

REFERENCE TITLE: agricultural feed; sales; tax exemption

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

HB 2326

Introduced by
Representatives Pratt, Barton, Shope: Campbell, Mitchell

AN ACT

AMENDING SECTIONS 3-561, 3-563, 42-5009, 42-5022, 42-5061, 42-5159 AND
42-6004, ARIZONA REVISED STATUTES; RELATING TO AGRICULTURAL FEED TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 3-561, Arizona Revised Statutes, is amended to
3 read:
4 3-561. Definitions
5 In this article, unless the context otherwise requires:
6 ~~2-~~ 1. "Food product" includes:
7 (a) Every product of the soil in its natural or manufactured state.
8 (b) Beef and beef products.
9 (c) Swine and pork products.
10 (d) Fowls and poultry products.
11 (e) Eggs and egg products.
12 (f) Milk and milk products.
13 (g) Lamb and sheep products.
14 (h) ANIMAL FEED THAT IS GROWN OR RAISED BY THE PRODUCER.
15 ~~1-~~ 2. "Producer" includes owners, proprietors or tenants of
16 agricultural lands, orchards, farms and gardens ~~whereon~~ WHERE food products
17 are grown, raised or prepared for market.
18 Sec. 2. Section 3-563, Arizona Revised Statutes, is amended to read:
19 3-563. Tax, license or fee against producers and purchasers
20 prohibited
21 A. ~~No~~ A tax, license or fee ~~shall~~ MAY NOT be imposed, ~~OR levied upon,~~
22 ON OR demanded or collected from:
23 1. A producer for a sale of a food product ~~as defined in this article.~~
24 ~~, and~~
25 2. A PURCHASER OF A FOOD PRODUCT FROM A PRODUCER.
26 B. ~~No~~ A penalty or punishment ~~shall~~ MAY NOT be imposed on account of
27 the sale OF A FOOD PRODUCT, except for A violation of laws providing for
28 inspection.
29 ~~B-~~ C. A municipal ordinance ~~which~~ THAT seeks to impose or subject a
30 producer OR PURCHASER to a tax, license or fee ~~shall be~~ IS void, except that
31 all such products in common with similar products offered for sale by persons
32 not the producers thereof ~~shall be~~ ARE subject to inspection. A municipal
33 ordinance providing for inspection ~~shall~~ IS not ~~be~~ valid unless it applies in
34 the same manner and terms to other persons offering similar products for
35 sale.
36 Sec. 3. Section 42-5009, Arizona Revised Statutes, is amended to read:
37 42-5009. Certificates establishing deductions; liability for
38 making false certificate
39 A. A person who conducts any business classified under article 2 of
40 this chapter may establish entitlement to the allowable deductions from the
41 tax base of that business by both:
42 1. Marking the invoice for the transaction to indicate that the gross
43 proceeds of sales or gross income derived from the transaction was deducted
44 from the tax base.

1 2. Obtaining a certificate executed by the purchaser indicating the
2 name and address of the purchaser, the precise nature of the business of the
3 purchaser, the purpose for which the purchase was made, the necessary facts
4 to establish the appropriate deduction and the tax license number of the
5 purchaser to the extent the deduction depends on the purchaser conducting
6 business classified under article 2 of this chapter and a certification that
7 the person executing the certificate is authorized to do so on behalf of the
8 purchaser. The certificate may be disregarded if the seller has reason to
9 believe that the information contained in the certificate is not accurate or
10 complete.

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

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

21 D. If a seller is entitled to a deduction by complying with subsection
22 A of this section, the department may require the purchaser that caused the
23 execution of the certificate to establish the accuracy and completeness of
24 the information required to be contained in the certificate that would
25 entitle the seller to the deduction. If the purchaser cannot establish the
26 accuracy and completeness of the information, the purchaser is liable in an
27 amount equal to any tax, penalty and interest that the seller would have been
28 required to pay under this article if the seller had not complied with
29 subsection A of this section. Payment of the amount under this subsection
30 exempts the purchaser from liability for any tax imposed under article 4 of
31 this chapter. The amount shall be treated as tax revenues collected from the
32 seller in order to designate the distribution base for purposes of section
33 42-5029.

34 E. If a seller is entitled to a deduction by complying with subsection
35 B of this section, the department may require the purchaser to establish the
36 accuracy and completeness of the information provided to the seller that
37 entitled the seller to the deduction. If the purchaser cannot establish the
38 accuracy and completeness of the information, the purchaser is liable in an
39 amount equal to any tax, penalty and interest that the seller would have been
40 required to pay under this article if the seller had not complied with
41 subsection B of this section. Payment of the amount under this subsection
42 exempts the purchaser from liability for any tax imposed under article 4 of
43 this chapter. The amount shall be treated as tax revenues collected from the
44 seller in order to designate the distribution base for purposes of section
45 42-5029.

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

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

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

- 41 1. A valid certificate as prescribed by this subsection completed by
 42 the purchaser and obtained prior to the issuance of the nonresident
 43 registration permit authorized by section 28-2154.
- 44 2. A copy of the nonresident registration permit authorized by section
 45 28-2154.

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

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

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

24 J. To establish entitlement to the deduction described in section
25 42-5061, subsection A, paragraph 44, a public consignment auction dealer as
26 defined in section 28-4301 shall submit the valid certificate prescribed by
27 subsection H of this section to the department and retain a copy for its
28 records.

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

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

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

5 2. The department shall issue the certificate to the prime contractor
6 on receiving sufficient documentation to establish that the prime contractor
7 meets the requirements of this subsection.

8 3. If any person uses the certificate provided under this subsection
9 to purchase tangible personal property to be used in a project that is not
10 subject to tax under section 42-5075, the person is liable in an amount equal
11 to any tax, penalty and interest that the seller would have been required to
12 pay under this article if the seller had not complied with subsection A of
13 this section. Payment of the amount under this section exempts the person
14 from liability for any tax imposed under article 4 of this chapter. The
15 amount shall be sourced under section 42-5040, subsection A, paragraph 2.

16 M. Notwithstanding any other law, compliance with subsection L of this
17 section by a person that is not subject to tax under section 42-5075 entitles
18 the person to the exemption allowed by section 465, subsection (k) of the
19 model city tax code when purchasing tangible personal property to be
20 incorporated or fabricated by the person into any real property, structure,
21 project, development or improvement.

22 N. THE REQUIREMENTS OF SUBSECTIONS A AND B OF THIS SECTION DO NOT
23 APPLY TO OWNERS, PROPRIETORS OR TENANTS OF AGRICULTURAL LANDS OR FARMS WHO
24 SELL LIVESTOCK OR POULTRY FEED THAT IS GROWN OR RAISED ON THEIR LANDS TO ANY
25 OF THE FOLLOWING:

26 1. PERSONS WHO FEED THEIR OWN LIVESTOCK OR POULTRY.

27 2. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF PRODUCING LIVESTOCK OR
28 POULTRY COMMERCIALY.

29 3. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF FEEDING LIVESTOCK OR
30 POULTRY COMMERCIALY OR WHO BOARD LIVESTOCK NONCOMMERCIALY.

31 Sec. 4. Section 42-5022, Arizona Revised Statutes, is amended to read:
32 42-5022. Burden of proving sale not at retail

33 The burden of proving that a sale of tangible personal property was not
34 a sale at retail shall be ~~upon~~ ON the person who made ~~it~~ THE SALE, unless
35 EITHER:

36 1. ~~Such~~ THE person has taken from the purchaser a certificate signed
37 by and bearing the name and address of the purchaser that the property was
38 purchased for resale in the ordinary course of business and that he has a
39 valid license, with the number thereof, to sell the kind of property
40 purchased.

41 2. THE PERSON IS EXEMPT FROM THE REQUIREMENT OF A CERTIFICATE PURSUANT
42 TO SECTION 42-5009, SUBSECTION N.

1 Sec. 5. Section 42-5061, Arizona Revised Statutes, is amended to read:
2 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

25 7. The sale of stocks and bonds.

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

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

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

33 11. Prescription eyeglasses or contact lenses.

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

35 13. Durable medical equipment that has a centers for medicare and
36 medicaid services common procedure code, is designated reimbursable by
37 medicare, is prescribed by a person who is licensed under title 32, chapter
38 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
39 customarily used to serve a medical purpose, is generally not useful to a
40 person in the absence of illness or injury and is appropriate for use in the
41 home.

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

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

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

8 17. Textbooks by any bookstore that are required by any state
9 university or community college.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 25. Tangible personal property sold to:

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

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

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

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

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

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

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

43 (h) Any person representing or working on behalf of another person
44 described in subdivisions (a) through (g) of this paragraph if the tangible

1 personal property is incorporated or fabricated into a project described in
2 section 42-5075, subsection 0.

3 26. Magazines or other periodicals or other publications by this state
4 to encourage tourist travel.

5 27. Tangible personal property sold to:

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

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

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

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

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

22 28. The sale of a motor vehicle to:

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

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

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

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

42 31. Sales of commodities, as defined by title 7 United States Code
43 section 2, that are consigned for resale in a warehouse in this state in or
44 from which the commodity is deliverable on a contract for future delivery

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

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

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

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

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

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

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

34 38. Sales of liquid, solid or gaseous chemicals used in manufacturing,
35 processing, fabricating, mining, refining, metallurgical operations, research
36 and development and, beginning on January 1, 1999, printing, if using or
37 consuming the chemicals, alone or as part of an integrated system of
38 chemicals, involves direct contact with the materials from which the product
39 is produced for the purpose of causing or permitting a chemical or physical
40 change to occur in the materials as part of the production process. This
41 paragraph does not include chemicals that are used or consumed in activities
42 such as packaging, storage or transportation but does not affect any
43 deduction for such chemicals that is otherwise provided by this section. For
44 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 for
26 livestock or poultry consumption that are sold to persons WHO FEED THEIR OWN
27 LIVESTOCK OR POULTRY, who are engaged in THE BUSINESS OF producing livestock,
28 poultry, or livestock or poultry products, ~~or~~ who are engaged in THE BUSINESS
29 OF feeding livestock or poultry commercially OR WHO BOARD LIVESTOCK
30 NONCOMMERCIALY. For the purposes of this paragraph, "poultry" includes
31 ratites.

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

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

42 45. Tangible personal property sold to a person engaged in business and
43 subject to tax under the transient lodging classification if the tangible
44 personal property is a personal hygiene item or articles used by human beings
45 for food, drink or condiment, except alcoholic beverages, that are furnished

1 without additional charge to and intended to be consumed by the transient
2 during the transient's occupancy.

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

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

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

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

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

20 49. Sales of alternative fuel vehicles if the vehicle was manufactured
21 as a diesel fuel vehicle and converted to operate on alternative fuel and
22 equipment that is installed in a conventional diesel fuel motor vehicle to
23 convert the vehicle to operate on an alternative fuel, as defined in section
24 1-215.

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

28 51. Sales of tangible personal property to be incorporated or installed
29 as part of environmental response or remediation activities under section
30 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 7. Aircraft, navigational and communication instruments and other
37 accessories and related equipment sold to:

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

1 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 2. Janitorial equipment and hand tools.

45 3. Office equipment, furniture and supplies.

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:

44 1. AGRICULTURAL PRODUCERS WHO ARE OWNERS, PROPRIETORS OR TENANTS OF
45 AGRICULTURAL LANDS, ORCHARDS, FARMS OR GARDENS WHERE AGRICULTURAL PRODUCTS

1 ARE GROWN, RAISED OR PREPARED FOR MARKET AND WHO ARE MARKETING THEIR OWN
2 AGRICULTURAL PRODUCTS.

3 2. Businesses classified under the:

4 ~~1.~~ (a) Transporting classification.

5 ~~2.~~ (b) Utilities classification.

6 ~~3.~~ (c) Telecommunications classification.

7 ~~4.~~ (d) Pipeline classification.

8 ~~5.~~ (e) Private car line classification.

9 ~~6.~~ (f) Publication classification.

10 ~~7.~~ (g) Job printing classification.

11 ~~8.~~ (h) Prime contracting classification.

12 ~~9.~~ (i) Restaurant classification.

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

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

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

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

27 4. Sales of overhead materials or other tangible personal property to
28 a manufacturer, modifier, assembler or repairer if the gross proceeds of
29 sales or gross income derived from the property by the manufacturer,
30 modifier, assembler or repairer will be exempt under paragraph 3 of this
31 subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 V. For the purposes of this section:

33 1. "Aircraft" includes:

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

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

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

43 3. "Selling at retail" means a sale for any purpose other than for
44 resale in the regular course of business in the form of tangible personal
45 property, but transfer of possession, lease and rental as used in the

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. 6. 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 **SOLD TO PERSONS FOR USE OR CONSUMPTION BY THEIR OWN LIVESTOCK OR**
29 **POULTRY**, for use or consumption in the businesses of farming, ranching and
30 **PRODUCING OR** feeding livestock or poultry **OR FOR USE OR CONSUMPTION IN**
31 **NONCOMMERCIAL BOARDING OF LIVESTOCK**, not including fertilizers, herbicides
32 and insecticides. For the purposes of this paragraph, "poultry" includes
33 ratites.

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

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

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

1 12. Materials that are purchased by or for publicly funded libraries
2 including school district libraries, charter school libraries, community
3 college libraries, state university libraries or federal, state, county or
4 municipal libraries for use by the public as follows:

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

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

7 13. Tangible personal property purchased by:

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

11 (b) A hospital operated by this state or a political subdivision of
12 this state.

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

18 (d) A qualifying health care organization, as defined in section
19 42-5001, if the tangible personal property is used by the organization solely
20 to provide health and medical related educational and charitable services.

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

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

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

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

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

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

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

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

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

7 (j) A qualifying community health center as defined in section
8 42-5001.

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

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

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

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

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

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

36 15. Tangible personal property sold by:

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

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

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

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

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

13 18. Prescription eyeglasses and contact lenses.

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

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

16 21. Durable medical equipment that has a centers for medicare and
17 medicaid services common procedure code, is designated reimbursable by
18 medicare, is prescribed by a person who is licensed under title 32, chapter
19 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
20 used to serve a medical purpose, is generally not useful to a person in the
21 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

40 27. Lottery tickets or shares purchased pursuant to title 5, chapter
41 5.1, article 1.

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

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

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

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

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

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

19 (b) Public educational institutions.

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

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

25 34. Machinery, equipment, technology or related supplies that are only
26 useful to assist a person with a physical disability as defined in section
27 46-191 or a person who has a developmental disability as defined in section
28 36-551 or has a head injury as defined in section 41-3201 to be more
29 independent and functional.

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

43 36. Food, drink and condiment purchased for consumption within the
44 premises of any prison, jail or other institution under the jurisdiction of

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

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

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

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

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

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

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

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

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

1 43. Tangible personal property purchased by a commercial airline and
2 consisting of food, beverages and condiments and accessories used for serving
3 the food and beverages, if those items are to be provided without additional
4 charge to passengers for consumption in flight. For the purposes of this
5 paragraph, "commercial airline" means a person holding a federal certificate
6 of public convenience and necessity or foreign air carrier permit for air
7 transportation to transport persons, property or United States mail in
8 intrastate, interstate or foreign commerce.

9 44. Alternative fuel vehicles if the vehicle was manufactured as a
10 diesel fuel vehicle and converted to operate on alternative fuel and
11 equipment that is installed in a conventional diesel fuel motor vehicle to
12 convert the vehicle to operate on an alternative fuel, as defined in section
13 1-215.

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

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

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

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

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

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

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

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

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

43 (b) "Curriculum design or enhancement" means planning, implementing or
44 reporting on courses of study, lessons, assignments or other learning
45 activities.

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

5 52. Repair parts installed in equipment used directly by a qualified
6 business under section 41-1516 in harvesting, processing or transporting
7 qualifying forest products removed from qualifying projects as defined in
8 section 41-1516.

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

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

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

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

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

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

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

44 (b) "Indian reservation" means all lands that are within the limits of
45 areas set aside by the United States for the exclusive use and occupancy of

1 an Indian tribe by treaty, law or executive order and that are recognized as
2 Indian reservations by the United States department of the interior.

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

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

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

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

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

31 4. Machinery, equipment or transmission lines used directly in
32 producing or transmitting electrical power, but not including distribution.
33 Transformers and control equipment used at transmission substation sites
34 constitute equipment used in producing or transmitting electrical power.

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

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

42 7. Aircraft, navigational and communication instruments and other
43 accessories and related equipment sold to:

44 (a) A person holding a federal certificate of public convenience and
45 necessity, a supplemental air carrier certificate under federal aviation

1 regulations (14 Code of Federal Regulations part 121) or a foreign air
2 carrier permit for air transportation for use as or in conjunction with or
3 becoming a part of aircraft to be used to transport persons, property or
4 United States mail in intrastate, interstate or foreign commerce.

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

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

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

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

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

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

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

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

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

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

1 social sciences or psychology, computer software research that is not
2 included in the definition of research and development, or other
3 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

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

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

11 19. Machinery and equipment that are used in the commercial production
12 of livestock, livestock products or agricultural, horticultural, viticultural
13 or floricultural crops or products in this state and that are used directly
14 and primarily to prevent, monitor, control or reduce air, water or land
15 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 exemption, the
34 qualified business must obtain and present its certification from the Arizona
35 commerce authority at the time of purchase.

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

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 tangible personal property used by a
12 contractor in the performance of a contract.

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

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

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

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

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

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

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

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

42 1. A business that is principally engaged in manufacturing or smelting
43 operations and that uses at least fifty-one percent of the electricity or
44 natural gas in the manufacturing or smelting operations. This paragraph does

1 not apply to gas transportation services. For the purposes of this
2 paragraph:

3 (a) "Gas transportation services" means the services of transporting
4 natural gas to a natural gas customer or to a natural gas distribution
5 facility if the natural gas was purchased from a supplier other than the
6 utility.

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

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

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

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

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

21 1. "Aircraft" includes:

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

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

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

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

35 Sec. 7. Section 42-6004, Arizona Revised Statutes, is amended to read:
36 42-6004. Exemption from municipal tax; definitions

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

39 1. Exhibition events in this state sponsored, conducted or operated by
40 a nonprofit organization that is exempt from taxation under section
41 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
42 organization is associated with a major league baseball team or a national
43 touring professional golfing association and no part of the organization's
44 net earnings inures to the benefit of any private shareholder or individual.

- 1 2. Interstate telecommunications services, which include that portion
2 of telecommunications services, such as subscriber line service, allocable by
3 federal law to interstate telecommunications service.
- 4 3. Sales of warranty or service contracts.
- 5 4. Sales of motor vehicles to nonresidents of this state for use
6 outside this state if the motor vehicle dealer ships or delivers the motor
7 vehicle to a destination outside this state.
- 8 5. Interest on finance contracts.
- 9 6. Dealer documentation fees on the sales of motor vehicles.
- 10 7. Sales of food or other items purchased with United States
11 department of agriculture food stamp coupons issued under the food stamp act
12 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
13 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
14 section 4302; 42 United States Code section 1786) but may impose such a tax
15 on other sales of food. If a city, town or special taxing district exempts
16 sales of food from its tax or imposes a different transaction privilege rate
17 on the gross proceeds of sales or gross income from sales of food and nonfood
18 items, it shall use the definition of food prescribed by rule adopted by the
19 department pursuant to section 42-5106.
- 20 8. Orthodontic devices dispensed by a dental professional who is
21 licensed under title 32, chapter 11 to a patient as part of the practice of
22 dentistry.
- 23 9. Sales of internet access services to the person's subscribers and
24 customers. For the purposes of this paragraph:
 - 25 (a) "Internet" means the computer and telecommunications facilities
26 that comprise the interconnected worldwide network of networks that employ
27 the transmission control protocol or internet protocol, or any predecessor or
28 successor protocol, to communicate information of all kinds by wire or radio.
 - 29 (b) "Internet access" means a service that enables users to access
30 content, information, electronic mail or other services over the internet.
31 Internet access does not include telecommunication services provided by a
32 common carrier.
- 33 10. The gross proceeds of sales or gross income retained by the
34 Arizona exposition and state fair board from ride ticket sales at the annual
35 Arizona state fair.
- 36 ~~11. Through August 31, 2014, sales of Arizona centennial medallions by~~
37 ~~the historical advisory commission.~~
- 38 ~~12.~~ 11. Leasing real property between affiliated companies,
39 businesses, persons or reciprocal insurers. For the purposes of this
40 paragraph:
 - 41 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
42 means the lessor holds a controlling interest in the lessee, the lessee holds
43 a controlling interest in the lessor, affiliated persons hold a controlling
44 interest in both the lessor and the lessee, or an unrelated person holds a
45 controlling interest in both the lessor and lessee.

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

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

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

9 (e) "Reciprocal insurer" has the same meaning prescribed in section
10 20-762.

11 ~~13.~~ 12. The gross proceeds of sales or gross income derived from a
12 contract for the installation, assembly, repair or maintenance of machinery,
13 equipment or other tangible personal property that is described in section
14 42-5061, subsection B and that has independent functional utility, pursuant
15 to the following provisions:

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

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

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

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

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

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

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

40 (i) Assembling the machinery, equipment or other tangible personal
41 property.

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

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

4 (iv) Stabilizing or protecting the machinery, equipment or other
5 tangible personal property during operation by bolting, burying or performing
6 other dissimilar nonpermanent connections to either real property or real
7 property improvements.

8 ~~14-~~ 13. The leasing or renting of certified ignition interlock
9 devices installed pursuant to the requirements prescribed by section 28-1461.
10 For the purposes of this paragraph, "certified ignition interlock device" has
11 the same meaning prescribed in section 28-1301.

12 ~~15-~~ 14. Computer data center equipment purchased by the owner,
13 operator or qualified colocation tenant of the computer data center or an
14 authorized agent of the owner, operator or qualified colocation tenant during
15 the qualification period for use in a computer data center that is certified
16 by 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 ~~16-~~ 15. The gross proceeds of sales or gross income derived from a
24 contract with the owner of real property or improvements to real property for
25 the maintenance, repair, replacement or alteration of existing property,
26 except as specified in this paragraph. The gross proceeds of sales or gross
27 income derived from a de minimis amount of modification activity does not
28 subject the contract or any part of the contract to tax. For the purposes of
29 this paragraph:

30 (a) Each contract is independent of another contract, except that any
31 change order that directly relates to the scope of work of the original
32 contract shall be treated the same as the original contract under this
33 ~~chapter~~ PARAGRAPH, regardless of the amount of modification activities
34 included in the change order. If a change order does not directly relate to
35 the scope of work of the original contract, the change order shall be treated
36 as a new contract, with the tax treatment of any subsequent change order to
37 follow the tax treatment of the contract to which the scope of work of the
38 subsequent change order directly relates.

39 (b) Any term not defined in this paragraph that is defined in section
40 42-5075 has the same meaning prescribed in section 42-5075.

41 (c) This paragraph does not apply to a contract that primarily
42 involves surface or subsurface improvements to land and that is subject to
43 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
44 contract also includes vertical improvements. If a city or town imposes a
45 tax on contracts that are subject to procurement processes under those

1 provisions, the city or town shall include in the request for proposals a
2 notice to bidders when those projects are subject to the tax. This
3 subdivision does not apply to contracts with:

4 (i) Community facilities districts, fire districts, county television
5 improvement districts, community park maintenance districts, cotton pest
6 control districts, hospital districts, pest abatement districts, health
7 service districts, agricultural improvement districts, county free library
8 districts, county jail districts, county stadium districts, special health
9 care districts, public health services districts, theme park districts,
10 regional attraction districts or revitalization districts.

11 (ii) Any special taxing district not specified in item (i) of this
12 subdivision if the district does not substantially engage in the
13 modification, maintenance, repair, replacement or alteration of surface or
14 subsurface improvements to land.

15 ~~17-~~ 16. Monitoring services relating to an alarm system as defined in
16 section 32-101.

17 ~~18-~~ 17. Tangible personal property, job printing or publications sold
18 to or purchased by, or tangible personal property leased, rented or licensed
19 for use to or by, a qualifying health sciences educational institution as
20 defined in section 42-5001.

21 ~~19-~~ 18. The transfer of title or possession of coal back and forth
22 between an owner or operator of a power plant and a person who is responsible
23 for refining coal if both of the following apply:

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

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

31 ~~20-~~ 19. The gross proceeds of sales or gross income from sales of low
32 or reduced cost articles of food or drink to eligible elderly or homeless
33 persons or persons with a disability by a business subject to tax under
34 section 42-5074 that contracts with the department of economic security and
35 that is approved by the food and nutrition service of the United States
36 department of agriculture pursuant to the supplemental nutrition assistance
37 program established by the food and nutrition act of 2008 (P.L. 110-246; 122
38 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the
39 purchases are made with the benefits issued pursuant to the supplemental
40 nutrition assistance program.

41 ~~21-~~ 20. Tangible personal property incorporated or fabricated into a
42 project described in paragraph ~~16~~ 15 of this subsection, that is located
43 within the exterior boundaries of an Indian reservation for which the owner,
44 as defined in section 42-5075, of the project is an Indian tribe or an
45 affiliated Indian. For the purposes of this paragraph:

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

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

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

12 ~~22.~~ 21. The charges for the leasing or renting of space to make
13 attachments to utility poles as follows:

14 (a) By a person that is engaged in the business of providing or
15 furnishing electrical services or telecommunication services or that is a
16 cable operator.

17 (b) To a person that is engaged in the business of providing or
18 furnishing electrical services or telecommunication services or that is a
19 cable operator.

20 22. LIVESTOCK, POULTRY, SUPPLIES, FEED, SALTS, VITAMINS AND OTHER
21 ADDITIVES SOLD TO PERSONS FOR USE OR CONSUMPTION BY THEIR OWN LIVESTOCK OR
22 POULTRY, FOR USE OR CONSUMPTION IN THE BUSINESSES OF FARMING, RANCHING AND
23 PRODUCING OR FEEDING LIVESTOCK OR POULTRY OR FOR USE OR CONSUMPTION IN
24 NONCOMMERCIAL BOARDING OF LIVESTOCK. FOR THE PURPOSES OF THIS PARAGRAPH,
25 "POULTRY" INCLUDES RATITES.

26 23. LIVESTOCK, POULTRY OR RATITES PURCHASED OR RAISED FOR SLAUGHTER,
27 INCLUDING LIVESTOCK PURCHASED OR RAISED FOR PRODUCTION OR USE, SUCH AS MILK
28 COWS, BREEDING BULLS, LAYING HENS AND RIDING OR WORK HORSES.

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

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

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

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

42 3. The sale of a motor vehicle and any repair and replacement parts
43 and tangible personal property becoming a part of such motor vehicle to a
44 motor carrier who is subject to a fee prescribed in title 28, chapter 16,

1 article 4 and who is engaged in the business of leasing, renting or licensing
2 such property.

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

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

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

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

15 (b) The attributable amount is equal to the total amount of
16 development fees paid by the taxpayer or by a contractor providing services
17 to the taxpayer and the total development fees credited in exchange for the
18 construction of, contribution to or dedication of real property for providing
19 public infrastructure, public safety or other public services necessary to
20 the development. The real property must be the subject of the development
21 fees.

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

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

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

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

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

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

42 G. For the purposes of this section:

43 1. "Cable operator" has the same meaning prescribed ~~by~~ IN section
44 9-505.

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

3 3. "Telecommunication services" means transmitting or relaying sound,
4 visual image, data, information, images or material over lines, wires or
5 cables by radio signal, light beam, telephone, telegraph or ~~any~~ other
6 electromagnetic means.

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