

REFERENCE TITLE: TPT; exemption; aerial applicators

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

# HB 2133

Introduced by  
Representatives Shope, Barton, Borrelli, Pratt: Thorpe

AN ACT

AMENDING SECTIONS 42-5061 AND 42-5159, ARIZONA REVISED STATUTES; RELATING TO  
TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5061, Arizona Revised Statutes, is amended to  
3 read:

4 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

27 7. The sale of stocks and bonds.

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

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

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

35 11. Prescription eyeglasses or contact lenses.

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

37 13. Durable medical equipment that has a centers for medicare and  
38 medicaid services common procedure code, is designated reimbursable by  
39 medicare, is prescribed by a person who is licensed under title 32, chapter  
40 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
41 customarily used to serve a medical purpose, is generally not useful to a  
42 person in the absence of illness or injury and is appropriate for use in the  
43 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  
25 bullion and monetized bullion to the ultimate consumer, but the sale of coins  
26 or other forms of money for manufacture into jewelry or works of art is  
27 subject to the tax and the gross proceeds of sales or gross income derived  
28 from the redemption of any cash equivalent by the holder as a means of  
29 payment for goods or services that are taxable under this article is subject  
30 to the tax. 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.

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

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

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

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

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

21 25. Tangible personal property sold to:

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

23 (b) A qualifying health care organization as defined in section  
24 42-5001 if the tangible personal property is used by the organization solely  
25 to provide health and medical related educational and charitable services.

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

31 (d) A qualifying community health center as defined in section  
32 42-5001.

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

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

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

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

5 26. Magazines or other periodicals or other publications by this state  
6 to encourage tourist travel.

7 27. Tangible personal property sold to:

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

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

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

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

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

24 28. The sale of a motor vehicle to:

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

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

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

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

44 31. Sales of commodities, as defined by title 7 United States Code  
45 section 2, that are consigned for resale in a warehouse in this state in or

1 from which the commodity is deliverable on a contract for future delivery  
2 subject to the rules of a commodity market regulated by the United States  
3 commodity futures trading commission.

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

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

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

19 35. Sales of natural gas or liquefied petroleum gas used to propel a  
20 motor vehicle.

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

24 37. Coal, petroleum, coke, natural gas, virgin fuel oil and  
25 electricity sold to 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 38. Sales of liquid, solid or gaseous chemicals used in manufacturing,  
36 processing, fabricating, mining, refining, metallurgical operations, research  
37 and development and, beginning on January 1, 1999, printing, if using or  
38 consuming the chemicals, alone or as part of an integrated system of  
39 chemicals, involves direct contact with the materials from which the product  
40 is produced for the purpose of causing or permitting a chemical or physical  
41 change to occur in the materials as part of the production process. This  
42 paragraph does not include chemicals that are used or consumed in activities  
43 such as packaging, storage or transportation but does not affect any  
44 deduction for such chemicals that is otherwise provided by this section. For  
45 the purposes of this paragraph, "printing" means a commercial printing

1 operation and includes job printing, engraving, embossing, copying and  
2 bookbinding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43          54. Sales of motor vehicle fuel and use fuel to a qualified business  
44 under section 41-1516 for off-road use in harvesting, processing or

1 transporting qualifying forest products removed from qualifying projects as  
2 defined in section 41-1516.

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

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

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

25 58. Orthodontic devices dispensed by a dental professional who is  
26 licensed under title 32, chapter 11 to a patient as part of the practice of  
27 dentistry.

28 59. Sales of tangible personal property incorporated or fabricated  
29 into a project described in section 42-5075, subsection 0, that is located  
30 within the exterior boundaries of an Indian reservation for which the owner,  
31 as defined in section 42-5075, of the project is an Indian tribe or an  
32 affiliated Indian. For the purposes of this paragraph:

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

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

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

44 B. In addition to the deductions from the tax base prescribed by  
45 subsection A of this section, the gross proceeds of sales or gross income

1 derived from sales of the following categories of tangible personal property  
2 shall be deducted from the tax base:

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

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

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

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

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

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

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

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

42 (b) Any foreign government.

43 (c) Persons who are not residents of this state and who will not use  
44 such property in this state other than in removing such property from this  
45 state. This subdivision also applies to corporations that are not

1 incorporated in this state, regardless of maintaining a place of business in  
2 this state, if the principal corporate office is located outside this state  
3 and the property will not be used in this state other than in removing the  
4 property from this state.

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

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

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

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

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

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

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

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

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

1 included in the definition of research and development, or other  
2 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

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

44 18. Machinery or equipment, including related structural components,  
45 that is employed in connection with manufacturing, processing, fabricating,

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

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

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

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

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

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

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

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

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

42 2. Janitorial equipment and hand tools.

43 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

37           H. A person who engages in manufacturing, baling, crating, boxing,  
38 barreling, canning, bottling, sacking, preserving, processing or otherwise  
39 preparing for sale or commercial use any livestock, agricultural or  
40 horticultural product or any other product, article, substance or commodity  
41 and who sells the product of such business at retail in this state is deemed,  
42 as to such sales, to be engaged in business classified under the retail  
43 classification. This subsection does not apply to businesses classified  
44 under the:

45           1. Transporting classification.

- 1           2. Utilities classification.
- 2           3. Telecommunications classification.
- 3           4. Pipeline classification.
- 4           5. Private car line classification.
- 5           6. Publication classification.
- 6           7. Job printing classification.
- 7           8. Prime contracting classification.
- 8           9. Restaurant classification.
- 9           I. The gross proceeds of sales or gross income derived from the  
10 following shall be deducted from the tax base for the retail classification:  
11           1. Sales made directly to the United States government or its  
12 departments or agencies by a manufacturer, modifier, assembler or repairer.  
13           2. Sales made directly to a manufacturer, modifier, assembler or  
14 repairer if such sales are of any ingredient or component part of products  
15 sold directly to the United States government or its departments or agencies  
16 by the manufacturer, modifier, assembler or repairer.  
17           3. Overhead materials or other tangible personal property that is used  
18 in performing a contract between the United States government and a  
19 manufacturer, modifier, assembler or repairer, including property used in  
20 performing a subcontract with a government contractor who is a manufacturer,  
21 modifier, assembler or repairer, to which title passes to the government  
22 under the terms of the contract or subcontract.  
23           4. Sales of overhead materials or other tangible personal property to  
24 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
25 sales or gross income derived from the property by the manufacturer,  
26 modifier, assembler or repairer will be exempt under paragraph 3 of this  
27 subsection.
- 28           J. There shall be deducted from the tax base fifty percent of the  
29 gross proceeds or gross income from any sale of tangible personal property  
30 made directly to the United States government or its departments or agencies  
31 that is not deducted under subsection I of this section.
- 32           K. The department shall require every person claiming a deduction  
33 provided by subsection I or J of this section to file on forms prescribed by  
34 the department at such times as the department directs a sworn statement  
35 disclosing the name of the purchaser and the exact amount of sales on which  
36 the exclusion or deduction is claimed.
- 37           L. In computing the tax base, gross proceeds of sales or gross income  
38 does not include:  
39           1. A manufacturer's cash rebate on the sales price of a motor vehicle  
40 if the buyer assigns the buyer's right in the rebate to the retailer.  
41           2. The waste tire disposal fee imposed pursuant to section 44-1302.
- 42           M. There shall be deducted from the tax base the amount received from  
43 sales of solar energy devices. The retailer shall register with the  
44 department as a solar energy retailer. By registering, the retailer

1 acknowledges that it will make its books and records relating to sales of  
2 solar energy devices available to the department for examination.

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

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

15 P. Retail sales of prepaid calling cards or prepaid authorization  
16 numbers for telecommunications services, including sales of reauthorization  
17 of a prepaid card or authorization number, are subject to tax under this  
18 section.

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

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

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

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

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

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

39 S. If a seller is entitled to a deduction pursuant to subsection B,  
40 paragraph 15, subdivision (b) of this section, the department may require the  
41 purchaser to establish that the requirements of subsection B, paragraph 15,  
42 subdivision (b) of this section have been satisfied. If the purchaser cannot  
43 establish that the requirements of subsection B, paragraph 15, subdivision  
44 (b) of this section have been satisfied, the purchaser is liable in an amount  
45 equal to any tax, penalty and interest which the seller would have been

1 required to pay under article 1 of this chapter if the seller had not made a  
2 deduction pursuant to subsection B, paragraph 15, subdivision (b) of this  
3 section. Payment of the amount under this subsection exempts the purchaser  
4 from liability for any tax imposed under article 4 of this chapter and  
5 related to the tangible personal property purchased. The amount shall be  
6 treated as transaction privilege tax to the purchaser and as tax revenues  
7 collected from the seller to designate the distribution base pursuant to  
8 section 42-5029.

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

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

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

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

29 V. For the purposes of this section:

30 1. "AGRICULTURAL AIRCRAFT" MEANS AN AIRCRAFT THAT IS BUILT FOR  
31 AGRICULTURAL USE FOR THE AERIAL APPLICATION OF PESTICIDES OR FERTILIZER OR  
32 FOR AERIAL SEEDING.

33 ~~1-~~ 2. "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-~~ 3. "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-~~ 4. "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

1 definition of sale mean only such transactions as are found on investigation  
2 to be in lieu of sales as defined without the words lease or rental.

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

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

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

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

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

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

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

31 Sec. 2. Section 42-5159, Arizona Revised Statutes, is amended to read:

32 42-5159. Exemptions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 13. Tangible personal property purchased by:

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

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

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

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

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

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

29 (g) A person that is subject to tax under this chapter by reason of  
30 being engaged in business classified under section 42-5075, or a  
31 subcontractor working under the control of a person that is engaged in  
32 business classified under section 42-5075, if the tangible personal property  
33 is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

34 15. Tangible personal property sold by:

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

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

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

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

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

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

10 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16           (b) Public educational institutions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44           (c) "Indian tribe" means any organized nation, tribe, band or  
45 community that is recognized as an Indian tribe by the United States

1 department of the interior and includes any entity formed under the laws of  
2 the Indian tribe.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 2. Janitorial equipment and hand tools.

39 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (a) "Gas transportation services" means the services of transporting  
43 natural gas to a natural gas customer or to a natural gas distribution  
44 facility if the natural gas was purchased from a supplier other than the  
45 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. "AGRICULTURAL AIRCRAFT" MEANS AN AIRCRAFT THAT IS BUILT FOR  
16 AGRICULTURAL USE FOR THE AERIAL APPLICATION OF PESTICIDES OR FERTILIZER OR  
17 FOR AERIAL SEEDING.

18 ~~1.~~ 2. "Aircraft" includes:

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

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

25 ~~2.~~ 3. "Other accessories and related equipment" includes aircraft  
26 accessories and equipment such as ground service equipment that physically  
27 contact aircraft at some point during the overall carrier operation.

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

32 Sec. 3. Retroactivity; refunds; nonseverability

33 A. The following provisions, relating to a transaction privilege tax  
34 deduction and a use tax exemption for new agricultural aircraft that are used  
35 for commercial production of agricultural, horticultural, viticultural and  
36 floricultural crops and products, apply retroactively to taxable periods  
37 beginning from and after April 17, 1985:

38 1. Section 42-5061, subsection B, paragraph 13, Arizona Revised  
39 Statutes, as amended by this act.

40 2. Section 42-5061, subsection V, paragraph 1, Arizona Revised  
41 Statutes, as added by this act.

42 3. Section 42-5159, subsection B, paragraph 13, Arizona Revised  
43 Statutes, as amended by this act.

44 4. Section 42-5159, subsection H, paragraph 1, Arizona Revised  
45 Statutes, as added by this act.

1           B. Any claim for refund of transaction privilege or use tax based on  
2 the retroactive application of section 42-5061, subsection B, paragraph 13 or  
3 section 42-5159, subsection B, paragraph 13, Arizona Revised Statutes, as  
4 amended by this act, shall be submitted to the department of revenue on or  
5 before December 31, 2016, pursuant to section 42-1118, Arizona Revised  
6 Statutes. A failure to file a claim on or before December 31, 2016  
7 constitutes a waiver of the claim for refund under this section.

8           C. The burden is on the taxpayer to establish by competent evidence  
9 the amount of tax paid for all taxable periods and the amount, if any,  
10 attributable to new agricultural aircraft that are used for commercial  
11 production of agricultural, horticultural, viticultural and floricultural  
12 crops and products in this state and that qualify for a deduction under the  
13 amendment to section 42-5061, Arizona Revised Statutes, or an exemption under  
14 the amendment to section 42-5159, Arizona Revised Statutes, as provided by  
15 this act. The department of revenue shall:

- 16           1. Review all timely filed claims.
- 17           2. Determine, on audit if necessary, the correct amount of each claim.
- 18           3. Notify the taxpayer of its determination. The notice is final  
19 unless a taxpayer appeals in the manner provided in section 42-1251, Arizona  
20 Revised Statutes.

21           D. Notwithstanding section 42-1119, Arizona Revised Statutes, the  
22 department of revenue may not make a refund until after determination of the  
23 amount of all refund claims filed pursuant to this section. If a taxpayer  
24 appeals the department's determination, the department, pursuant to the rules  
25 protecting confidentiality under title 42, chapter 2, article 1, Arizona  
26 Revised Statutes, may notify other taxpayers who have filed claims as to the  
27 nature of any delay and, if possible, estimate the possible extent of the  
28 delay.

29           E. The aggregate amount of refunds under this section may not exceed  
30 ten thousand dollars. If the aggregate amount of claims under this section  
31 that are ultimately determined to be correct exceeds ten thousand dollars,  
32 the department of revenue shall reduce each claim proportionately so that the  
33 total refund amount equals ten thousand dollars.

34           F. Interest may not be allowed or compounded on any refundable amount  
35 if paid before July 1, 2017, but if the amount cannot be determined or paid  
36 until after June 30, 2017, interest accrues after that date under section  
37 42-1123, Arizona Revised Statutes.

38           G. If any part of this section is finally adjudicated to be invalid,  
39 this entire section is void. The provisions of this section are intended to  
40 be nonseverable.