ~~(e) A change order that directly relates to the scope of work of the~~  
7 ~~original contract shall be treated as part of the original contract, and the~~  
8 ~~contract amount shall include any amount attributable to a change order that~~  
9 ~~directly relates to the scope of work of the original contract.~~

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

11 ~~2.~~ 1. "Contracting" means engaging in business as a contractor.

12 ~~3.~~ 2. "Contractor" is synonymous with the term "builder" and means  
13 any person or organization that undertakes to or offers to undertake to, or  
14 purports to have the capacity to undertake to, or submits a bid to, or does  
15 personally or by or through others, modify any building, highway, road,  
16 railroad, excavation, manufactured building or other structure, project,  
17 development or improvement, or to do any part of such a project, including  
18 the erection of scaffolding or other structure or works in connection with  
19 such a project, and includes subcontractors and specialty contractors. For  
20 all purposes of taxation or deduction, this definition shall govern without  
21 regard to whether or not such contractor is acting in fulfillment of a  
22 contract.

23 ~~4.~~ 3. "Manufactured building" means a manufactured home, mobile home  
24 or factory-built building, as defined in section 41-2142.

25 ~~5.~~ 4. "Manufactured building dealer" means a dealer who either:

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

28 (b) Supervises, performs or coordinates the excavation and completion  
29 of site improvements or the setup or moving of a manufactured building  
30 including the contracting, if any, with any subcontractor or specialty  
31 contractor for the completion of the contract.

32 ~~6.~~ 5. "Modification" means construction, ALTERATION, REPAIR, grading  
33 and leveling ground, wreckage or demolition. ~~Modification does not include:~~

34 ~~(a) Any project described in subsection 0 of this section.~~

35 ~~(b) Any wreckage or demolition of existing property, or any other~~  
36 ~~activity that is a necessary component of a project described in subsection 0~~  
37 ~~of this section.~~

38 ~~(c) Any mobilization or demobilization related to a project described~~  
39 ~~in subsection 0 of this section, such as the erection or removal of temporary~~  
40 ~~facilities to be used by those persons working on the project.~~

41 ~~7.~~ 6. "Modify" means to make a modification or cause a modification  
42 to be made.

43 ~~8.~~ 7. "Owner" means the person that holds title to the real property  
44 or improvements to real property that is the subject of the work, as well as  
45 an agent of the title holder and any person with the authority to perform or  
46 authorize work on the real property or improvements, including a tenant and a  
47 property manager. ~~For the purposes of subsection 0 of this section, a person~~  
48 ~~who is hired by a general contractor that is hired by an owner, or a~~

1 ~~subcontractor of a general contractor that is hired by an owner, is~~  
2 ~~considered to be hired by the owner.~~

3 ~~9.~~ 8. "Prime contracting" means engaging in business as a prime  
4 contractor.

5 ~~10.~~ 9. "Prime contractor" means a contractor who supervises, performs  
6 or coordinates the modification of any building, highway, road, railroad,  
7 excavation, manufactured building or other structure, project, development or  
8 improvement including the contracting, if any, with any subcontractors or  
9 specialty contractors and who is responsible for the completion of the  
10 contract. Except as provided in subsections E and Q of this section, a  
11 person who owns real property, who engages one or more contractors to modify  
12 that real property and who does not itself modify that real property is not a  
13 prime contractor within the meaning of this paragraph regardless of the  
14 existence of a contract for sale or the subsequent sale of that real  
15 property.

16 ~~11. "Replacement" means the removal from service of one component or~~  
17 ~~system of existing property or tangible personal property installed in~~  
18 ~~existing property, including machinery or equipment, and the installation of~~  
19 ~~a new component or system or new tangible personal property, including~~  
20 ~~machinery or equipment, that provides the same similar or upgraded design or~~  
21 ~~functionality, regardless of the contract amount and regardless of whether~~  
22 ~~the existing component or system or existing tangible personal property is~~  
23 ~~physically removed from the existing property.~~

24 ~~12.~~ 10. "Sale of a used manufactured building" does not include a  
25 lease of a used manufactured building.

26 Sec. 4. Section 42-5075, Arizona Revised Statutes, as amended by  
27 section 3 of this act, is amended to read:

28 42-5075. Prime contracting classification; exemptions;  
29 definitions

30 A. The prime contracting classification is comprised of the business  
31 of prime contracting and the business of manufactured building dealer. Sales  
32 for resale to another manufactured building dealer are not subject to  
33 tax. Sales for resale do not include sales to a lessor of manufactured  
34 buildings. The sale of a used manufactured building is not taxable under  
35 this chapter.

36 B. The tax base for the prime contracting classification is ~~fifty five~~  
37 SIXTY-FIVE percent of the gross proceeds of sales or gross income derived  
38 from the business. The following amounts shall be deducted from the gross  
39 proceeds of sales or gross income before computing the tax base:

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

42 2. Sales and installation of groundwater measuring devices required  
43 under section 45-604 and groundwater monitoring wells required by law,  
44 including monitoring wells installed for acquiring information for a permit  
45 required by law.

46 3. The sales price of furniture, furnishings, fixtures, appliances and  
47 attachments that are not incorporated as component parts of or attached to a  
48 manufactured building or the setup site. The sale of such items may be

1 subject to the taxes imposed by article 1 of this chapter separately and  
2 distinctly from the sale of the manufactured building.

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

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

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

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

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

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

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

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

46 This paragraph does not include asbestos removal or the construction or use  
47 of ancillary structures such as maintenance sheds, offices or storage  
48 facilities for unattached equipment, pollution control equipment, facilities

1 or other control items required or to be used by a person to prevent or  
2 control contamination before it reaches the environment.

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

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

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

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

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

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

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

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

35 (i) Assembling the machinery, equipment or other tangible personal  
36 property.

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

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

42 (iv) Stabilizing or protecting the machinery, equipment or other  
43 tangible personal property during operation by bolting, burying or performing  
44 other similar nonpermanent connections to either real property or real  
45 property improvements.

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

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

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

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

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

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

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

18 11. The gross proceeds of sales or gross income that is derived from  
19 the installation, assembly, repair or maintenance of clean rooms that are  
20 deducted from the tax base of the retail classification pursuant to section  
21 42-5061, subsection B, paragraph 16.

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

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

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

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

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

45 17. The gross proceeds of sales or gross income received from  
46 contracts entered into before July 1, 2006 for constructing a state  
47 university research infrastructure project if the project has been reviewed  
48 by the joint committee on capital review before the university enters into

1 the construction contract for the project. For the purposes of this  
2 paragraph, "research infrastructure" has the same meaning prescribed in  
3 section 15-1670.

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

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

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

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

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

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

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

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

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

1 (d) "Renewable energy" has the same meaning prescribed in section  
2 41-1511.

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

5 1. A prime contractor may establish entitlement to the deduction by  
6 both:

7 (a) Marking the invoice for the transaction to indicate that the gross  
8 proceeds of sales or gross income derived from the transaction was deducted  
9 from the base.

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

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

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

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

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

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

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

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

25 H. For the purposes of section 42-5032.02, from and after  
26 September 30, 2013, the department shall separately account for revenues  
27 reported and collected under the prime contracting classification from any  
28 prime contractor engaged in the construction of any buildings and associated  
29 improvements that are for the benefit of a manufacturing facility. For the  
30 purposes of this subsection, "associated improvements" and "manufacturing  
31 facility" have the same meanings prescribed in section 42-5032.02.

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

42 J. EXCEPT AS PROVIDED IN SUBSECTION O OF THIS SECTION, the gross  
43 proceeds of sales or gross income derived from landscaping activities are  
44 subject to tax under this section. Landscaping includes installing lawns,  
45 grading or leveling ground, installing gravel or boulders, planting trees and  
46 other plants, felling trees, removing or mulching tree stumps, removing other  
47 imbedded plants, building ~~or modifying~~ irrigation berms, ~~repairing sprinkler~~

1 ~~or watering systems~~, installing railroad ties and installing underground  
2 sprinkler or watering systems.

3 K. The portion of gross proceeds of sales or gross income attributable  
4 to the actual direct costs of providing architectural or engineering services  
5 that are incorporated in a contract is not subject to tax under this section.  
6 For the purposes of this subsection, "direct costs" means the portion of the  
7 actual costs that are directly expended in providing architectural or  
8 engineering services.

9 L. Operating a landfill or a solid waste disposal facility is not  
10 subject to taxation under this section, including filling, compacting and  
11 creating vehicle access to and from cell sites within the landfill.  
12 Constructing roads to a landfill or solid waste disposal facility and  
13 constructing cells within a landfill or solid waste disposal facility may be  
14 deemed prime contracting under this section.

15 M. The following apply in determining the taxable situs of sales of  
16 manufactured buildings:

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

20 2. For sales in this state where the manufactured building dealer does  
21 not contract to deliver the building to a setup site or does not perform the  
22 setup, the taxable situs is the location of the dealership where the building  
23 is delivered to the buyer.

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

27 N. The gross proceeds of sales or gross income attributable to a  
28 written contract for design phase services or professional services, executed  
29 before modification begins and with terms, conditions and pricing of all of  
30 these services separately stated in the contract from those for construction  
31 phase services, is not subject to tax under this section, regardless of  
32 whether the services are provided sequential to or concurrent with prime  
33 contracting activities that are subject to tax under this section. This  
34 subsection does not include the gross proceeds of sales or gross income  
35 attributable to construction phase services. For the purposes of this  
36 subsection:

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

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

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

47 (c) Administration or supervision of any modification performed  
48 pursuant to change orders. For the purposes of this subdivision, "change

1 order" means a written instrument issued after execution of a contract for  
2 modification work, providing for all of the following:

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

5 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
6 price as set in the contract for modification work. For the purposes of this  
7 item, "guaranteed maximum price" means the amount guaranteed to be the  
8 maximum amount due to a prime contractor for the performance of all  
9 modification work for the project.

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

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

17 (e) Inspection to determine the dates of substantial completion or  
18 final completion.

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

25 (g) Preparation of status reports after modification work has begun  
26 detailing the progress of work performed, including preparation of any of the  
27 following:

28 (i) Master schedule updates.

29 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

42 2. "Design phase services" means services for developing and  
43 completing a design for a project that are not construction phase services,  
44 including the following:

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

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

4 (c) Preparing drawings and specifications for architectural program  
5 documents, schematic design documents, design development documents,  
6 modification work documents or documents that identify the scope of or  
7 materials for the project.

8 (d) Preparing an initial schedule for the project, excluding the  
9 preparation of updates to the master schedule after modification work has  
10 begun.

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

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

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

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

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

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

27 (vi) Any bond and insurance premiums.

28 (vii) Any applicable taxes.

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

31 (f) Reviewing and evaluating cost estimates and project documents to  
32 prepare recommendations on site use, site improvements, selection of  
33 materials, building systems and equipment, modification feasibility,  
34 availability of materials and labor, local modification activity as related  
35 to schedules and time requirements for modification work.

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

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

43 0. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
44 WITH THE OWNER OF REAL PROPERTY OR IMPROVEMENTS TO REAL PROPERTY FOR THE  
45 MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF EXISTING PROPERTY IS NOT  
46 SUBJECT TO TAX UNDER THIS SECTION IF THE CONTRACT DOES NOT INCLUDE  
47 MODIFICATION ACTIVITIES, EXCEPT AS SPECIFIED IN THIS SUBSECTION. THE GROSS  
48 PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A DE MINIMIS AMOUNT OF

1 MODIFICATION ACTIVITY DOES NOT SUBJECT THE CONTRACT OR ANY PART OF THE  
2 CONTRACT TO TAX UNDER THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION:

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

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

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

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

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

34 ~~Q.~~ Q. Notwithstanding subsection ~~P~~ R, paragraph ~~9~~ 10 of this  
35 section, a person owning real property who enters into a contract for sale of  
36 the real property, who is responsible to the new owner of the property for  
37 modifications made to the property in the period subsequent to the transfer  
38 of title and who receives a consideration for the modifications is considered  
39 a prime contractor solely for purposes of taxing the gross proceeds of sale  
40 or gross income received for the modifications made subsequent to the  
41 transfer of title. The original owner's gross proceeds of sale or gross  
42 income received for the modifications shall be determined according to the  
43 following methodology:

44 1. If any part of the contract for sale of the property specifies  
45 amounts to be paid to the original owner for the modifications to be made in  
46 the period subsequent to the transfer of title, the amounts are included in  
47 the original owner's gross proceeds of sale or gross income under this  
48 section. Proceeds from the sale of the property that are received after

1 transfer of title and that are unrelated to the modifications made subsequent  
2 to the transfer of title are not considered gross proceeds of sale or gross  
3 income from the modifications.

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

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

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

20 ~~P.~~ R. For the purposes of this section:

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

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

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

34 (i) THE CONTRACT AMOUNT IS MORE THAN SEVEN HUNDRED FIFTY THOUSAND  
35 DOLLARS.

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

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

40 (c) PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A CONTRACT  
41 TO CAUSE A PROJECT TO QUALIFY AS AN ALTERATION. THE DEPARTMENT HAS THE  
42 BURDEN OF PROOF THAT PROJECT ELEMENTS HAVE BEEN ARTIFICIALLY SEPARATED FROM A  
43 CONTRACT.

44 (d) IF A PROJECT FOR WHICH THE OWNER AND THE PERSON PERFORMING THE  
45 WORK REASONABLY BELIEVED, AT THE INCEPTION OF THE CONTRACT, WOULD BE TREATED  
46 AS AN ALTERATION UNDER THIS PARAGRAPH AND, ON COMPLETION OF THE PROJECT, THE  
47 PROJECT EXCEEDED THE APPLICABLE THRESHOLD DESCRIBED IN EITHER SUBDIVISION (a)  
48 OR (b) OF THIS PARAGRAPH BY NO MORE THAN TWENTY-FIVE PERCENT OF THE

1 APPLICABLE THRESHOLD FOR ANY REASON, THE WORK PERFORMED UNDER THE CONTRACT  
2 QUALIFIES AS AN ALTERATION.

3 (e) A CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE  
4 ORIGINAL CONTRACT SHALL BE TREATED AS PART OF THE ORIGINAL CONTRACT, AND THE  
5 CONTRACT AMOUNT SHALL INCLUDE ANY AMOUNT ATTRIBUTABLE TO A CHANGE ORDER THAT  
6 DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT.

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

8 ~~1.~~ 2. "Contracting" means engaging in business as a contractor.

9 ~~2.~~ 3. "Contractor" is synonymous with the term "builder" and means  
10 any person or organization that undertakes to or offers to undertake to, or  
11 purports to have the capacity to undertake to, or submits a bid to, or does  
12 personally or by or through others, modify any building, highway, road,  
13 railroad, excavation, manufactured building or other structure, project,  
14 development or improvement, or to do any part of such a project, including  
15 the erection of scaffolding or other structure or works in connection with  
16 such a project, and includes subcontractors and specialty contractors. For  
17 all purposes of taxation or deduction, this definition shall govern without  
18 regard to whether or not such contractor is acting in fulfillment of a  
19 contract.

20 ~~3.~~ 4. "Manufactured building" means a manufactured home, mobile home  
21 or factory-built building, as defined in section 41-2142.

22 ~~4.~~ 5. "Manufactured building dealer" means a dealer who either:

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

25 (b) Supervises, performs or coordinates the excavation and completion  
26 of site improvements or the setup or moving of a manufactured building  
27 including the contracting, if any, with any subcontractor or specialty  
28 contractor for the completion of the contract.

29 ~~5.~~ 6. "Modification" means construction, ~~alteration, repair,~~ grading  
30 and leveling ground, wreckage or demolition. MODIFICATION DOES NOT INCLUDE:

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

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

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

38 ~~6.~~ 7. "Modify" means to make a modification or cause a modification  
39 to be made.

40 ~~7.~~ 8. "Owner" means the person that holds title to the real property  
41 or improvements to real property that is the subject of the work, as well as  
42 an agent of the title holder and any person with the authority to perform or  
43 authorize work on the real property or improvements, including a tenant and a  
44 property manager. FOR THE PURPOSES OF SUBSECTION O OF THIS SECTION, A PERSON  
45 WHO IS HIRED BY A GENERAL CONTRACTOR THAT IS HIRED BY AN OWNER, OR A  
46 SUBCONTRACTOR OF A GENERAL CONTRACTOR THAT IS HIRED BY AN OWNER, IS  
47 CONSIDERED TO BE HIRED BY THE OWNER.

1           ~~8.~~ 9. "Prime contracting" means engaging in business as a prime  
2 contractor.

3           ~~9.~~ 10. "Prime contractor" means a contractor who supervises, performs  
4 or coordinates the modification of any building, highway, road, railroad,  
5 excavation, manufactured building or other structure, project, development or  
6 improvement including the contracting, if any, with any subcontractors or  
7 specialty contractors and who is responsible for the completion of the  
8 contract. Except as provided in subsections E and Q of this section, a  
9 person who owns real property, who engages one or more contractors to modify  
10 that real property and who does not itself modify that real property is not a  
11 prime contractor within the meaning of this paragraph regardless of the  
12 existence of a contract for sale or the subsequent sale of that real  
13 property.

14           11. "REPLACEMENT" MEANS THE REMOVAL FROM SERVICE OF ONE COMPONENT OR  
15 SYSTEM OF EXISTING PROPERTY OR TANGIBLE PERSONAL PROPERTY INSTALLED IN  
16 EXISTING PROPERTY, INCLUDING MACHINERY OR EQUIPMENT, AND THE INSTALLATION OF  
17 A NEW COMPONENT OR SYSTEM OR NEW TANGIBLE PERSONAL PROPERTY, INCLUDING  
18 MACHINERY OR EQUIPMENT, THAT PROVIDES THE SAME, A SIMILAR OR UPGRADED DESIGN  
19 OR FUNCTIONALITY, REGARDLESS OF THE CONTRACT AMOUNT AND REGARDLESS OF WHETHER  
20 THE EXISTING COMPONENT OR SYSTEM OR EXISTING TANGIBLE PERSONAL PROPERTY IS  
21 PHYSICALLY REMOVED FROM THE EXISTING PROPERTY.

22           ~~10.~~ 12. "Sale of a used manufactured building" does not include a  
23 lease of a used manufactured building.

24           Sec. 5. Section 42-5159, Arizona Revised Statutes, is amended to read:

25           42-5159. Exemptions

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

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

32           2. Tangible personal property, the sale or use of which has already  
33 been subjected to an excise tax at a rate equal to or exceeding the tax  
34 imposed by this article under the laws of another state of the United States.  
35 If the excise tax imposed by the other state is at a rate less than the tax  
36 imposed by this article, the tax imposed by this article is reduced by the  
37 amount of the tax already imposed by the other state.

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

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

45           5. Motor vehicle fuel and use fuel, the sales, distribution or use of  
46 which in this state is subject to the tax imposed under title 28, chapter 16,  
47 article 1, use fuel that is sold to or used by a person holding a valid  
48 single trip use fuel tax permit issued under section 28-5739, aviation fuel,

1 the sales, distribution or use of which in this state is subject to the tax  
2 imposed under section 28-8344, and jet fuel, the sales, distribution or use  
3 of which in this state is subject to the tax imposed under article 8 of this  
4 chapter.

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

10 7. Purchases of implants used as growth promotants and injectable  
11 medicines, not already exempt under paragraph 16 of this subsection, for  
12 livestock and poultry owned by, or in possession of, persons who are engaged  
13 in 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 8. Livestock, poultry, supplies, feed, salts, vitamins and other  
17 additives for use or consumption in the businesses of farming, ranching and  
18 feeding livestock or poultry, not including fertilizers, herbicides and  
19 insecticides. For the purposes of this paragraph, "poultry" includes  
20 ratites.

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

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

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

32 12. Materials that are purchased by or for publicly funded libraries  
33 including school district libraries, charter school libraries, community  
34 college libraries, state university libraries or federal, state, county or  
35 municipal libraries for use by the public as follows:

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

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

38 13. Tangible personal property purchased by:

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

42 (b) A hospital operated by this state or a political subdivision of  
43 this state.

44 (c) A licensed nursing care institution or a licensed residential care  
45 institution or a residential care facility operated in conjunction with a  
46 licensed nursing care institution or a licensed kidney dialysis center, which  
47 provides medical services, nursing services or health related services and is  
48 not used or held for profit.

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

14 (g) A person that is subject to tax under this chapter by reason of  
15 being engaged in business classified under section 42-5075, or a  
16 subcontractor working under the control of a person that is engaged in  
17 business classified under section 42-5075, if the tangible personal property  
18 is any of the following:

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

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

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

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

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

34 (j) A qualifying community health center as defined in section  
35 42-5001.

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

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

44 (m) For taxable periods beginning from and after June 30, 2001, a  
45 nonprofit charitable organization that has qualified under section 501(c)(3)  
46 of the internal revenue code and that provides residential apartment housing  
47 for low income persons over sixty-two years of age in a facility that  
48 qualifies for a federal housing subsidy, if the tangible personal property is

1 used by the organization solely to provide residential apartment housing for  
2 low income persons over sixty-two years of age in a facility that qualifies  
3 for a federal housing subsidy.

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

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

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

15 15. Tangible personal property sold by:

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

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

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

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

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

36 18. Prescription eyeglasses and contact lenses.

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

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

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

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

47 23. Items purchased with United States department of agriculture food  
48 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.

1 958) or food instruments issued under section 17 of the child nutrition act  
2 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
3 section 1786).

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

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

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

15 27. Lottery tickets or shares purchased pursuant to title 5, chapter  
16 5.1, article 1.

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

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

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

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

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

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

39 (b) Public educational institutions.

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

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

45 34. Machinery, equipment, technology or related supplies that are only  
46 useful to assist a person with a physical disability as defined in section  
47 46-191 or a person who has a developmental disability as defined in section

1 36-551 or has a head injury as defined in section 41-3201 to be more  
2 independent and functional.

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

16 36. Food, drink and condiment purchased for consumption within the  
17 premises of any prison, jail or other institution under the jurisdiction of  
18 the state department of corrections, the department of public safety, the  
19 department of juvenile corrections or a county sheriff.

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

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

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

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

41 (b) "Subcontract" means an agreement between a contractor and any  
42 person who is not an employee of the contractor for furnishing of supplies or  
43 services that, in whole or in part, are necessary to the performance of one  
44 or more government contracts, or under which any portion of the contractor's  
45 obligation under one or more government contracts is performed, undertaken or  
46 assumed, and that includes provisions causing title to overhead materials or  
47 other tangible personal property used in the performance of the subcontract

1 to pass to the government or that includes provisions incorporating such  
2 title passing clauses in a government contract into the subcontract.

3 40. Through December 31, 1994, tangible personal property sold  
4 pursuant to a personal property liquidation transaction, as defined in  
5 section 42-5061. From and after December 31, 1994, tangible personal  
6 property sold pursuant to a personal property liquidation transaction, as  
7 defined in section 42-5061, if the gross proceeds of the sales were included  
8 in the measure of the tax imposed by article 1 of this chapter or if the  
9 personal property liquidation was a casual activity or transaction.

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

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

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

24 44. Alternative fuel vehicles if the vehicle was manufactured as a  
25 diesel fuel vehicle and converted to operate on alternative fuel and  
26 equipment that is installed in a conventional diesel fuel motor vehicle to  
27 convert the vehicle to operate on an alternative fuel, as defined in section  
28 1-215.

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

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

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

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

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

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

47 49. Prepared food, drink or condiment donated by a restaurant as  
48 classified in section 42-5074, subsection A to a nonprofit charitable

1 organization that has qualified under section 501(c)(3) of the internal  
2 revenue code and that regularly serves meals to the needy and indigent on a  
3 continuing basis at no cost.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5           7. Aircraft, navigational and communication instruments and other  
6 accessories and related equipment sold to:

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

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

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

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

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

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

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

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

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

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

45           14. Machinery or equipment used in research and development. For the  
46 purposes of this paragraph, "research and development" means basic and  
47 applied research in the sciences and engineering, and designing, developing  
48 or testing prototypes, processes or new products, including research and

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

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

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

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

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

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

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

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

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

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

46 17. Machinery and equipment that are used directly in the feeding of  
47 poultry, the environmental control of housing for poultry, the movement of

1 eggs within a production and packaging facility or the sorting or cooling of  
2 eggs. This exemption does not apply to vehicles used for transporting eggs.

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

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

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

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

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

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

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

38 C. The exemptions provided by subsection B of this section do not  
39 include:

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

44 2. Janitorial equipment and hand tools.

45 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

37          G. The tax levied by this article does not apply to the purchase price  
38 of electricity or natural gas by:

39           1. A business that is principally engaged in manufacturing or smelting  
40 operations and that uses at least fifty-one percent of the electricity or  
41 natural gas in the manufacturing or smelting operations. This paragraph does  
42 not apply to gas transportation services. For the purposes of this  
43 paragraph:

44           (a) "Gas transportation services" means the services of transporting  
45 natural gas to a natural gas customer or to a natural gas distribution  
46 facility if the natural gas was purchased from a supplier other than the  
47 utility.

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

7 (c) "Principally engaged" means at least fifty-one percent of the  
8 business is a manufacturing or smelting operation.

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

11 2. A business that operates an international operations center in this  
12 state and that is certified by the Arizona commerce authority pursuant to  
13 section 41-1520.

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

15 1. "Aircraft" includes:

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

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

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

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

29 Sec. 6. Section 42-6004, Arizona Revised Statutes, is amended to read:  
30 42-6004. Exemption from municipal tax; definitions

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

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

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

42 3. Sales of warranty or service contracts.

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

46 5. Interest on finance contracts.

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

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

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

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

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

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

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

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

29           ~~12.~~ 11. Leasing real property between affiliated companies,  
30 businesses, persons or reciprocal insurers. For the purposes of this  
31 paragraph:

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

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

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

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

45           (e) "Reciprocal insurer" has the same meaning prescribed in section  
46 20-762.

47           ~~13.~~ 12. The gross proceeds of sales or gross income derived from a  
48 contract for the installation, assembly, repair or maintenance of machinery,

1 equipment or other tangible personal property that is described in section  
2 42-5061, subsection B and that has independent functional utility, pursuant  
3 to the following provisions:

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

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

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

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

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

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

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

28 (i) Assembling the machinery, equipment or other tangible personal  
29 property.

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

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

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

39 ~~14.~~ 13. The leasing or renting of certified ignition interlock devices  
40 installed pursuant to the requirements prescribed by section 28-1461. For  
41 the purposes of this paragraph, "certified ignition interlock device" has the  
42 same meaning prescribed in section 28-1301.

43 ~~15.~~ 14. Computer data center equipment purchased by the owner,  
44 operator or qualified colocation tenant of the computer data center or an  
45 authorized agent of the owner, operator or qualified colocation tenant during  
46 the qualification period for use in a computer data center that is certified  
47 by the Arizona commerce authority under section 41-1519. To qualify for this  
48 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 ~~16. The gross proceeds of sales or gross income derived from a contract  
7 with the owner of real property or improvements to real property for the  
8 maintenance, repair, replacement or alteration of existing property, except  
9 as specified in this paragraph. The gross proceeds of sales or gross income  
10 derived from a de minimis amount of modification activity does not subject  
11 the contract or any part of the contract to tax. For the purposes of this  
12 paragraph:~~

13 ~~(a) Each contract is independent of another contract, except that any  
14 change order that directly relates to the scope of work of the original  
15 contract shall be treated the same as the original contract under this  
16 chapter, regardless of the amount of modification activities included in the  
17 change order. If a change order does not directly relate to the scope of  
18 work of the original contract, the change order shall be treated as a new  
19 contract, with the tax treatment of any subsequent change order to follow the  
20 tax treatment of the contract to which the scope of work of the subsequent  
21 change order directly relates.~~

22 ~~(b) Any term not defined in this paragraph that is defined in section  
23 42-5075 has the same meaning prescribed in section 42-5075.~~

24 ~~(c) This paragraph does not apply to a contract that primarily  
25 involves surface or subsurface improvements to land and that is subject to  
26 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the  
27 contract also includes vertical improvements. If a city or town imposes a  
28 tax on contracts that are subject to procurement processes under those  
29 provisions, the city or town shall include in the request for proposals a  
30 notice to bidders when those projects are subject to the tax. This  
31 subdivision does not apply to contracts with:~~

32 ~~(i) Community facilities districts, fire districts, county television  
33 improvement districts, community park maintenance districts, cotton pest  
34 control districts, hospital districts, pest abatement districts, health  
35 service districts, agricultural improvement districts, county free library  
36 districts, county jail districts, county stadium districts, special health  
37 care districts, public health services districts, theme park districts,  
38 regional attraction districts or revitalization districts.~~

39 ~~(ii) Any special taxing district not specified in item (i) of this  
40 subdivision if the district does not substantially engage in the  
41 modification, maintenance, repair, replacement or alteration of surface or  
42 subsurface improvements to land.~~

43 ~~17.~~ 15. Monitoring services relating to an alarm system as defined in  
44 section 32-101.

45 ~~18.~~ 16. Tangible personal property, job printing or publications sold  
46 to or purchased by, or tangible personal property leased, rented or licensed  
47 for use to or by, a qualifying health sciences educational institution as  
48 defined in section 42-5001.

1           ~~19.~~ 17. The transfer of title or possession of coal back and forth  
2 between an owner or operator of a power plant and a person who is responsible  
3 for refining coal if both of the following apply:

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

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

11           ~~20.~~ 18. The gross proceeds of sales or gross income from sales of low  
12 or reduced cost articles of food or drink to eligible elderly or homeless  
13 persons or persons with a disability by a business subject to tax under  
14 section 42-5074 that contracts with the department of economic security and  
15 that is approved by the food and nutrition service of the United States  
16 department of agriculture pursuant to the supplemental nutrition assistance  
17 program established by the food and nutrition act of 2008 (P.L. 110-246; 122  
18 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the  
19 purchases are made with the benefits issued pursuant to the supplemental  
20 nutrition assistance program.

21           ~~21. Tangible personal property incorporated or fabricated into a~~  
22 ~~project described in paragraph 16 of this subsection, that is located within~~  
23 ~~the exterior boundaries of an Indian reservation for which the owner, as~~  
24 ~~defined in section 42-5075, of the project is an Indian tribe or an~~  
25 ~~affiliated Indian. For the purposes of this paragraph:~~

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

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

33           ~~(c) "Indian tribe" means any organized nation, tribe, band or~~  
34 ~~community that is recognized as an Indian tribe by the United States~~  
35 ~~department of the interior and includes any entity formed under the laws of~~  
36 ~~that Indian tribe.~~

37           ~~22.~~ 19. The charges for the leasing or renting of space to make  
38 attachments to utility poles as follows:

39           (a) By a person that is engaged in the business of providing or  
40 furnishing electrical services or telecommunication services or that is a  
41 cable operator.

42           (b) To a person that is engaged in the business of providing or  
43 furnishing electrical services or telecommunication services or that is a  
44 cable operator.

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

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

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

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

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

15 4. Incarcerating or detaining in a privately operated prison, jail or  
16 detention facility prisoners who are under the jurisdiction of the United  
17 States, this state or any other state or a political subdivision of this  
18 state or of any other state.

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

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

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

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

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

38 D. A city, town or other taxing jurisdiction shall not levy a  
39 transaction privilege, sales, use, franchise or other similar tax or fee,  
40 however denominated, in excess of one-tenth of one percent of the value of  
41 the entire product mined, smelted, extracted, refined, produced or prepared  
42 for sale, profit or commercial use, on persons engaged in the business of  
43 mineral processing, except to the extent that the tax is computed on the  
44 gross proceeds or gross income from sales at retail.

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

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

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

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

7           G. For the purposes of this section:

8           1. "Cable operator" has the same meaning prescribed ~~by~~ **IN** section  
9 9-505.

10          2. "Electrical services" means transmitting or distributing  
11 electricity, electric lights, current or power over lines, wires or cables.

12          3. "Telecommunication services" means transmitting or relaying sound,  
13 visual image, data, information, images or material over lines, wires or  
14 cables by radio signal, light beam, telephone, telegraph or any other  
15 electromagnetic means.

16          4. "Utility pole" means any wooden, metal or other pole used for  
17 utility purposes and the pole's appurtenances that are attached or authorized  
18 for attachment by the person controlling the pole."

19          Sec. 7. Conforming legislation

20          The legislative council staff shall prepare proposed legislation  
21 conforming the Arizona Revised Statutes to the changes made to section  
22 42-5075, Arizona Revised Statutes, by section 4 of this act for consideration  
23 in the fifty-fourth legislature, first regular session.

24          Sec. 8. Effective date

25          A. Sections 42-5008.01, 42-5061, 42-5159 and 42-6004, Arizona Revised  
26 Statutes, as amended by this act, and section 42-5075, Arizona Revised  
27 Statutes, as amended by section 3 of this act, are effective from and after  
28 December 31, 2016.

29          B. Section 42-5075, Arizona Revised Statutes, as amended by section 4  
30 of this act, is effective from and after December 31, 2019."

31 Amend title to conform

JEFF WENINGER

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