

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

HOUSE BILL 2533

AN ACT

AMENDING SECTIONS 42-5009, 42-5061 AND 42-5159, ARIZONA REVISED STATUTES;
RELATING TO TRANSACTION PRIVILEGE AND USE TAX DEDUCTIONS AND EXEMPTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-5009, Arizona Revised Statutes, is amended to
3 read:

4 **42-5009. Certificates establishing deductions; liability for**
5 **making false certificate**

6 A person who conducts any business classified under article 2 of
7 this chapter may establish entitlement to the allowable deductions from the
8 tax base of that business by both:

9 1. Marking the invoice for the transaction to indicate that the gross
10 proceeds of sales or gross income derived from the transaction was deducted
11 from the tax base.

12 2. Obtaining a certificate executed by the purchaser indicating the
13 name and address of the purchaser, the precise nature of the business of the
14 purchaser, the purpose for which the purchase was made, the necessary facts
15 to establish the appropriate deduction and the tax license number of the
16 purchaser to the extent the deduction depends on the purchaser conducting
17 business classified under article 2 of this chapter and a certification that
18 the person executing the certificate is authorized to do so on behalf of the
19 purchaser. The certificate may be disregarded if the seller has reason to
20 believe that the information contained in the certificate is not accurate or
21 complete.

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

25 C. The department may prescribe a form for the certificate described
26 in subsection A of this section. Under such rules as it may prescribe, the
27 department may also describe transactions with respect to which a person is
28 not entitled to rely solely on the information contained in the certificate
29 provided for in subsection A of this section but must instead obtain such
30 additional information as required by the rules in order to be entitled to
31 the deduction.

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

1 E. If a seller is entitled to a deduction by complying with subsection
2 B of this section, the department may require the purchaser to establish the
3 accuracy and completeness of the information provided to the seller that
4 entitled the seller to the deduction. If the purchaser cannot establish the
5 accuracy and completeness of the information, the purchaser is liable in an
6 amount equal to any tax, penalty and interest that the seller would have been
7 required to pay under this article if the seller had not complied with
8 subsection B of this section. Payment of the amount under this subsection
9 exempts the purchaser from liability for any tax imposed under article 4 of
10 this chapter. The amount shall be treated as tax revenues collected from the
11 seller in order to designate the distribution base for purposes of section
12 42-5029.

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

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

1 H. The department shall prescribe forms for certificates used to
2 establish the satisfaction of the criteria necessary to qualify the sale of a
3 motor vehicle for the deductions described in section 42-5061, subsection A,
4 paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and
5 subsection U. Except as provided in subsection J of this section, to
6 establish entitlement to these deductions, a motor vehicle dealer shall
7 retain:

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

11 2. A copy of the nonresident registration permit authorized by section
12 28-2154.

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

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

21 I. Notwithstanding subsection A, paragraph 2 of this section, if a
22 motor vehicle dealer has established entitlement to a deduction by complying
23 with subsection H of this section, the department may require the purchaser
24 who executed the certificate to establish the accuracy and completeness of
25 the information contained in the certificate that entitled the motor vehicle
26 dealer to the deduction. If the purchaser cannot establish the accuracy and
27 completeness of the information, the purchaser is liable in an amount equal
28 to any tax, penalty and interest that the motor vehicle dealer would have
29 been required to pay under this article and under articles IV and V of the
30 model city tax code as defined in section 42-6051. Payment of the amount
31 under this subsection exempts the purchaser from liability for any tax
32 imposed under article 4 of this chapter and any tax imposed under article VI
33 of the model city tax code as defined in section 42-6051. The amount shall
34 be treated as tax revenues collected from the motor vehicle dealer in order
35 to designate the distribution base for purposes of section 42-5029.

36 J. To establish entitlement to the deduction described in section
37 42-5061, subsection A, paragraph 44, a public consignment auction dealer as
38 defined in section 28-4301 shall submit the valid certificate prescribed by
39 subsection H of this section to the department and retain a copy for its
40 records.

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

44 L. The department shall prescribe a form for a certificate to be used
45 by a person that is not subject to tax under section 42-5075 when the person

1 is engaged by a contractor that is subject to tax under section 42-5075 for a
2 project that is taxable under section 42-5075. The certificate permits the
3 person purchasing tangible personal property to be incorporated or fabricated
4 by the person into any real property, structure, project, development or
5 improvement to provide documentation to a retailer that the sale of tangible
6 personal property qualifies for the deduction under section 42-5061,
7 subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain
8 the certificate from the department and shall provide a copy to any such
9 person working on the project. The prime contractor shall obtain a new
10 certificate for each project to which this subsection applies. For the
11 purposes of this subsection, the following apply:

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

16 2. The department shall issue the certificate to the prime contractor
17 on receiving sufficient documentation to establish that the prime contractor
18 meets the requirements of this subsection.

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

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

33 N. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF A CERTIFICATE TO BE USED
34 BY A PERSON PURCHASING AN AIRCRAFT TO DOCUMENT ELIGIBILITY FOR A DEDUCTION
35 PURSUANT TO SECTION 42-5061, SUBSECTION B, PARAGRAPH 7, SUBDIVISION (a), ITEM
36 (v) OR AN EXEMPTION PURSUANT TO SECTION 42-5159, SUBSECTION B, PARAGRAPH 7,
37 SUBDIVISION (a), ITEM (v), RELATING TO AIRCRAFT. THE PERSON MUST PROVIDE
38 THIS CERTIFICATE AND DOCUMENTATION CONFIRMING THAT THE OPERATIONAL CONTROL OF
39 THE AIRCRAFT HAS BEEN TRANSFERRED OR WILL BE TRANSFERRED IMMEDIATELY AFTER
40 THE PURCHASE TO ONE OR MORE PERSONS DESCRIBED IN SECTION 42-5061, SUBSECTION
41 B, PARAGRAPH 7, SUBDIVISION (a), ITEM (i), (ii), (iii) OR (iv) OR SECTION
42 42-5159, SUBSECTION B, PARAGRAPH 7, SUBDIVISION (a), ITEM (i), (ii), (iii) OR
43 (iv). OPERATIONAL CONTROL OF THE AIRCRAFT MUST BE TRANSFERRED FOR AT LEAST
44 FIFTY PERCENT OF THE AIRCRAFT'S FLIGHT HOURS. IF SUCH OPERATIONAL CONTROL IS
45 NOT TRANSFERRED FOR AT LEAST FIFTY PERCENT OF THE AIRCRAFT'S FLIGHT HOURS

1 DURING THE RECAPTURE PERIOD, THE OWNER OF THE AIRCRAFT IS LIABLE FOR AN
2 AMOUNT EQUAL TO ANY TAX THAT THE SELLER OR PURCHASER WOULD HAVE BEEN REQUIRED
3 TO PAY UNDER THIS CHAPTER AT THE TIME OF THE SALE, PLUS PENALTY AND
4 INTEREST. THE RECAPTURE PERIOD BEGINS ON THE DATE THAT OPERATIONAL CONTROL
5 OF THE AIRCRAFT IS FIRST TRANSFERRED AND ENDS ON THE LATER OF THE DATE THE
6 AIRCRAFT IS FULLY DEPRECIATED FOR FEDERAL INCOME TAX PURPOSES OR FIVE YEARS
7 AFTER OPERATIONAL CONTROL WAS FIRST TRANSFERRED. FOR THE PURPOSES OF THIS
8 SUBSECTION, OPERATIONAL CONTROL OF THE AIRCRAFT MUST BE WITHIN THE MEANING OF
9 FEDERAL AVIATION ADMINISTRATION OPERATIONS SPECIFICATION A008, OR ITS
10 SUCCESSOR, EXCEPT THAT:

11 1. IF IT IS DETERMINED THAT OPERATIONAL CONTROL HAS BEEN TRANSFERRED
12 FOR LESS THAN FIFTY PERCENT BUT MORE THAN FORTY PERCENT OF THE AIRCRAFT'S
13 FLIGHT HOURS, THE OWNER OF THE AIRCRAFT IS LIABLE FOR AN AMOUNT EQUAL TO ANY
14 TAX THAT THE SELLER OR PURCHASER WOULD HAVE BEEN REQUIRED TO PAY UNDER THIS
15 CHAPTER AT THE TIME OF THE SALE, PLUS INTEREST.

16 2. IF THE AIRCRAFT IS SOLD DURING THE RECAPTURE PERIOD, THE SELLER IS
17 NOT LIABLE FOR THE AMOUNT DETERMINED PURSUANT TO THIS SUBSECTION UNLESS THE
18 OPERATIONAL CONTROL OF THE AIRCRAFT HAD NOT BEEN TRANSFERRED FOR AT LEAST
19 FIFTY PERCENT OF THE AIRCRAFT'S FLIGHT HOURS AT THE TIME OF THE SALE.

20 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:

21 **42-5061. Retail classification; definitions**

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

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

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

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

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

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

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

44 7. The sale of stocks and bonds.

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

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

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

8 11. Prescription eyeglasses or contact lenses.

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

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

17 14. Sales of motor vehicles to nonresidents of this state for use
18 outside this state if the motor vehicle dealer ships or delivers the motor
19 vehicle to a destination out of this state.

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

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

27 17. Textbooks by any bookstore that are required by any state
28 university or community college.

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

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

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

40 21. The sale of cash equivalents and the sale of precious metal bullion
41 and monetized bullion to the ultimate consumer, but the sale of coins or
42 other forms of money for manufacture into jewelry or works of art is subject
43 to the tax and the gross proceeds of sales or gross income derived from the
44 redemption of any cash equivalent by the holder as a means of payment for

1 goods or services that are taxable under this article is subject to the tax.
2 For the purposes of this paragraph:

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

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

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

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

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

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

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

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

37 25. Tangible personal property sold to:

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

39 (b) A qualifying health care organization as defined in section
40 42-5001 if the tangible personal property is used by the organization solely
41 to provide health and medical related educational and charitable services.

42 (c) A qualifying health care organization as defined in section
43 42-5001 if the organization is dedicated to providing educational,
44 therapeutic, rehabilitative and family medical education training for blind

1 and visually impaired children and children with multiple disabilities from
2 the time of birth to age twenty-one.

3 (d) A qualifying community health center as defined in section
4 42-5001.

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

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

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

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

22 26. Magazines or other periodicals or other publications by this state
23 to encourage tourist travel.

24 27. Tangible personal property sold to:

25 (a) A person that is subject to tax under this article by reason of
26 being engaged in business classified under section 42-5075 or to a
27 subcontractor working under the control of a person engaged in business
28 classified under section 42-5075, if the property so sold is any of the
29 following:

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

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

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

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

41 28. The sale of a motor vehicle to:

42 (a) A nonresident of this state if the purchaser's state of residence
43 does not allow a corresponding use tax exemption to the tax imposed by
44 article 1 of this chapter and if the nonresident has secured a special ninety

1 day nonresident registration permit for the vehicle as prescribed by sections
2 28-2154 and 28-2154.01.

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

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

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

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

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

28 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
29 propagative material to persons who use those items to commercially produce
30 agricultural, horticultural, viticultural or floricultural crops in this
31 state.

32 34. Machinery, equipment, technology or related supplies that are only
33 useful to assist a person with a physical disability as defined in section
34 46-191 or a person who has a developmental disability as defined in section
35 36-551 or has a head injury as defined in section 41-3201 to be more
36 independent and functional.

37 35. Sales of natural gas or liquefied petroleum gas used to propel a
38 motor vehicle.

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

42 37. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
43 sold to a qualified environmental technology manufacturer, producer or
44 processor as defined in section 41-1514.02 and directly used or consumed in
45 the generation or provision of on-site power or energy solely for

1 environmental technology manufacturing, producing or processing or
2 environmental protection. This paragraph shall apply for twenty full
3 consecutive calendar or fiscal years from the date the first paper
4 manufacturing machine is placed in service. In the case of an environmental
5 technology manufacturer, producer or processor who does not manufacture
6 paper, the time period shall begin with the date the first manufacturing,
7 processing or production equipment is placed in service.

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

21 39. Through December 31, 1994, personal property liquidation
22 transactions, conducted by a personal property liquidator. From and after
23 December 31, 1994, personal property liquidation transactions shall be
24 taxable under this section provided that nothing in this subsection shall be
25 construed to authorize the taxation of casual activities or transactions
26 under this chapter. For the purposes of this paragraph:

27 (a) "Personal property liquidation transaction" means a sale of
28 personal property made by a personal property liquidator acting solely on
29 behalf of the owner of the personal property sold at the dwelling of the
30 owner or on the death of any owner, on behalf of the surviving spouse, if
31 any, any devisee or heir or the personal representative of the estate of the
32 deceased, if one has been appointed.

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

35 40. Sales of food, drink and condiment for consumption within the
36 premises of any prison, jail or other institution under the jurisdiction of
37 the state department of corrections, the department of public safety, the
38 department of juvenile corrections or a county sheriff.

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

43 42. Livestock and poultry feed, salts, vitamins and other additives for
44 livestock or poultry consumption that are sold to persons who are engaged in
45 producing livestock, poultry, or livestock or poultry products or who are

1 engaged in feeding livestock or poultry commercially. For the purposes of
2 this paragraph, "poultry" includes ratites.

3 43. Sales of implants used as growth promotants and injectable
4 medicines, not already exempt under paragraph 8 of this subsection, for
5 livestock or poultry owned by or in possession of persons who are engaged in
6 producing livestock, poultry, or livestock or poultry products or who are
7 engaged in feeding livestock or poultry commercially. For the purposes of
8 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

36 49. Sales of alternative fuel vehicles if the vehicle was manufactured
37 as a diesel fuel vehicle and converted to operate on alternative fuel and
38 equipment that is installed in a conventional diesel fuel motor vehicle to
39 convert the vehicle to operate on an alternative fuel, as defined in section
40 1-215.

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

1 51. Sales of tangible personal property to be incorporated or installed
2 as part of environmental response or remediation activities under section
3 42-5075, subsection B, paragraph 6.

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

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

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

15 (b) "Curriculum design or enhancement" means planning, implementing or
16 reporting on courses of study, lessons, assignments or other learning
17 activities.

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

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

26 56. Sales or other transfers of renewable energy credits or any other
27 unit created to track energy derived from renewable energy resources. For
28 the purposes of this paragraph, "renewable energy credit" means a unit
29 created administratively by the corporation commission or governing body of a
30 public power utility to track kilowatt hours of electricity derived from a
31 renewable energy resource or the kilowatt hour equivalent of conventional
32 energy resources displaced by distributed renewable energy resources.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (a) A person:

13 (i) Holding, OR EXEMPTED BY FEDERAL LAW FROM OBTAINING, a federal
14 certificate of public convenience and necessity FOR USE AS, IN CONJUNCTION
15 WITH OR BECOMING PART OF AN AIRCRAFT TO BE USED TO TRANSPORT PERSONS FOR HIRE
16 IN INTRASTATE, INTERSTATE OR FOREIGN COMMERCE. ~~, a supplemental air carrier
17 certificate~~

18 (ii) THAT IS CERTIFICATED OR LICENSED under federal aviation
19 regulations (14 Code of Federal Regulations part 121 OR 135) AS A SCHEDULED
20 OR UNSCHEDULED CARRIER OF PERSONS FOR HIRE FOR USE AS OR IN CONJUNCTION WITH
21 OR BECOMING PART OF AN AIRCRAFT TO BE USED TO TRANSPORT PERSONS FOR HIRE IN
22 INTRASTATE, INTERSTATE OR FOREIGN COMMERCE. ~~or~~

23 (iii) HOLDING a foreign air carrier permit for air transportation for
24 use as or in conjunction with or becoming a part of aircraft to be used to
25 transport persons, property or United States mail in intrastate, interstate
26 or foreign commerce.

27 (iv) OPERATING AN AIRCRAFT TO TRANSPORT PERSONS IN ANY MANNER FOR
28 COMPENSATION OR HIRE INCLUDING AS AN AIR CARRIER, A FOREIGN AIR CARRIER OR A
29 COMMERCIAL OPERATOR OR UNDER A RESTRICTED CATEGORY, WITHIN THE MEANING OF 14
30 CODE OF FEDERAL REGULATIONS, REGARDLESS OF WHETHER THE OPERATION OR AIRCRAFT
31 IS REGULATED OR CERTIFIED UNDER PART 91, 119, 121, 133, 135, 136 OR 137, OR
32 ANOTHER PART OF 14 CODE OF FEDERAL REGULATIONS.

33 (v) THAT WILL LEASE OR OTHERWISE TRANSFER OPERATIONAL CONTROL, WITHIN
34 THE MEANING OF FEDERAL AVIATION ADMINISTRATION OPERATIONS SPECIFICATION A008,
35 OR ITS SUCCESSOR, OF THE AIRCRAFT, INSTRUMENTS OR ACCESSORIES TO ONE OR MORE
36 PERSONS DESCRIBED IN ITEM (i), (ii), (iii) OR (iv) OF THIS SUBDIVISION,
37 SUBJECT TO SECTION 42-5009, SUBSECTION N.

38 (b) Any foreign government.

39 (c) Persons who are not residents of this state and who will not use
40 such property in this state other than in removing such property from this
41 state. This subdivision also applies to corporations that are not
42 incorporated in this state, regardless of maintaining a place of business in
43 this state, if the principal corporate office is located outside this state
44 and the property will not be used in this state other than in removing the
45 property from this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 18. Machinery or equipment, including related structural components,
40 that is employed in connection with manufacturing, processing, fabricating,
41 job printing, refining, mining, natural gas pipelines, metallurgical
42 operations, telecommunications, producing or transmitting electricity or
43 research and development and that is used directly to meet or exceed rules or
44 regulations adopted by the federal energy regulatory commission, the United
45 States environmental protection agency, the United States nuclear regulatory

1 commission, the Arizona department of environmental quality or a political
2 subdivision of this state to prevent, monitor, control or reduce land, water
3 or air pollution.

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

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

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

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

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

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

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

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

37 2. Janitorial equipment and hand tools.

38 3. Office equipment, furniture and supplies.

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

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

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

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

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

6 D. In addition to the deductions from the tax base prescribed by
7 subsection A of this section, there shall be deducted from the tax base the
8 gross proceeds of sales or gross income derived from sales of machinery,
9 equipment, materials and other tangible personal property used directly and
10 predominantly to construct a qualified environmental technology
11 manufacturing, producing or processing facility as described in section
12 41-1514.02. This subsection applies for ten full consecutive calendar or
13 fiscal years after the start of initial construction.

14 E. In computing the tax base, gross proceeds of sales or gross income
15 from retail sales of heavy trucks and trailers does not include any amount
16 attributable to federal excise taxes imposed by 26 United States Code section
17 4051.

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

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

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

- 38 1. Transporting classification.
- 39 2. Utilities classification.
- 40 3. Telecommunications classification.
- 41 4. Pipeline classification.
- 42 5. Private car line classification.
- 43 6. Publication classification.
- 44 7. Job printing classification.
- 45 8. Prime contracting classification.

1 9. Restaurant classification.

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

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

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

10 3. Overhead materials or other tangible personal property that is used
11 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.

16 4. Sales of overhead materials or other tangible personal property to
17 a manufacturer, modifier, assembler or repairer if the gross proceeds of
18 sales or gross income derived from the property by the manufacturer,
19 modifier, assembler or repairer will be exempt under paragraph 3 of this
20 subsection.

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

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

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

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

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

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

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

1 as a result of the customer entering into or continuing a contract for the
2 telecommunications services.

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

8 P. Retail sales of prepaid calling cards or prepaid authorization
9 numbers for telecommunications services, including sales of reauthorization
10 of a prepaid card or authorization number, are subject to tax under this
11 section.

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

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

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

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

24 1. The transfer of title or possession of the coal is for the purpose
25 of refining the coal.

26 2. 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 paragraph, "coal refining process"
29 means the application of a coal additive system that aids in the reduction of
30 power plant emissions during the combustion of coal and the treatment of flue
31 gas.

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

1 collected from the seller to designate the distribution base pursuant to
2 section 42-5029.

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

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

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

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

23 V. For the purposes of this section:

24 1. "Aircraft" includes:

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

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

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

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

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

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

43 2. "Manufacturer" means a person who is principally engaged in the
44 fabrication, production or manufacture of products, wares or articles for use

1 from raw or prepared materials, imparting to those materials new forms,
2 qualities, properties and combinations.

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

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

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

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

23 Sec. 3. Section 42-5159, Arizona Revised Statutes, is amended to read:
24 **42-5159. Exemptions**

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

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

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

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

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

44 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
45 which in this state is subject to the tax imposed under title 28, chapter 16,

1 article 1, use fuel that is sold to or used by a person holding a valid
2 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
3 the sales, distribution or use of which in this state is subject to the tax
4 imposed under section 28-8344, and jet fuel, the sales, distribution or use
5 of which in this state is subject to the tax imposed under article 8 of this
6 chapter.

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

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

18 8. Livestock, poultry, supplies, feed, salts, vitamins and other
19 additives for use or consumption in the businesses of farming, ranching and
20 feeding livestock or poultry, not including fertilizers, herbicides and
21 insecticides. For the purposes of this paragraph, "poultry" includes
22 ratites.

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

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

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

34 12. Materials that are purchased by or for publicly funded libraries
35 including school district libraries, charter school libraries, community
36 college libraries, state university libraries or federal, state, county or
37 municipal libraries for use by the public as follows:
38 (a) Printed or photographic materials, beginning August 7, 1985.
39 (b) Electronic or digital media materials, beginning July 17, 1994.

40 13. Tangible personal property purchased by:
41 (a) A hospital organized and operated exclusively for charitable
42 purposes, no part of the net earnings of which inures to the benefit of any
43 private shareholder or individual.

44 (b) A hospital operated by this state or a political subdivision of
45 this state.

1 (c) A licensed nursing care institution or a licensed residential care
2 institution or a residential care facility operated in conjunction with a
3 licensed nursing care institution or a licensed kidney dialysis center, which
4 provides medical services, nursing services or health related services and is
5 not used or held for profit.

6 (d) A qualifying health care organization, as defined in section
7 42-5001, if the tangible personal property is used by the organization solely
8 to provide health and medical related educational and charitable services.

9 (e) A qualifying health care organization as defined in section
10 42-5001 if the organization is dedicated to providing educational,
11 therapeutic, rehabilitative and family medical education training for blind
12 and visually impaired children and children with multiple disabilities from
13 the time of birth to age twenty-one.

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

19 (g) A person that is subject to tax under this chapter by reason of
20 being engaged in business classified under section 42-5075, or a
21 subcontractor working under the control of a person that is engaged in
22 business classified under section 42-5075, if the tangible personal property
23 is any of the following:

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

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

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

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

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

39 (j) A qualifying community health center as defined in section
40 42-5001.

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

44 (l) A person engaged in business under the transient lodging
45 classification if the property is a personal hygiene item or articles used by

1 human beings for food, drink or condiment, except alcoholic beverages, which
2 are furnished without additional charge to and intended to be consumed by the
3 transient during the transient's occupancy.

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

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

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

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

23 15. Tangible personal property sold by:

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

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

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

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

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

44 18. Prescription eyeglasses and contact lenses.

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

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

2 21. Durable medical equipment that has a centers for medicare and
3 medicaid services common procedure code, is designated reimbursable by
4 medicare, is prescribed by a person who is licensed under title 32, chapter
5 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
6 used to serve a medical purpose, is generally not useful to a person in the
7 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

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

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

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

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

35 31. Coal, petroleum, coke, natural gas, virgin fuel oil and
36 electricity purchased by a qualified environmental technology manufacturer,
37 producer or processor as defined in section 41-1514.02 and directly used or
38 consumed in the generation or provision of on-site power or energy solely for
39 environmental technology manufacturing, producing or processing or
40 environmental protection. This paragraph shall apply for twenty full
41 consecutive calendar or fiscal years from the date the first paper
42 manufacturing machine is placed in service. In the case of an environmental
43 technology manufacturer, producer or processor who does not manufacture
44 paper, the time period shall begin with the date the first manufacturing,
45 processing or production equipment is placed in service.

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

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

5 (b) Public educational institutions.

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

9 33. Natural gas or liquefied petroleum gas used to propel a motor
10 vehicle.

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

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

29 36. Food, drink and condiment purchased for consumption within the
30 premises of any prison, jail or other institution under the jurisdiction of
31 the state department of corrections, the department of public safety, the
32 department of juvenile corrections or a county sheriff.

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

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

40 39. Overhead materials or other tangible personal property that is
41 used in performing a contract between the United States government and a
42 manufacturer, modifier, assembler or repairer, including property used in
43 performing a subcontract with a government contractor who is a manufacturer,
44 modifier, assembler or repairer, to which title passes to the government

1 under the terms of the contract or subcontract. For the purposes of this
2 paragraph:

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

10 (b) "Subcontract" means an agreement between a contractor and any
11 person who is not an employee of the contractor for furnishing of supplies or
12 services that, in whole or in part, are necessary to the performance of one
13 or more government contracts, or under which any portion of the contractor's
14 obligation under one or more government contracts is performed, undertaken or
15 assumed, and that includes provisions causing title to overhead materials or
16 other tangible personal property used in the performance of the subcontract
17 to pass to the government or that includes provisions incorporating such
18 title passing clauses in a government contract into the subcontract.

19 40. Through December 31, 1994, tangible personal property sold
20 pursuant to a personal property liquidation transaction, as defined in
21 section 42-5061. From and after December 31, 1994, tangible personal
22 property sold pursuant to a personal property liquidation transaction, as
23 defined in section 42-5061, if the gross proceeds of the sales were included
24 in the measure of the tax imposed by article 1 of this chapter or if the
25 personal property liquidation was a casual activity or transaction.

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

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

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

40 44. Alternative fuel vehicles if the vehicle was manufactured as a
41 diesel fuel vehicle and converted to operate on alternative fuel and
42 equipment that is installed in a conventional diesel fuel motor vehicle to
43 convert the vehicle to operate on an alternative fuel, as defined in section
44 1-215.

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

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

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

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

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

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

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

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

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

30 (b) "Curriculum design or enhancement" means planning, implementing or
31 reporting on courses of study, lessons, assignments or other learning
32 activities.

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

37 52. Repair parts installed in equipment used directly by a qualified
38 business under section 41-1516 in harvesting, processing or transporting
39 qualifying forest products removed from qualifying projects as defined in
40 section 41-1516.

41 53. Renewable energy credits or any other unit created to track energy
42 derived from renewable energy resources. For the purposes of this paragraph,
43 "renewable energy credit" means a unit created administratively by the
44 corporation commission or governing body of a public power entity to track
45 kilowatt hours of electricity derived from a renewable energy resource or the

1 kilowatt hour equivalent of conventional energy resources displaced by
2 distributed renewable energy resources.

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

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

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

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

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

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

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

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

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

42 1. Machinery, or equipment, used directly in manufacturing,
43 processing, fabricating, job printing, refining or metallurgical operations.
44 The terms "manufacturing", "processing", "fabricating", "job printing",
45 "refining" and "metallurgical" as used in this paragraph refer to and include

1 those operations commonly understood within their ordinary meaning.
2 "Metallurgical operations" includes leaching, milling, precipitating,
3 smelting and refining.

4 2. Machinery, or equipment, used directly in the process of extracting
5 ores or minerals from the earth for commercial purposes, including equipment
6 required to prepare the materials for extraction and handling, loading or
7 transporting such extracted material to the surface. "Mining" includes
8 underground, surface and open pit operations for extracting ores and
9 minerals.

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

18 4. Machinery, equipment or transmission lines used directly in
19 producing or transmitting electrical power, but not including distribution.
20 Transformers and control equipment used at transmission substation sites
21 constitute equipment used in producing or transmitting electrical power.

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

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

29 7. Aircraft, navigational and communication instruments and other
30 accessories and related equipment sold to:

31 (a) A person:

32 (i) Holding, OR EXEMPTED BY FEDERAL LAW FROM OBTAINING, a federal
33 certificate of public convenience and necessity FOR USE AS, IN CONJUNCTION
34 WITH OR BECOMING PART OF AN AIRCRAFT TO BE USED TO TRANSPORT PERSONS FOR HIRE
35 IN INTRASTATE, INTERSTATE OR FOREIGN COMMERCE. ~~a supplemental air carrier~~
36 ~~certificate~~

37 (ii) THAT IS CERTIFICATED OR LICENSED under federal aviation
38 regulations (14 Code of Federal Regulations part 121 OR 135) AS A SCHEDULED
39 OR UNSCHEDULED CARRIER OF PERSONS FOR HIRE FOR USE AS OR IN CONJUNCTION WITH
40 OR BECOMING PART OF AN AIRCRAFT TO BE USED TO TRANSPORT PERSONS FOR HIRE IN
41 INTRASTATE, INTERSTATE OR FOREIGN COMMERCE. ~~or~~

42 (iii) HOLDING a foreign air carrier permit for air transportation for
43 use as or in conjunction with or becoming a part of aircraft to be used to
44 transport persons, property or United States mail in intrastate, interstate
45 or foreign commerce.

(iv) OPERATING AN AIRCRAFT TO TRANSPORT PERSONS IN ANY MANNER FOR COMPENSATION OR HIRE INCLUDING AS AN AIR CARRIER, A FOREIGN AIR CARRIER OR A COMMERCIAL OPERATOR OR UNDER A RESTRICTED CATEGORY, WITHIN THE MEANING OF 14 CODE OF FEDERAL REGULATIONS, REGARDLESS OF WHETHER THE OPERATION OR AIRCRAFT IS REGULATED OR CERTIFIED UNDER PART 91, 119, 121, 133, 135, 136 OR 137, OR ANOTHER PART OF 14 CODE OF FEDERAL REGULATIONS.

(v) THAT WILL LEASE OR OTHERWISE TRANSFER OPERATIONAL CONTROL, WITHIN THE MEANING OF FEDERAL AVIATION ADMINISTRATION OPERATIONS SPECIFICATION A008, OR ITS SUCCESSOR, OF THE AIRCRAFT, INSTRUMENTS OR ACCESSORIES TO ONE OR MORE PERSONS DESCRIBED IN ITEM (i), (ii), (iii) OR (iv) OF THIS SUBDIVISION, SUBJECT TO SECTION 42-5009, SUBSECTION N.

(b) Any foreign government. , or sold to

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. THIS SUBDIVISION ALSO APPLIES TO CORPORATIONS THAT ARE NOT INCORPORATED IN THIS STATE, REGARDLESS OF MAINTAINING A PLACE OF BUSINESS IN THIS STATE, IF THE PRINCIPAL CORPORATE OFFICE IS LOCATED OUTSIDE THIS STATE AND THE PROPERTY WILL NOT BE USED IN THIS STATE OTHER THAN IN REMOVING THE PROPERTY FROM THIS STATE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 2. Janitorial equipment and hand tools.

12 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 1. A business that is principally engaged in manufacturing or smelting
11 operations and that uses at least fifty-one percent of the electricity or
12 natural gas in the manufacturing or smelting operations. This paragraph does
13 not apply to gas transportation services. For the purposes of this
14 paragraph:

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

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

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

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

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

32 H. For the purposes of subsection B 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 I. For the purposes of subsection D of this section, "ancillary
44 services", "electric distribution service", "electric generation service",

1 "electric transmission service" and "other services" have the same meanings
2 prescribed in section 42-5063.

3 Sec. 4. **Retroactivity: refund: nonseverability**

4 A. This act applies retroactively to taxable periods beginning from
5 and after May 31, 1998.

6 B. Any claim for refund of tax based on the retroactive application of
7 this act shall be considered timely filed under section 42-1106, Arizona
8 Revised Statutes, if the claim is filed with department of revenue on or
9 before December 31, 2016 pursuant to section 42-1118, Arizona Revised
10 Statutes. A failure to file a claim on or before December 31, 2016
11 constitutes a waiver of the claim for refund under this section.

12 C. The aggregate amount of the refund under this section is one
13 thousand dollars. If the aggregate amount of claims that are determined to
14 be valid exceeds one thousand dollars, the department of revenue shall reduce
15 each claim proportionately so the aggregate amount of the refund is not more
16 than one thousand dollars.

17 D. Any claim for refund that is not based on the retroactive
18 application of this act is not subject to subsections B and C of this
19 section.

20 E. This section does not extend the statute of limitations for
21 assessment or refund beyond the period that is open under sections 42-1104
22 and 42-1106, Arizona Revised Statutes.

23 F. If any part of this section is finally adjudicated to be invalid,
24 this entire section is void. The provisions of this section are intended to
25 be nonseverable.

26 Sec. 5. **Effective date**

27 This act is effective from and after June 30, 2017.